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REVISED CODE OF WASHINGTON

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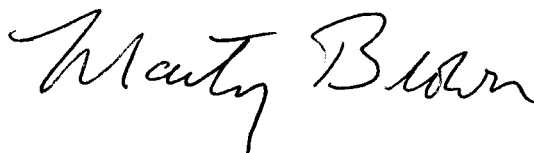
REVISED CODE OF WASHINGTON

2010 Edition

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CERTIFICATE

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MARTY BROWN, Chair
STATUTE LAW COMMITTEE

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PREFACE

Numbering system: The number of each section of this code is made up of three parts, in sequence as follows: Number of title; number of chapter within the title; number of section within the chapter. Thus RCW 1.04.020 is Title 1, chapter 4, section 20. The section part of the number (.020) is initially made up of three digits, constitutes a true decimal, and allows for new sections to be inserted between old sections already consecutively numbered, merely by adding one or more digits at the end of the number. In most chapters of the code, sections have been numbered by tens (.010, .020, .030, .040, etc.), leaving vacant numbers between existing sections so that new sections may be inserted without extension of the section number beyond three digits.

Citation to the Revised Code of Washington: The code should be cited as RCW; see RCW 1.04.040. An RCW title should be cited Title 7 RCW. An RCW chapter should be cited chapter 7.24 RCW. An RCW section should be cited RCW 7.24.010. Through references should be made as RCW 7.24.010 through 7.24.100. Series of sections should be cited as RCW 7.24.010, 7.24.020, and 7.24.030.

History of the Revised Code of Washington; Source notes: The Revised Code of Washington was adopted by the legislature in 1950; see chapter 1.04 RCW. The original publication (1951) contained material variances from the language and organization of the session laws from which it was derived, including a variety of divisions and combinations of the session law sections. During 1953 through 1959, the Statute Law Committee, in exercise of the powers in chapter 1.08 RCW, completed a comprehensive study of these variances and, by means of a series of administrative orders or reenactment bills, restored each title of the code to reflect its session law source, but retaining the general codification scheme originally adopted. An audit trail of this activity has been preserved in the concluding segments of the source note of each section of the code so affected. The legislative source of each section is enclosed in brackets [] at the end of the section. Reference to session laws is abbreviated; thus "1891 c 23 § 1; 1854 p 99 § 135" refers to section 1, chapter 23, Laws of 1891 and section 135, page 99, Laws of 1854. "Prior" indicates a break in the statutory chain, usually a repeal and reenactment. "RRS or Rem. Supp.—" indicates the parallel citation in Remington's Revised Code, last published in 1949.

Where, before restoration, a section of this code constituted a consolidation of two or more sections of the session laws, or of sections separately numbered in Remington's, the line of derivation is shown for each component section, with each line of derivation being set off from the others by use of small Roman numerals, "(i)," "(ii)," etc.

Where, before restoration, only a part of a session law section was reflected in a particular RCW section the history note reference is followed by the word "part."

"Formerly" and its correlative form "FORMER PART OF SECTION" followed by an RCW citation preserves the record of original codification.

Double amendments: Some double or other multiple amendments to a section made without reference to each other are set out in the code in smaller (8-point) type. See RCW 1.12.025.

Index: Titles 1 through 91 are indexed in the RCW General Index. A separate index is provided for the State Constitution.

Sections repealed or decodified; Disposition table: Information concerning RCW sections repealed or decodified can be found in the table entitled "Disposition of former RCW sections."

Codification tables: To convert a session law citation to its RCW number (for Laws of 1999 or later) consult the codification tables. A complete codification table, including Remington's Revised Statutes, is on the Code Reviser web site at <http://www.leg.wa.gov/codereviser>.

Notes: Notes that are more than ten years old have been removed from the print publication of the RCW except when retention has been deemed necessary to preserve the full intent of the law. All notes are displayed in the electronic copy of the RCW on the Code Reviser web site at <http://www.leg.wa.gov/codereviser>.

Errors or omissions: (1) Where an obvious clerical error has been made in the law during the legislative process, the code reviser adds a corrected word, phrase, or punctuation mark in [brackets] for clarity. These additions do not constitute any part of the law.

(2) Although considerable care has been taken in the production of this code, it is inevitable that in so large a work that there will be errors, both mechanical and of judgment. When those who use this code detect errors in particular sections, a note citing the section involved and the nature of the error may be sent to: Code Reviser, Box 40551, Olympia, WA 98504-0551, so that correction may be made in a subsequent publication.

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43.01.010 Terms of office. The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and insurance commissioner, shall hold office for the term of four years, and until their successors are elected and qualified; and the term shall commence on the Wednesday after the second Monday of January following their election. [1965 c 8 § 43.01.010. Prior: 1891 c 82 § 1; RRS § 10980.]

Term of person elected to fill vacancy: RCW 42.12.030.

Terms of office: State Constitution Art. 3 § 3.

Vacancies in office: Chapter 42.12 RCW.

43.01.020 Oath of office. The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and insurance commissioner, shall, before entering upon the duties of their respective offices, take and subscribe an oath or affirmation in substance as follows: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the state of Washington, and that I will faithfully discharge the duties of the office of (name of office) to the best of my ability.

The oath or affirmation shall be administered by one of the justices of the supreme court at the capitol. A certificate shall be affixed thereto by the person administering the oath, and the oath or affirmation so certified shall be filed in the office of the secretary of state before the officer shall be qualified to discharge any official duties: PROVIDED, That the oath of the secretary of state shall be filed in the office of the state auditor. [1965 c 8 § 43.01.020. Prior: 1909 c 43 § 1; RRS § 10981.]

Attorney general, oath of office: RCW 43.10.010.

Commissioner of public lands, oaths of employees: RCW 43.12.021.

Court commissioners, oath of office: RCW 2.24.020.

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Judges of superior court, oath of office: State Constitution Art. 4 § 28; RCW 2.08.080, 2.08.180.

Judges of supreme court, oath of office: State Constitution Art. 4 § 28; RCW 2.04.080.

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Oaths, mode of administering: State Constitution Art. 1 § 6.

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State administrative officers, oath required: RCW 43.17.030.

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State treasurer, oath of office: RCW 43.08.020.

Subversive activities, oath required of public officers and employees: RCW 9.81.070.

University of Washington, board of regents, oath required: RCW 28B.10.520.

Utilities and transportation commission: RCW 80.01.020.

Washington State University, board of regents: RCW 28B.10.520.

43.01.035 Reports—Periods to be covered. All biennial reports to the legislature and the governor shall cover the period comprising the first full fiscal year of the then current biennium and the last full fiscal year of the biennium immediately preceding. All annual reports to the governor shall cover the full fiscal year immediately preceding the date of said report. [1965 c 8 § 43.01.035. Prior: 1953 c 184 § 3.]

43.01.036 Reports—Electronic format—Online access. (1)(a) All reports required to be submitted to the legislature shall be provided only in an electronic format. Reports must be submitted electronically to the chief clerk of the house of representatives and the secretary of the senate. The chief clerk of the house of representatives and the secretary of the senate shall provide an online site for reports submitted to the legislature on the legislative internet home page. The reports shall be organized in such a way as to make the reports easy to find and accessible by legislators, staff, and the public.

(b) Upon electronic submittal of the required report to the chief clerk of the house of representatives and the secretary of the senate, the agency shall send a letter, also by electronic means, to the appropriate legislative committee that the report has been filed. The letter may include a brief summary of the report. The public entity submitting the report may make hard copies available by request.

(2)(a) All annual and biennial reports to the governor shall be provided only in an electronic format. The reports shall be organized in such a way as to make the reports easy to find and accessible by the public.

(b) Upon electronic submittal of the required report to the governor's office, the agency shall send a letter, also by electronic means, that the report has been filed. The letter may include a brief summary of the report. The entity submitting the report may make hard copies available by request. [2009 c 518 § 24.]

43.01.040 Vacations—Computation and accrual—Transfer—Statement of necessity required for extension of unused leave. Each subordinate officer and employee of the several offices, departments, and institutions of the state government shall be entitled under their contract of employment with the state government to not less than one working day of vacation leave with full pay for each month of employment if said employment is continuous for six months.

Each such subordinate officer and employee shall be entitled under such contract of employment to not less than one additional working day of vacation with full pay each year for satisfactorily completing the first two, three and five continuous years of employment respectively.

Such part time officers or employees of the state government who are employed on a regular schedule of duration of not less than one year shall be entitled under their contract of employment to that fractional part of the vacation leave that the total number of hours of such employment bears to the total number of hours of full time employment.

Each subordinate officer and employee of the several offices, departments and institutions of the state government shall be entitled under his or her contract of employment with

the state government to accrue unused vacation leave not to exceed thirty working days. Officers and employees transferring within the several offices, departments and institutions of the state government shall be entitled to transfer such accrued vacation leave to each succeeding state office, department or institution. All vacation leave shall be taken at the time convenient to the employing office, department or institution: PROVIDED, That if a subordinate officer's or employee's request for vacation leave is deferred by reason of the convenience of the employing office, department or institution, and a statement of the necessity therefor is filed by such employing office, department or institution with the appropriate personnel board or other state agency or officer, then the aforesaid maximum thirty working days of accrued unused vacation leave shall be extended for each month said leave is so deferred. [2009 c 549 § 5001; 1984 c 184 § 19; 1982 1st ex.s. c 51 § 2; 1965 ex.s. c 13 § 1; 1965 c 8 § 43.01.040. Prior: 1955 c 140 § 1; 1921 c 7 § 133; RRS § 10891.]

Military leave of absence: RCW 38.40.060.

Additional notes found at www.leg.wa.gov

43.01.041 Accrued vacation leave—Payment upon termination of employment. Officers and employees referred to in RCW 43.01.040 whose employment is terminated by their death, reduction in force, resignation, dismissal, or retirement, and who have accrued vacation leave as specified in RCW 43.01.040 or 43.01.044, shall be paid therefor under their contract of employment, or their estate if they are deceased, or if the employee in case of voluntary resignation has provided adequate notice of termination. Annual leave accumulated under RCW 43.01.044 is not to be included in the computation of retirement benefits.

Should the legislature revoke any benefits or rights provided under chapter 292, Laws of 1985, no affected officer or employee shall be entitled thereafter to receive such benefits or exercise such rights as a matter of contractual right. [1985 c 292 § 1; 1984 c 184 § 20; 1982 1st ex.s. c 51 § 3; 1965 c 8 § 43.01.041. Prior: 1955 c 140 § 2.]

Additional notes found at www.leg.wa.gov

43.01.042 Vacations—State institutions of higher learning. State institutions of higher learning may prescribe such rules and regulations as they may determine governing vacation leave for academic and professional personnel. [1965 c 8 § 43.01.042. Prior: 1955 c 140 § 3.]

43.01.043 Vacations—Rules and regulations. The several offices, departments and institutions of the state government may prescribe supplemental rules and regulations that are not inconsistent with the provisions of RCW 43.01.040 through 43.01.043 with respect to vacation leave of subordinate officers and employees thereof. [1965 c 8 § 43.01.043. Prior: 1955 c 140 § 4.]

43.01.044 Vacations—Accumulation of leave in excess of thirty days authorized without statement of necessity—Requirements of statement of necessity. As an alternative, in addition to the provisions of RCW 43.01.040 authorizing the accumulation of vacation leave in excess of

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thirty days with the filing of a statement of necessity, vacation leave in excess of thirty days may also be accumulated as provided in this section but without the filing of a statement of necessity. The accumulation of leave under this alternative method shall be governed by the following provisions:

(1) Each subordinate officer and employee of the several offices, departments, and institutions of state government may accumulate the vacation leave days between the time thirty days is accrued and his or her anniversary date of state employment.

(2) All vacation days accumulated under this section shall be used by the anniversary date and at a time convenient to the employing office, department, or institution. If an officer or employee does not use the excess leave by the anniversary date, then such leave shall be automatically extinguished and considered to have never existed.

(3) This section shall not result in any increase in a retirement allowance under any public retirement system in this state.

(4) Should the legislature revoke any benefits or rights provided under this section, no affected officer or employee shall be entitled thereafter to receive such benefits or exercise such rights as a matter of contractual right.

(5) Vacation leave credit acquired and accumulated under this section shall never, regardless of circumstances, be deferred by the employing office, department or institution by filing a statement of necessity under the provisions of RCW 43.01.040.

(6) Notwithstanding any other provision of this chapter, on or after July 24, 1983, a statement of necessity for excess leave, shall as a minimum, include the following: (a) the specific number of days of excess leave; and (b) the date on which it was authorized. A copy of any such authorization shall be sent to the department of retirement systems. [1983 c 283 § 1.]

43.01.045 Vacations—Provisions not applicable to officers and employees of state convention and trade center. The provisions of RCW 43.01.040 through 43.01.044 shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW. [1984 c 210 § 4.]

Additional notes found at www.leg.wa.gov

43.01.047 Vacations—Provisions not applicable to individual providers, family child care providers, adult family home providers, or language access providers. RCW 43.01.040 through 43.01.044 do not apply to individual providers under RCW 74.39A.220 through 74.39A.300, family child care providers under RCW 41.56.028, or adult family home providers under RCW 41.56.029, or language access providers under RCW 41.56.510. [2010 c 296 § 6; 2007 c 184 § 5; 2006 c 54 § 5; 2004 c 3 § 4.]

Conflict with federal requirements—2010 c 296: See note following RCW 41.56.510.

Part headings not law—Severability—Conflict with federal requirements—2007 c 184: See notes following RCW 41.56.029.

Part headings not law—Severability—Conflict with federal requirements—Short title—Effective date—2006 c 54: See RCW 41.56.911 through 41.56.915.

Severability—Effective date—2004 c 3: See notes following RCW 74.39A.270.

43.01.050 Daily remittance of moneys to treasury—Undistributed receipts account—Use. Each state officer or other person, other than county treasurer, who is authorized by law to collect or receive moneys which are required by statute to be deposited in the state treasury shall transmit to the state treasurer each day, all such moneys collected by him or her on the preceding day: PROVIDED, That the state treasurer may in his or her discretion grant exceptions where such daily transfers would not be administratively practical or feasible. In the event that remittances are not accompanied by a statement designating source and fund, the state treasurer shall deposit these moneys in an account hereby created in the state treasury to be known as the undistributed receipts account. These moneys shall be retained in the account until such time as the transmitting agency provides a statement in duplicate of the source from which each item of money was derived and the fund into which it is to be transmitted. The director of financial management in accordance with RCW 43.88.160 shall promulgate regulations designed to assure orderly and efficient administration of this account. In the event moneys are deposited in this account that constitute overpayments, refunds may be made by the remitting agency without virtue of a legislative appropriation. [2009 c 549 § 5002; 1985 c 57 § 26; 1981 2nd ex.s. c 4 § 5; 1979 c 151 § 80; 1967 c 212 § 1; 1965 c 8 § 43.01.050. Prior: 1909 c 133 § 1, part; 1907 c 96 § 1, part; RRS § 5501, part.]

Commissioner of public lands and department of natural resources, deposit of funds: RCW 43.30.325.

State depositaries: Chapter 43.85 RCW.

Additional notes found at www.leg.wa.gov

43.01.060 Daily remittance of moneys to treasury—Treasurer's duty on default. The state treasurer shall inform the governor of any failure on the part of any officer to comply with the provisions of RCW 43.01.050. [1965 c 8 § 43.01.060. Prior: 1907 c 96 § 2; RRS § 5502.]

43.01.070 Daily remittance of moneys to treasury—Liability of officers for noncompliance. If any officer fails to comply with the provisions of RCW 43.01.050, he or she shall be liable to the state upon his or her official bond in a sum equal to ten percent annual interest on the funds for such time as he or she retained them. [2009 c 549 § 5003; 1965 c 8 § 43.01.070. Prior: 1907 c 96 § 3; RRS § 5503.]

43.01.072 Refund of fees or other payments collected by state. Whenever any law which provides for the collection of fees or other payments by a state agency does not authorize the refund of erroneous or excessive payments thereof, refunds may be made or authorized by the state agency which collected the fees or payments of all such amounts received by the state agency in consequence of error, either of fact or of law as to: (1) The proper amount of such fee or payments; (2) The necessity of making or securing a permit, filing, examination or inspection; (3) The sufficiency of the credentials of an applicant; (4) The eligibility of an applicant for any other reason; (5) The necessity for the payment. [1965 c 8 § 43.01.072. Prior: 1955 c 224 § 1.]

Refunds of fees or other payments, budget and accounting system: RCW 43.88.170.

43.01.073 Refund of fees or other payments collected by state—Voucher. Any state agency desiring to authorize such a refund shall file with the state treasurer a voucher naming the payee and giving full particulars as to the reason for the refund and the fund in the treasury to which it was credited. [1965 c 8 § 43.01.073. Prior: 1955 c 224 § 2.]

43.01.074 Refund of fees or other payments collected by state—Warrant. Payment of such refunds shall be by warrant issued by the state treasurer against the fund in the state treasury to which the erroneous or excessive payment was credited or from any other appropriation made for such refund. [1965 c 8 § 43.01.074. Prior: 1955 c 224 § 3.]

Appropriation, when not required for refunds: RCW 43.88.180.

43.01.075 Refund of fees or other payments collected by state—Limitation where amount is two dollars or less. No such refund shall be authorized by a state agency where the amount is two dollars or less unless demand for the refund is made within six months from the date the erroneous or excessive payment was made. [1965 c 8 § 43.01.075. Prior: 1955 c 224 § 4.]

43.01.090 Departments to share occupancy costs—Capital projects surcharge. The director of general administration may assess a charge or rent against each state board, commission, agency, office, department, activity, or other occupant or user for payment of a proportionate share of costs for occupancy of buildings, structures, or facilities including but not limited to all costs of acquiring, constructing, operating, and maintaining such buildings, structures, or facilities and the repair, remodeling, or furnishing thereof and for the rendering of any service or the furnishing or providing of any supplies, equipment, historic furnishings, or materials.

The director of general administration may recover the full costs including appropriate overhead charges of the foregoing by periodic billings as determined by the director including but not limited to transfers upon accounts and advancements into the general administration services account. Charges related to the rendering of real estate services under RCW 43.82.010 and to the operation and maintenance of public and historic facilities at the state capitol, as defined in RCW 79.24.710, shall be allocated separately from other charges assessed under this section. Rates shall be established by the director of general administration after consultation with the director of financial management. The director of general administration may allot, provide, or furnish any of such facilities, structures, services, equipment, supplies, or materials to any other public service type occupant or user at such rates or charges as are equitable and reasonably reflect the actual costs of the services provided: PROVIDED, HOWEVER, That the legislature, its duly constituted committees, interim committees and other committees shall be exempted from the provisions of this section.

Upon receipt of such bill, each entity, occupant, or user shall cause a warrant or check in the amount thereof to be drawn in favor of the department of general administration which shall be deposited in the state treasury to the credit of

the general administration services account unless the director of financial management has authorized another method for payment of costs.

Beginning July 1, 1995, the director of general administration shall assess a capital projects surcharge upon each agency or other user occupying a facility owned and managed by the department of general administration in Thurston county, excluding state capitol public and historic facilities, as defined in RCW 79.24.710. The capital projects surcharge does not apply to agencies or users that agree to pay all future repairs, improvements, and renovations to the buildings they occupy and a proportional share, as determined by the office of financial management, of all other campus repairs, installations, improvements, and renovations that provide a benefit to the buildings they occupy or that have an agreement with the department of general administration that contains a charge for a similar purpose, including but not limited to RCW 43.01.091, in an amount greater than the capital projects surcharge. Beginning July 1, 2002, the capital projects surcharge does not apply to department of services for the blind vendors who operate cafeteria services in facilities owned and managed by the department of general administration; the department shall consider this space to be a common area for purposes of allocating the capital projects surcharge to other building tenants beginning July 1, 2003. The director, after consultation with the director of financial management, shall adopt differential capital project surcharge rates to reflect the differences in facility type and quality. The initial payment structure for this surcharge shall be one dollar per square foot per year. The surcharge shall increase over time to an amount that when combined with the facilities and service charge equals the market rate for similar types of lease space in the area or equals five dollars per square foot per year, whichever is less. The capital projects surcharge shall be in addition to other charges assessed under this section. Proceeds from the capital projects surcharge shall be deposited into the Thurston county capital facilities account created in RCW 43.19.501. [2005 c 330 § 5; 2002 c 162 § 1; 1998 c 105 § 5; 1994 c 219 § 16; 1991 sp.s. c 31 § 10; 1979 c 151 § 81; 1973 1st ex.s. c 82 § 1; 1971 ex.s. c 159 § 1; 1965 c 8 § 43.01.090. Prior: (i) 1951 c 131 § 1; 1941 c 228 § 1; Rem. Supp. 1941 § 10964-30. (ii) 1951 c 131 § 1; 1941 c 228 § 2; Rem. Supp. 1941 § 10964-31.]

Findings—Purpose—1994 c 219: "The legislature finds that there is inequitable distribution among state programs of capital costs associated with maintaining and rehabilitating state facilities. The legislature finds that there are insufficient available resources to support even minor capital improvements other than debt financing. The legislature further finds that little attention is focused on efficient facility management because in many cases capital costs are not factored into the ongoing process of allocating state resources. The purpose of sections 16 through 18, chapter 219, Laws of 1994 is to create a mechanism to distribute capital costs among the agencies and programs occupying facilities owned and managed by the department of general administration in Thurston county that will foster increased accountability for facility decisions and more efficient use of the facilities." [1994 c 219 § 15.]

Finding—1994 c 219: See note following RCW 43.88.030.

Agricultural commodity commissions exempt: RCW 15.04.200.

General administration services account: RCW 43.19.500.

Housing for state offices, departments, and institutions: Chapter 43.82 RCW.

Additional notes found at www.leg.wa.gov

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43.01.091 Departments to share debt service costs. It is hereby declared to be the policy of the state of Washington that each agency or other occupant of newly constructed or substantially renovated facilities owned and operated by the department of general administration in Thurston county shall proportionally share the debt service costs associated with the original construction or substantial renovation of the facility. Beginning July 1, 1995, each state agency or other occupant of a facility constructed or substantially renovated after July 1, 1992, and owned and operated by the department of general administration in Thurston county, shall be assessed a charge to pay the principal and interest payments on any bonds or other financial contract issued to finance the construction or renovation or an equivalent charge for similar projects financed by cash sources. In recognition that full payment of debt service costs may be higher than market rates for similar types of facilities or higher than existing agreements for similar charges entered into prior to June 9, 1994, the initial charge may be less than the full cost of principal and interest payments. The charge shall be assessed to all occupants of the facility on a proportional basis based on the amount of occupied space or any unique construction requirements. The office of financial management, in consultation with the department of general administration, shall develop procedures to implement this section and report to the legislative fiscal committees, by October 1994, their recommendations for implementing this section. The office of financial management shall separately identify in the budget document all payments and the documentation for determining the payments required by this section for each agency and fund source during the current and the two past and future fiscal biennia. The charge authorized in this section is subject to annual audit by the state auditor. [1994 c 219 § 19.]

Finding—1994 c 219: See note following RCW 43.88.030.

Budget document: RCW 43.88.030.

General administration services: RCW 43.19.500.

43.01.100 Application forms—Employment—Licenses—Mention of race or religion prohibited—Penalty. (1) The inclusion of any question relative to an applicant's race or religion in any application blank or form for employment or license required to be filled in and submitted by an applicant to any department, board, commission, officer, agent, or employee of this state or the disclosure on any license of the race or religion of the licensee is hereby prohibited.

(2) A person violating this section is guilty of a misdemeanor. [2003 c 53 § 221; 1965 c 8 § 43.01.100. Prior: 1955 c 87 § 1.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Discrimination—Human rights commission: Chapter 49.60 RCW.

Subversive activities, public officials and employees: Chapter 9.81 RCW.

43.01.120 Accidental death and dismemberment coverage during aircraft flights for state officers, employees, and legislators. The departments of state government are authorized to procure at state expense accidental death and dismemberment coverage not to exceed one hundred thousand dollars per person for the benefit of state employees and

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state elected officials, including legislators, while they are, in the course of their employment, passengers on or crew members of any nonscheduled aircraft flight. [1967 ex.s. c 6 § 1; 1965 ex.s. c 68 § 1.]

43.01.125 Duty to identify employees whose performance warrants termination from employment. It is the responsibility of each agency head to institute management procedures designed to identify any agency employee, either supervisory or nonsupervisory, whose performance is so inadequate as to warrant termination from state employment. In addition, it is the responsibility of each agency head to remove from a supervisory position any supervisor within the agency who has tolerated the continued employment of any employee under his or her supervision whose performance has warranted termination from state employment. [1985 c 461 § 15.]

Adoption of rules to remove supervisors tolerating inadequate employees: RCW 41.06.196.

Additional notes found at www.leg.wa.gov

43.01.135 Sexual harassment in the workplace. Agencies as defined in RCW 41.06.020 shall:

(1) Update or develop and disseminate among all agency employees and contractors a policy that:

(a) Defines and prohibits sexual harassment in the workplace;

(b) Includes procedures that describe how the agency will address concerns of employees who are affected by sexual harassment in the workplace;

(c) Identifies appropriate sanctions and disciplinary actions; and

(d) Complies with guidelines adopted by the director of personnel under RCW 41.06.395;

(2) Respond promptly and effectively to sexual harassment concerns;

(3) Conduct training and education for all employees in order to prevent and eliminate sexual harassment in the organization;

(4) Inform employees of their right to file a complaint with the Washington state human rights commission under chapter 49.60 RCW, or with the federal equal employment opportunity commission under Title VII of the civil rights act of 1964; and

(5) Report to the department of personnel on compliance with this section.

The cost of the training programs shall be borne by state agencies within existing resources. [2007 c 76 § 2.]

43.01.150 Power to employ or appoint personnel not to include authority to provide state owned or leased motor vehicle. Notwithstanding any other provision of law, whenever any state agency, institution of higher education, or other appointing authority is empowered to employ or appoint administrators or other personnel and to fix their compensation, such power, in the absence of a specific contrary statutory authorization to the agency, institution of higher education, or appointing authority, shall not extend to the power to provide a state owned or leased motor vehicle

for any use other than official state business. [1975 1st ex.s. c 33 § 1.]

Providing motor vehicle transportation services for public employees: RCW 43.19.560 through 43.19.635.

43.01.160 State publications to be in gender-neutral terms—Exception—Effect of noncompliance. (1) All rules and directory or advisory publications issued, adopted, or amended by state officers or agencies, as defined by RCW 41.06.020, after July 1, 1983, shall be written in gender-neutral terms unless a specification of gender is intended.

(2) No rule or publication is invalid because it does not comply with this section. [1983 c 20 § 2.]

Intent—1983 c 20: "It is the intent of the legislature to have the state's statutes, rules, and official communications expressed in gender-neutral terms." [1983 c 20 § 1.]

Statutes, memorials, and resolutions: RCW 44.04.210.

43.01.200 Facilitating recovery from Mt. St. Helens eruption—Legislative findings—Purpose. (1) The legislature finds that:

(a) The May 1980 eruption of Mount St. Helens has caused serious economic and physical damage to the land surrounding the mountain;

(b) There are continuing siltation problems which could severely affect the Toutle, Cowlitz, Coweeman, and Columbia rivers areas;

(c) There is an immediate need for sites for dredging, dredge spoils, flood control works, sediment retention, and bank protection and funds for dredging, dredge sites, dredge spoils sites, flood control works, sediment retention sites, and bank protection and to continue the rehabilitation of the areas affected by the natural disaster; and

(d) Failure to dredge and dike along the rivers and failure to cooperate with the federal government in sediment retention would directly affect the lives and property of the forty-five thousand residents in the Cowlitz and Toutle River valleys with severe negative impacts on local, state, and national transportation systems, public utilities, public and private property, and the Columbia river which is one of the major navigation channels for worldwide commerce.

(2) The intent of RCW 36.01.150, 43.01.210, *43.21A.500, 43.21C.500, 75.20.300, 89.16.500, and 90.58.500, their 1983 amendments, and RCW 43.01.215 is to authorize and direct maximum cooperative effort to meet the problems noted in subsection (1) of this section. [1985 c 307 § 1; 1983 1st ex.s. c 1 § 1; 1982 c 7 § 1.]

***Reviser's note:** RCW 43.21A.500, 43.21C.500, 75.20.300, 89.16.500, and 90.58.500 expired June 30, 1995.

Additional notes found at www.leg.wa.gov

43.01.210 Facilitating recovery from Mt. St. Helens eruption—Scope of state agency action. State agencies shall take action as follows to facilitate recovery from the devastation of the eruption of Mt. St. Helens:

(1) The department of transportation may secure any lands or interest in lands by purchase, exchange, lease, eminent domain, or donation for dredge sites, dredge spoils sites, flood control works, sediment retention works, or bank protection;

(2) The commissioner of public lands may by rule declare any public lands found to be damaged by the eruption of Mt. St. Helens, directly or indirectly, as surplus to the needs of the state and may dispose of such lands pursuant to Title 79 RCW to public or private entities for development, park and recreation uses, open space, or fish and wildlife habitat;

(3) All state agencies shall cooperate with local governments, the United States army corps of engineers, and other agencies of the federal government in planning for dredge site selection and dredge spoils removal, and in all other phases of recovery operations;

(4) The department of transportation shall work with the counties concerned on site selection and site disposition in cooperation with the army corps of engineers; and

(5) State agencies may assist the army corps of engineers in the dredging and dredge spoils deposit operations. [1985 c 307 § 2; 1983 1st ex.s. c 1 § 2; 1982 c 7 § 2.]

Facilitating recovery from Mt. St. Helens eruption—Scope of local government action: RCW 36.01.150.

Additional notes found at www.leg.wa.gov

43.01.215 Facilitating recovery from Mt. St. Helens eruption—Precedence of court proceedings under RCW 43.01.210—Finality of order under RCW 8.04.070—Appeal.

(1) Court proceedings necessary to acquire property or property rights for purposes of RCW 43.01.210 take precedence over all other causes, including those expedited under the provisions of RCW 47.52.060, in all courts to the end that the provision of lands for dredge sites, dredge spoils sites, flood control works, or bank protection may be expedited.

(2) An order entered under RCW 8.04.070 relating to the acquisition of land under RCW 43.01.210 is final unless review of the order is taken to the supreme court within five days after entry of the order. Such an appeal shall be certified by the trial court to the supreme court. Upon certification, the supreme court shall assign the appeal for hearing at the earliest possible date, and it shall expedite its review and decision in every way possible. [1983 1st ex.s. c 1 § 8.]

Additional notes found at www.leg.wa.gov

43.01.220 Commute trip reduction—Parking revenue—Definitions. The definitions in this section apply throughout this chapter.

(1) "Guaranteed ride home" means an assured ride home for commuters participating in a commute trip reduction program who are not able to use their normal commute mode because of personal emergencies.

(2) "Pledged" means parking revenue designated through any means, including moneys received from the natural resource building, which is used for the debt service payment of bonds issued for parking facilities. [1993 c 394 § 2.]

Finding—Purpose—1993 c 394: "The legislature finds that reducing the number of commute trips to work is an effective way of reducing automobile-related air pollution, traffic congestion, and energy use. The legislature intends that state agencies shall assume a leadership role in implementing programs to reduce vehicle miles traveled and single-occupant vehicle commuting, under RCW 70.94.521 through 70.94.551.

The legislature has established and directed an interagency task force to consider mechanisms for funding state agency commute trip reduction programs; and to consider and recommend policies for employee incentives for commuting by other than single-occupant vehicles, and policies for the

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use of state-owned vehicles.

It is the purpose of this act to provide state agencies with the authority to provide employee incentives, including subsidies for use of high occupancy vehicles to meet commute trip reduction goals, and to remove existing statutory barriers for state agencies to use public funds, including parking revenue, to operate, maintain, lease, or construct parking facilities at state-owned and leased facilities, to reduce parking subsidies, and to support commute trip reduction programs." [1993 c 394 § 1.]

43.01.225 Commute trip reduction—Parking revenue—State vehicle parking account. There is hereby established an account in the state treasury to be known as the "state vehicle parking account." All parking rental income resulting from parking fees established by the department of general administration under RCW 46.08.172 at state-owned or leased property shall be deposited in the "state vehicle parking account." Revenue deposited in the "state vehicle parking account" shall be first applied to pledged purposes. Unpledged parking revenues deposited in the "state vehicle parking account" may be used to:

(1) Pay costs incurred in the operation, maintenance, regulation, and enforcement of vehicle parking and parking facilities;

(2) Support the lease costs and/or capital investment costs of vehicle parking and parking facilities; and

(3) Support agency commute trip reduction programs under RCW 70.94.521 through 70.94.551. [1995 c 215 § 2; 1993 c 394 § 5.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

43.01.230 Commute trip reduction—Use of public funds. State agencies may, under the internal revenue code rules, use public funds to financially assist agency-approved incentives for alternative commute modes, including but not limited to carpools, vanpools, purchase of transit and ferry passes, and guaranteed ride home programs, if the financial assistance is an element of the agency's commute trip reduction program as required under RCW 70.94.521 through 70.94.551. This section does not permit any payment for the use of state-owned vehicles for commuter ride sharing. [1995 c 215 § 1; 1993 c 394 § 6.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

43.01.235 Commute trip reduction—Higher education institutions—Exemption. All state higher education institutions are exempt from RCW 43.01.225. [1993 c 394 § 7.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

43.01.236 Commute trip reduction—Institutions of higher education—Exemption. All institutions of higher education as defined under RCW 28B.10.016 are exempt from the requirements under RCW 43.01.240. [1998 c 344 § 8; 1997 c 273 § 3; 1995 c 215 § 5.]

Intent—Findings—1998 c 344: See note following RCW 28B.38.010.

43.01.240 State agency parking account—Parking rental fees—Employee parking, limitations. (1) There is hereby established an account in the state treasury to be known as the state agency parking account. All parking income collected from the fees imposed by state agencies on

parking spaces at state-owned or leased facilities, including the capitol campus, shall be deposited in the state agency parking account. Only the office of financial management may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. No agency may receive an allotment greater than the amount of revenue deposited into the state agency parking account.

(2) An agency may, as an element of the agency's commute trip reduction program to achieve the goals set forth in RCW 70.94.527, impose parking rental fees at state-owned and leased properties. These fees will be deposited in the state agency parking account. Each agency shall establish a committee to advise the agency director on parking rental fees, taking into account the market rate of comparable, privately owned rental parking in each region. The agency shall solicit representation of the employee population including, but not limited to, management, administrative staff, production workers, and state employee bargaining units. Funds shall be used by agencies to: (a) Support the agencies' commute trip reduction program under RCW 70.94.521 through 70.94.551; (b) support the agencies' parking program; or (c) support the lease or ownership costs for the agencies' parking facilities.

(3) In order to reduce the state's subsidization of employee parking, after July 1997 agencies shall not enter into leases for employee parking in excess of building code requirements, except as authorized by the director of general administration. In situations where there are fewer parking spaces than employees at a worksite, parking must be allocated equitably, with no special preference given to managers. [1998 c 245 § 46; 1995 c 215 § 3.]

43.01.250 Electric vehicles—State purchase of power at state office locations—Report. (1) It is in the state's interest and to the benefit of the people of the state to encourage the use of electrical vehicles in order to reduce emissions and provide the public with cleaner air. This section expressly authorizes the purchase of power at state expense to recharge privately and publicly owned plug-in electrical vehicles at state office locations where the vehicles are used for state business, are commute vehicles, or where the vehicles are at the state location for the purpose of conducting business with the state.

(2) The director of the department of general administration may report to the governor and the appropriate committees of the legislature, as deemed necessary by the director, on the estimated amount of state-purchased electricity consumed by plug-in electrical vehicles if the director of general administration determines that the use has a significant cost to the state, and on the number of plug-in electric vehicles using state office locations. The report may be combined with the report under section 401, chapter 348, Laws of 2007. [2007 c 348 § 206.]

Findings—Part headings not law—2007 c 348: See RCW 43.325.005 and 43.325.903.

43.01.900 Terminated entity—Transfer of assets—Reversion of funds—Contractual rights—Rules and pending business—2010 1st sp.s. c 7. (1) All documents and papers, equipment, or other tangible property in the pos-

session of the terminated entity shall be delivered to the custody of the entity assuming the responsibilities of the terminated entity or if such responsibilities have been eliminated, documents and papers shall be delivered to the state archivist and equipment or other tangible property to the department of general administration.

(2) All funds held by, or other moneys due to, the terminated entity shall revert to the fund from which they were appropriated, or if that fund is abolished to the general fund.

(3) All contractual rights and duties of an entity shall be assigned or delegated to the entity assuming the responsibilities of the terminated entity, or if there is none to such entity as the governor shall direct.

(4) All rules and all pending business before any terminated entity shall be continued and acted upon by the entity assuming the responsibilities of the terminated entity. [2010 1st sp.s. c 7 § 140.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Chapter 43.03 RCW SALARIES AND EXPENSES

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43.03.220	Compensation of members of part-time boards and commissions—Class one groups.
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43.03.300	Salaries of elected state officials—Legislative declaration—Purpose.

- 43.03.305 Washington citizens' commission on salaries for elected officials—Generally.
- 43.03.310 Duties of citizens' commission—Travel expenses—Chair—Schedule of salaries—Publication—Hearings.

Compensation for unofficial services permitted: RCW 42.04.070.
Compensation not to be changed during term: State Constitution Art. 2 § 25, Art. 3 § 25, Art. 28 § 1.
Free transportation prohibited: State Constitution Art. 2 § 39, Art. 12 § 20.
Salaries of state officers, payable semimonthly: RCW 42.16.010.

43.03.010 Salaries of elective state officers. The annual salaries of the following named state elected officials shall be prescribed by the Washington citizens' commission on salaries for elected officials: Governor; lieutenant governor: PROVIDED, That in arriving at the annual salary of the lieutenant governor the commission shall prescribe a fixed amount plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor; secretary of state; state treasurer; state auditor; attorney general; superintendent of public instruction; commissioner of public lands; and state insurance commissioner. Members of the legislature shall receive for their service per annum the amount prescribed by the Washington citizens' commission on salaries for elected officials; and in addition, reimbursement for mileage for travel to and from legislative sessions as provided in RCW 43.03.060. [1989 c 10 § 8. Prior: 1986 c 161 § 1; 1986 c 155 § 8; 1983 1st ex.s. c 29 § 3; 1979 ex.s. c 255 § 1; 1977 ex.s. c 318 § 1; 1975-'76 2nd ex.s. c 113 § 1; 1975 1st ex.s. c 263 § 1; 1974 ex.s. c 149 § 2 (Initiative Measure No. 282, approved November 6, 1973); 1967 ex.s. c 100 § 1; 1965 ex.s. c 127 § 4; 1965 c 8 § 43.03.010; prior: 1965 c 1 § 2; 1961 c 5 § 1; 1959 c 316 § 1; 1949 c 48 § 1; Rem. Supp. 1949 § 10965-1; prior: 1947 c 79 § .02.04; 1945 c 116 § 1; 1939 c 226 § 1; 1925 ex.s. c 163 § 1; 1925 ex.s. c 90 § 1; 1919 c 124 §§ 1, 2; 1907 c 94 § 1.]

Salaries of elected officials: State Constitution Art. 28 § 1.
Washington citizens' commission on salaries for elected officials: RCW 43.03.305.

Additional notes found at www.leg.wa.gov

43.03.011 Salaries of state elected officials of the executive branch. Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

- (1) Effective September 1, 2008:
 - (a) Governor \$ 166,891
 - (b) Lieutenant governor \$ 93,948
 - (c) Secretary of state \$ 116,950
 - (d) Treasurer \$ 116,950
 - (e) Auditor. \$ 116,950
 - (f) Attorney general. \$ 151,718
 - (g) Superintendent of public instruction \$ 121,618
 - (h) Commissioner of public lands. \$ 121,618
 - (i) Insurance commissioner. \$ 116,950
- (2) Effective September 1, 2009:
 - (a) Governor \$ 166,891

- (b) Lieutenant governor \$ 93,948
- (c) Secretary of state \$ 116,950
- (d) Treasurer \$ 116,950
- (e) Auditor. \$ 116,950
- (f) Attorney general. \$ 151,718
- (g) Superintendent of public instruction \$ 121,618
- (h) Commissioner of public lands. \$ 121,618
- (i) Insurance commissioner. \$ 116,950

(3) Effective September 1, 2010:
 (a) Governor \$ 166,891
 (b) Lieutenant governor \$ 93,948
 (c) Secretary of state \$ 116,950
 (d) Treasurer \$ 116,950
 (e) Auditor. \$ 116,950
 (f) Attorney general. \$ 151,718
 (g) Superintendent of public instruction \$ 121,618
 (h) Commissioner of public lands. \$ 121,618
 (i) Insurance commissioner. \$ 116,950
 (4) The lieutenant governor shall receive the fixed amount of his or her salary plus 1/260th of the difference between his or her salary and that of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor. [2009 c 581 § 1; 2009 c 549 § 5004; 2007 c 524 § 1; 2005 c 519 § 1; 2003 1st sp.s. c 1 § 1; 2001 1st sp.s. c 3 § 1; 1999 sp.s. c 3 § 1; 1997 c 458 § 1; 1995 2nd sp.s. c 1 § 1; 1993 sp.s. c 26 § 1; 1991 sp.s. c 1 § 1; 1989 2nd ex.s. c 4 § 1; 1987 1st ex.s. c 1 § 1, part.]

43.03.012 Salaries of judges. Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, and 43.03.310, the annual salaries of the judges of the state shall be as follows:

- (1) Effective September 1, 2008:
 - (a) Justices of the supreme court. \$ 164,221
 - (b) Judges of the court of appeals. \$ 156,328
 - (c) Judges of the superior court. \$ 148,832
 - (d) Full-time judges of the district court. \$ 141,710
- (2) Effective September 1, 2009:
 - (a) Justices of the supreme court. \$ 164,221
 - (b) Judges of the court of appeals. \$ 156,328
 - (c) Judges of the superior court. \$ 148,832
 - (d) Full-time judges of the district court. \$ 141,710
- (3) Effective September 1, 2010:
 - (a) Justices of the supreme court. \$ 164,221
 - (b) Judges of the court of appeals. \$ 156,328
 - (c) Judges of the superior court. \$ 148,832
 - (d) Full-time judges of the district court. \$ 141,710
- (4) The salary for a part-time district court judge shall be the proportion of full-time work for which the position is authorized, multiplied by the salary for a full-time district court judge. [2009 c 581 § 2; 2007 c 524 § 2; 2005 c 519 § 2; 2003 1st sp.s. c 1 § 2; 2001 1st sp.s. c 3 § 2; 1999 sp.s. c 3 § 2; 1997 c 458 § 2; 1995 2nd sp.s. c 1 § 2; 1993 sp.s. c 26 § 2; 1991 sp.s. c 1 § 2; 1989 2nd ex.s. c 4 § 2; 1987 1st ex.s. c 1 § 1, part.]

43.03.013 Salaries of members of the legislature. Pursuant to Article XXVIII, section 1 of the state Constitution

and RCW 43.03.010 and 43.03.310, the annual salary of members of the legislature shall be:

- (1) Effective September 1, 2008:
 - (a) Legislators \$ 42,106
 - (b) Speaker of the house \$ 50,106
 - (c) Senate majority leader \$ 50,106
 - (d) House minority leader \$ 46,106
 - (e) Senate minority leader \$ 46,106
- (2) Effective September 1, 2009:
 - (a) Legislators \$ 42,106
 - (b) Speaker of the house \$ 50,106
 - (c) Senate majority leader \$ 50,106
 - (d) House minority leader \$ 46,106
 - (e) Senate minority leader \$ 46,106
- (3) Effective September 1, 2010:
 - (a) Legislators \$ 42,106
 - (b) Speaker of the house \$ 50,106
 - (c) Senate majority leader \$ 50,106
 - (d) House minority leader \$ 46,106
 - (e) Senate minority leader \$ 46,106

[2009 c 581 § 3; 2007 c 524 § 3; 2005 c 519 § 3; 2003 1st sp.s. c 1 § 3; 2001 1st sp.s. c 3 § 3; 1999 sp.s. c 3 § 3; 1997 c 458 § 3; 1995 2nd sp.s. c 1 § 3; 1993 sp.s. c 26 § 3; 1991 sp.s. c 1 § 3; 1989 2nd ex.s. c 4 § 3; 1987 1st ex.s. c 1 § 1, part.]

43.03.015 Emoluments of office for appointees to office of state legislator. Any person appointed to fill a vacancy that may occur in either the senate or house of representatives of the state legislature, prior to his or her qualification at the next succeeding regular or special session of the legislature shall be entitled to the same emoluments of office as the duly elected member whom he or she succeeded. [2009 c 549 § 5005; 1967 ex.s. c 100 § 2.]

Eligibility of member of legislature to appointment or election to office of official whose salary was increased during legislator's term: RCW 3.58.010.

43.03.020 Expenses of lieutenant governor acting as governor. Whenever by reason of the absence from the state or the disability of the governor, the lieutenant governor is called upon temporarily to perform the duties of the office of governor, he or she shall be paid upon his or her personal voucher therefor the sum of ten dollars per day for expenses. [2009 c 549 § 5006; 1965 c 8 § 43.03.020. Prior: 1919 c 118 § 1; RRS § 10979.]

43.03.027 Salaries of public officials—State policy enunciated. It is hereby declared to be the public policy of this state to base the salaries of public officials on realistic standards in order that such officials may be paid according to the true value of their services and the best qualified citizens may be attracted to public service. It is the purpose of this section and RCW 43.03.040 to effectuate this policy by utilizing the expert knowledge of citizens having access to pertinent facts concerning proper salaries for public officials, thus removing and dispelling any thought of political consideration in fixing the appropriateness of the amount of such salaries. [2010 1st sp.s. c 7 § 1; 1970 ex.s. c 43 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: "Sections 1 through 118, 120 through 122, and 124 through 150 of chapter 7, Laws of

2010 1st sp. sess. are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 30, 2010." [2010 1st sp.s. c 26 § 12; 2010 1st sp.s. c 7 § 150.]

Additional notes found at www.leg.wa.gov

43.03.028 Salaries of agency officials—Reports. (1) The department of personnel shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:

The arts commission; the human rights commission; the board of accountancy; the board of pharmacy; the eastern Washington historical society; the Washington state historical society; the recreation and conservation office; the criminal justice training commission; the department of personnel; the state library; the traffic safety commission; the horse racing commission; the advisory council on vocational education; the public disclosure commission; the state conservation commission; the commission on Hispanic affairs; the commission on Asian Pacific American affairs; the state board for volunteer firefighters and reserve officers; the transportation improvement board; the public employment relations commission; the forest practices appeals board; and the energy facilities site evaluation council.

(2) The department of personnel shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of each regular session of the legislature during an odd-numbered year, its recommendations for the salaries to be fixed for each position. [2010 1st sp.s. c 7 § 2; 2007 c 241 § 3; 2001 c 302 § 2; 1995 c 67 § 1. Prior: 1993 c 281 § 45; 1993 c 101 § 14; 1991 c 3 § 294; 1988 c 167 § 9; prior: 1987 c 504 § 15; 1987 c 249 § 7; 1986 c 155 § 9; 1982 c 163 § 21; 1980 c 87 § 20; prior: 1977 ex.s. c 127 § 1; 1977 c 75 § 36; 1970 ex.s. c 43 § 2; 1967 c 19 § 1; 1965 c 8 § 43.03.028; prior: 1961 c 307 § 1; 1955 c 340 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Findings—1993 c 101: See note following RCW 27.34.010.

Additional notes found at www.leg.wa.gov

43.03.030 Increase or reduction of appointees' compensation. (1) Wherever the compensation of any appointive state officer or employee is fixed by statute, it may be hereafter increased or decreased in the manner provided by law for the fixing of compensation of other appointive state officers or employees; but this subsection shall not apply to the heads of state departments.

(2) Wherever the compensation of any state officer appointed by the governor, or of any employee in any office or department under the control of any such officer, is fixed by statute, such compensation may hereafter, from time to time, be changed by the governor, and he or she shall have

power to fix such compensation at any amount not to exceed the amount fixed by statute.

(3) From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position under this section, except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt under this section shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases. [2010 c 1 § 4; 2009 c 549 § 5007; 2009 c 5 § 4; 1965 c 8 § 43.03.030. Prior: (i) 1921 c 49 § 1; RRS § 10896. (ii) 1933 c 47 § 1; RRS § 10976-1.]

Effective date—2010 c 1: See note following RCW 41.06.070.

Effective date—2009 c 5: See note following RCW 41.06.070.

43.03.040 Salaries of certain directors and chief executive officers. The directors of the several departments and members of the several boards and commissions, whose salaries are fixed by the governor and the chief executive officers of the agencies named in RCW 43.03.028(1) as now or hereafter amended shall each severally receive such salaries, payable in monthly installments, as shall be fixed by the governor or the appropriate salary fixing authority, in an amount not to exceed the recommendations of the department of personnel. From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position under this section, except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(1) The salary increase can be paid within existing resources; and

(2) The salary increase will not adversely impact the provision [of] client services.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position under this section shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases. [2010 1st sp.s. c 7 § 5; 2010 c 1 § 5; 2009 c 5 § 5; 1993 sp.s. c 24 § 914; 1986 c 155 § 12; 1977 ex.s. c 127 § 2; 1970 ex.s. c 43 § 3; 1965 c 8 § 43.03.040. Prior: 1961 c 307 § 2; 1955 c 340 § 2; 1949 c 111 § 1; 1937 c 224 § 1; Rem. Supp. 1949 § 10776-1.]

Reviser's note: This section was amended by 2010 c 1 § 5 and by 2010 1st sp.s. c 7 § 5, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective date—2010 c 1: See note following RCW 41.06.070.

Effective date—2009 c 5: See note following RCW 41.06.070.

Additional notes found at www.leg.wa.gov

43.03.050 Subsistence, lodging and refreshment, and per diem allowance for officials, employees, and members of boards, commissions, or committees. (1) The director of financial management shall prescribe reasonable allowances to cover reasonable and necessary subsistence and lodging expenses for elective and appointive officials and state employees while engaged on official business away from their designated posts of duty. The director of financial management may prescribe and regulate the allowances provided in lieu of subsistence and lodging expenses and may prescribe the conditions under which reimbursement for subsistence and lodging may be allowed. The schedule of allowances adopted by the office of financial management may include special allowances for foreign travel and other travel involving higher than usual costs for subsistence and lodging. The allowances established by the director shall not exceed the rates set by the federal government for federal employees. However, during the 2003-05 fiscal biennium, the allowances for any county that is part of a metropolitan statistical area, the largest city of which is in another state, shall equal the allowances prescribed for that larger city.

(2) Those persons appointed to serve without compensation on any state board, commission, or committee, if entitled to payment of travel expenses, shall be paid pursuant to special per diem rates prescribed in accordance with subsection (1) of this section by the office of financial management.

(3) The director of financial management may prescribe reasonable allowances to cover reasonable expenses for meals, coffee, and light refreshment served to elective and appointive officials and state employees regardless of travel status at a meeting where: (a) The purpose of the meeting is to conduct official state business or to provide formal training to state employees or state officials; (b) the meals, coffee, or light refreshment are an integral part of the meeting or training session; (c) the meeting or training session takes place away from the employee's or official's regular workplace; and (d) the agency head or authorized designee approves payments in advance for the meals, coffee, or light refreshment. In order to prevent abuse, the director may regulate such allowances and prescribe additional conditions for claiming the allowances.

(4) Upon approval of the agency head or authorized designee, an agency may serve coffee or light refreshments at a meeting where: (a) The purpose of the meeting is to conduct state business or to provide formal training that benefits the state; and (b) the coffee or light refreshment is an integral part of the meeting or training session. The director of financial management shall adopt requirements necessary to prohibit abuse of the authority authorized in this subsection.

(5) The schedule of allowances prescribed by the director under the terms of this section and any subsequent increases in any maximum allowance or special allowances for areas of higher than usual costs shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature.

(6) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class one through class three or class five board, commission, council, committee, or similar group may receive an allowance for subsistence,

lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. [2010 1st sp.s. c 7 § 141; 2003 1st sp.s. c 25 § 915; 1990 c 30 § 1; 1983 1st ex.s. c 29 § 1; 1979 c 151 § 83; 1977 ex.s. c 312 § 1; 1975-'76 2nd ex.s. c 34 § 94; 1970 ex.s. c 34 § 1; 1965 ex.s. c 77 § 1; 1965 c 8 § 43.03.050. Prior: 1961 c 220 § 1; 1959 c 194 § 1; 1953 c 259 § 1; 1949 c 17 § 1; 1943 c 86 § 1; Rem. Supp. 1949 § 10981-1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Severability—Effective date—2003 1st sp.s. c 25: See notes following RCW 19.28.351.

Additional notes found at www.leg.wa.gov

43.03.060 Mileage allowance. (1) Whenever it becomes necessary for elective or appointive officials or employees of the state to travel away from their designated posts of duty while engaged on official business, and it is found to be more advantageous or economical to the state that travel be by a privately-owned vehicle rather than a common carrier or a state-owned or operated vehicle, a mileage rate established by the director of financial management shall be allowed. The mileage rate established by the director shall not exceed any rate set by the United States treasury department above which the substantiation requirements specified in Treasury Department Regulations section 1.274-5T(a)(1), as now law or hereafter amended, will apply.

(2) The director of financial management may prescribe and regulate the specific mileage rate or other allowance for the use of privately-owned vehicles or common carriers on official business and the conditions under which reimbursement of transportation costs may be allowed. The reimbursement or other payment for transportation expenses of any employee or appointive official of the state shall be based on the method deemed most advantageous or economical to the state.

(3) The mileage rate established by the director of financial management pursuant to this section and any subsequent changes thereto shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature. [1990 c 30 § 2; 1983 1st ex.s. c 29 § 2; 1979 c 151 § 84; 1977 ex.s. c 312 § 2; 1975-'76 2nd ex.s. c 34 § 95; 1974 ex.s. c 157 § 1; 1967 ex.s. c 16 § 4; 1965 c 8 § 43.03.060. Prior: 1949 c 17 § 2; 1943 c 86 § 2; Rem. Supp. 1949 § 10981-2.]

Additional notes found at www.leg.wa.gov

43.03.062 State convention and trade center employees—Travel expenses. Notwithstanding any provision of this chapter, employees of the corporation formed under RCW 67.40.020 shall be reimbursed for actual and reasonable travel and subsistence expenses incurred out of state for the purpose of marketing the convention center as may be requested or performed by the chief executive officer of the corporation subject to approval of the office of financial management. Reimbursement under this section may not be for promotional hosting expenditures. [1985 c 233 § 4.]

43.03.065 Subsistence and lodging expenses—Direct payment to suppliers authorized. The allowances prescribed pursuant to RCW 43.03.050 as now or hereafter amended may be paid as reimbursements to individuals for subsistence and lodging expenses during official travel. Alternatively, amounts not exceeding those allowances may be paid directly to appropriate suppliers of subsistence and lodging, when more economical and advantageous to the state, under general rules and regulations adopted by the director of financial management with the advice of the state auditor. Payments to suppliers for subsistence and lodging expenses of individuals in travel status shall not result in a cost to the state in excess of what would be payable by way of reimbursements to the individuals involved. [1979 c 151 § 85; 1977 ex.s. c 312 § 4.]

Additional notes found at www.leg.wa.gov

43.03.110 Moving expenses of employees. Whenever it is reasonably necessary to the successful performance of the required duty of a state office, commission, department or institution to transfer a deputy or other employee from one station to another within the state, thereby necessitating a change of such deputy's or employee's domicile, it shall be lawful for such office, commission, department or institution to move such deputy's or employee's household goods and effects to the new station at the expense of the state, or to defray the actual cost of such removal by common carrier, or otherwise, at the expense of the state, in which latter event reimbursement to the deputy or employee shall be upon voucher submitted by him or her and approved by the department head. [2009 c 549 § 5008; 1967 ex.s. c 16 § 1; 1965 c 8 § 43.03.110. Prior: 1943 c 128 § 1; Rem. Supp. 1943 § 9948-1.]

43.03.120 Moving expenses of new employees. Any state office, commission, department or institution may also pay the moving expenses of a new employee, necessitated by his or her acceptance of state employment, pursuant to mutual agreement with such employee in advance of his or her employment: PROVIDED, That if such employee is in the classified service as defined in chapter 41.06 RCW, that said employee has been duly certified from an eligible register. No such offer or agreement for such payment shall be made to a prospective member of the classified service, prior to such certification, except through appropriate public announcement by the department of personnel, or other corresponding personnel agency as provided by chapter 41.06 RCW. Payment for all expenses authorized by RCW 43.03.060, 43.03.110 through 43.03.210 including moving expenses of new employees, exempt or classified, and others, shall be subject to reasonable regulations promulgated by the director of financial management, including regulations defining allowable moving costs: PROVIDED, That, if the new employee terminates or causes termination of his or her employment with the state within one year of the date of employment, the state shall be entitled to reimbursement for the moving costs which have been paid and may withhold such sum as necessary therefor from any amounts due the employee. [2009 c 549 § 5009; 1979 c 151 § 86; 1967 ex.s. c 16 § 2.]

43.03.125 Relocation compensation for domiciliary moves. An agency may, within existing resources, authorize lump sum relocation compensation when it determines it is necessary to successfully recruit and retain qualified candidates who will have to make a domiciliary move in order to accept the position. It is lawful for a state office, commission, department, or institution to, within existing resources, authorize lump sum relocation compensation as authorized by rule under chapter 41.06 RCW and in accordance with the provisions of chapter 43.88 RCW. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation. [1999 c 297 § 2.]

Findings—1999 c 297: "The legislature finds that recruiting and retaining a highly qualified workforce is essential to deliver high quality public programs. One factor that impairs recruitment or transfer of public employees is the housing cost differential between the rural and urban areas of the state. This housing cost differential can cause state employees to decline promotional or transfer opportunities if the costs associated with such moves are not compensated.

Therefore, the legislature finds that it is in the interest of the citizens of the state of Washington to authorize an employing agency to offer assistance to state employees to relocate from one part of the state to another. This assistance is referred to as relocation compensation and is commonplace with private and federal government employers." [1999 c 297 § 1.]

43.03.130 Travel expenses of prospective employees. Any state office, commission, department or institution may agree to pay the travel expenses of a prospective employee as an inducement for such applicant to travel to a designated place to be interviewed by and for the convenience of such agency: PROVIDED, That if such employment is to be in the classified service, such offer may be made only on the express authorization of the state department of personnel, or other corresponding personnel agency as provided by chapter 41.06 RCW, to applicants reporting for a merit system examination or to applicants from an eligible register reporting for a pre-employment interview. Travel expenses authorized for prospective employees called for interviews shall be payable at rates in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. When an applicant is called to be interviewed by or on behalf of more than one agency, the authorized travel expenses may be paid directly by the authorizing personnel department or agency, subject to reimbursement from the interviewing agencies on a pro rata basis.

In the case of both classified and exempt positions, such travel expenses will be paid only for applicants being considered for the positions of director, deputy director, assistant director, or supervisor of state departments, boards or commissions; or equivalent or higher positions; or engineers, or other personnel having both executive and professional status. In the case of the state investment board, such travel expenses may also be paid for applicants being considered for investment officer positions. In the case of four-year institutions of higher education, such travel expenses will be paid only for applicants being considered for academic positions above the rank of instructor or professional or administrative employees in supervisory positions. In the case of community and technical colleges, such travel expenses may be paid for

applicants being considered for full-time faculty positions or administrative employees in supervisory positions. [2000 c 153 § 1; 1993 c 93 § 1; 1975-'76 2nd ex.s. c 34 § 96; 1967 ex.s. c 16 § 3.]

Additional notes found at www.leg.wa.gov

43.03.150 Advance payment of travel expenses—Authorized. Whenever it becomes necessary for an elective or appointive official or employee of the state to travel and to incur expenses for which reimbursement may be made, it shall be the policy of the state to make reasonable allowances to such officers and employees in advance of expenditure, on request of such officer or employee, under appropriate rules and regulations prescribed by the director of financial management. [1979 c 151 § 87; 1967 ex.s. c 16 § 6.]

43.03.160 Advance payment of travel expenses—"Department" defined. "Department", as used herein, shall mean every department, office, agency or institution of state government. [1967 ex.s. c 16 § 7.]

43.03.170 Advance payment of travel expenses—Advance warrants—Issuance—Limitations. The head of any state department may issue an advance warrant on the request of any officer or employee for the purpose of defraying his or her anticipated reimbursable expenses while traveling on business of such state department away from his or her designated post of duty, except expenses in connection with the use of a personal automobile. The amount of such advance shall not exceed the amount of such reasonably anticipated expenses of the officer or employee to be necessarily incurred in the course of such business of the state for a period of not to exceed ninety days. Department heads shall establish written policies prescribing a reasonable amount for which such warrants may be written. [2009 c 549 § 5010; 1979 ex.s. c 71 § 1; 1967 ex.s. c 16 § 8.]

43.03.180 Advance payment of travel expenses—Itemized travel expense voucher to be submitted—Repayment of unexpended portion of advance—Default. On or before the tenth day following each month in which such advance was furnished to the officer or employee, he or she shall submit to the head of his or her department a fully itemized travel expense voucher fully justifying the expenditure of such advance or whatever part thereof has been expended, for legally reimbursable items on behalf of the state. Any unexpended portion of such advance shall be returned to the agency at the close of the authorized travel period. Payment shall accompany such itemized voucher at the close of the travel period; and may be made by check or similar instrument payable to the department. Any default in accounting for or repaying an advance shall render the full amount which is unpaid immediately due and payable with interest at the rate of ten percent per annum from the date of default until paid. [2009 c 549 § 5011; 1967 ex.s. c 16 § 9.]

43.03.190 Advance payment of travel expenses—Lien against and right to withhold funds payable until proper accounting or repaying of advance made. To protect the state from any losses on account of advances made as

provided in RCW 43.03.150 through 43.03.210, the state shall have a prior lien against and a right to withhold any and all funds payable or to become payable by the state to such officer or employee to whom such advance has been given as provided in RCW 43.03.150 through 43.03.210, up to the amount of such advance and interest at the rate of ten percent per annum, until such time as repayment or justification has been made. [1979 ex.s. c 71 § 2; 1967 ex.s. c 16 § 10.]

43.03.200 Advance payment of travel expenses—Advances construed. An advance made under RCW 43.03.150 through 43.03.210 shall be considered as having been made to such officer or employee to be expended by him or her as an agent of the state for state purposes only, and specifically to defray necessary costs while performing his or her official duties. No such advance shall be considered for any purpose as a loan to such officer or employee, and any unauthorized expenditure of such funds shall be considered a misappropriation of state funds by a custodian of such funds. [2009 c 549 § 5012; 1967 ex.s. c 16 § 11.]

43.03.210 Advance payment of travel expenses—Director of financial management to prescribe rules and regulations to carry out RCW 43.03.150 through 43.03.210. The director of financial management may prescribe rules and regulations to assist in carrying out the purposes of RCW 43.03.150 through 43.03.210 including regulation of travel by officers and employees and the conditions under which per diem and mileage shall be paid, so as to improve efficiency and conserve funds and to insure proper use and accountability of travel advances strictly in the public interest and for public purposes only. [1979 c 151 § 88; 1967 ex.s. c 16 § 12.]

43.03.220 Compensation of members of part-time boards and commissions—Class one groups. (1) Any part-time board, commission, council, committee, or other similar group which is established by the executive, legislative, or judicial branch to participate in state government and which functions primarily in an advisory, coordinating, or planning capacity shall be identified as a class one group.

(2) Absent any other provision of law to the contrary, no money beyond the customary reimbursement or allowance for expenses may be paid by or through the state to members of class one groups for attendance at meetings of such groups.

(3) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class one board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class one groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities

must be approved by the director of the office of financial management.

(4) Beginning July 1, 2010, through June 30, 2011, class one groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel. [2010 1st sp.s. c 7 § 142; 1984 c 287 § 2.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Legislative findings—1984 c 287: "The legislature finds that members of part-time boards, commissions, councils, committees, and other similar groups established by the executive, legislative, or judicial branches of state government make a valuable contribution to the public welfare. This time and talent so generously donated to the state is gratefully acknowledged.

The legislature further finds that membership on certain part-time groups involves responsibility for major policy decisions and represents a significant demand on the time and resources of members. The demands and responsibilities are well beyond reasonable expectations of an individual's gratuitous contribution to the public welfare. It is therefore appropriate to provide compensation to members of specific qualifying groups and further to provide three levels of compensation based on the responsibilities of the group and the time required to perform the group's statutory duties." [1984 c 287 § 1.]

Additional notes found at www.leg.wa.gov

43.03.230 Compensation of members of part-time boards and commissions—Class two groups. (1) Any agricultural commodity board or commission established pursuant to Title 15 or 16 RCW shall be identified as a class two group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class two group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class two board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class two groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.

(5) Beginning July 1, 2010, through June 30, 2011, class two groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel. [2010 1st sp.s. c 7 § 143; 2001 c 315 § 11; 1984 c 287 § 3.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Legislative findings—Section headings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.03.240 Compensation of members of part-time boards and commissions—Class three groups. (1) Any part-time, statutory board, commission, council, committee, or other similar group which has rule-making authority, performs quasi-judicial functions, has responsibility for the administration or policy direction of a state agency or program, or performs regulatory or licensing functions with respect to a specific profession, occupation, business, or industry shall be identified as a class three group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class three group is eligible to receive compensation in an amount not to exceed fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class three board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class three groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.

(5) Beginning July 1, 2010, through June 30, 2011, class three groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel. [2010 1st sp.s. c 7 § 144; 1984 c 287 § 4.]

(2010 Ed.)

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Legislative findings—Section headings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.03.250 Compensation of members of part-time boards and commissions—Class four groups. (1) A part-time, statutory board, commission, council, committee, or other similar group shall be identified as a class four group for purposes of compensation if the group:

(a) Has rule-making authority, performs quasi-judicial functions, or has responsibility for the administration or policy direction of a state agency or program;

(b) Has duties that are deemed by the legislature to be of overriding sensitivity and importance to the public welfare and the operation of state government; and

(c) Requires service from its members representing a significant demand on their time that is normally in excess of one hundred hours of meeting time per year.

(2) Each member of a class four group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, class four groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management. [2010 1st sp.s. c 7 § 145; 1984 c 287 § 5.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Legislative findings—Section headings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.03.265 Compensation of members of part-time boards and commissions—Class five groups. (1) Any part-time commission that has rule-making authority, performs quasi-judicial functions, has responsibility for the policy direction of a health profession credentialing program, and performs regulatory and licensing functions with respect to a health care profession licensed under Title 18 RCW shall be identified as a class five group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class five group is eligible to receive compensa-

tion in an amount not to exceed two hundred fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is necessarily incurred in the course of authorized business consistent with the responsibilities of the commission established by law.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class five board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class five groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.

(5) Beginning July 1, 2010, through June 30, 2011, class five groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel. [2010 1st sp.s. c 7 § 146; 1999 c 366 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

43.03.300 Salaries of elected state officials—Legislative declaration—Purpose. The legislature hereby declares it to be the policy of this state to base salaries of elected state officials on realistic standards in order that such officials may be paid according to the duties of their offices and so that citizens of the highest quality may be attracted to public service. It is the purpose of RCW 43.03.300 through 43.03.310 to effectuate this policy by creating a citizens' commission to establish proper salaries for such officials, thus removing political considerations in fixing the appropriateness of the amount of such salaries. [1986 c 155 § 1.]

Additional notes found at www.leg.wa.gov

43.03.305 Washington citizens' commission on salaries for elected officials—Generally. There is created a commission to be known as the Washington citizens' commission on salaries for elected officials, to consist of sixteen members appointed by the governor as provided in this section.

(1) Nine of the sixteen commission members shall be selected by lot by the secretary of state from among those registered voters eligible to vote at the time persons are

selected for appointment to full terms on the commission under subsection (3) of this section. One member shall be selected from each congressional district. The secretary shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying persons selected and for providing a new selection from a congressional district if a person selected from the district declines appointment to the commission or if, following the person's appointment, the person's position on the commission becomes vacant before the end of the person's term of office.

(2) The remaining seven of the sixteen commission members, all residents of this state, shall be selected jointly by the speaker of the house of representatives and the president of the senate. The persons selected under this subsection shall have had experience in the field of personnel management. Of these seven members, one shall be selected from each of the following five sectors in this state: Private institutions of higher education; business; professional personnel management; legal profession; and organized labor. Of the two remaining members, one shall be a person recommended to the speaker and the president by the chair of the Washington personnel resources board and one shall be a person recommended by majority vote of the presidents of the state's four-year institutions of higher education.

(3) The secretary of state shall forward the names of persons selected under subsection (1) of this section and the speaker of the house of representatives and president of the senate shall forward the names of persons selected under subsection (2) of this section to the governor who shall appoint these persons to the commission. Except as provided in subsection (6) of this section, the names of persons selected for appointment to the commission shall be forwarded to the governor not later than February 15, 1987, and not later than the fifteenth day of February every four years through 1999. The terms of the members selected in 1999 shall terminate July 1, 2002, and the names of persons selected for appointment to the commission shall be forwarded to the governor not later than July 1, 2002. Of the sixteen names forwarded to the governor in 2002, the governor shall by lot select four of the persons selected under subsection (1) of this section and four of the persons selected under subsection (2) of this section to serve two-year terms, with the rest of the members serving four-year terms. Thereafter, except as provided in subsection (6) of this section, all members shall serve four-year terms and the names of eight persons selected for appointment to the commission shall be forwarded to the governor not later than the first day of July every two years.

(4) No person may be appointed to more than two terms. No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office or for a disqualifying change of residence.

The unexcused absence of any person who is a member of the commission from two consecutive meetings of the commission shall constitute the relinquishment of that person's membership on the commission. Such a relinquishment creates a vacancy in that person's position on the commission. A member's absence may be excused by the chair of the commission upon the member's written request if the chair believes there is just cause for the absence. Such a

request must be received by the chair before the meeting for which the absence is to be excused. A member's absence from a meeting of the commission may also be excused during the meeting for which the member is absent by the affirmative vote of a majority of the members of the commission present at the meeting.

(5) No state official, public employee, or lobbyist, or immediate family member of the official, employee, or lobbyist, subject to the registration requirements of *chapter 42.17 RCW is eligible for membership on the commission.

As used in this subsection the phrase "immediate family" means the parents, spouse or domestic partner, siblings, children, or dependent relative of the official, employee, or lobbyist whether or not living in the household of the official, employee, or lobbyist.

(6) Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term. The selection and appointment shall be concluded within thirty days of the date the position becomes vacant and shall be conducted in the same manner as originally provided. [2008 c 6 § 204; 1999 c 102 § 1; 1995 c 3 § 1; 1993 c 281 § 46; 1986 c 155 § 2.]

***Reviser's note:** Provisions in chapter 42.17 RCW relating to campaign finance were recodified in chapter 42.17A RCW by 2010 c 204, effective January 1, 2012.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Additional notes found at www.leg.wa.gov

43.03.310 Duties of citizens' commission—Travel expenses—Chair—Schedule of salaries—Publication—Hearings. (1) The citizens' commission on salaries for elected officials shall study the relationship of salaries to the duties of members of the legislature, all elected officials of the executive branch of state government, and all judges of the supreme court, court of appeals, superior courts, and district courts, and shall fix the salary for each respective position.

(2) Except as provided otherwise in RCW 43.03.305 and this section, the commission shall be solely responsible for its own organization, operation, and action and shall enjoy the fullest cooperation of all state officials, departments, and agencies.

(3) Members of the commission shall receive no compensation for their services, but shall be eligible to receive a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(4) The members of the commission shall elect a chair from among their number. The commission shall set a schedule of salaries by an affirmative vote of not less than nine members of the commission.

(5) The commission shall file its initial schedule of salaries for the elected officials with the secretary of state no later than the first Monday in June, 1987, and shall file a schedule biennially thereafter. Each such schedule shall be filed in legislative bill form, shall be assigned a chapter number and published with the session laws of the legislature, and shall be codified by the statute law committee. The signature of the chair of the commission shall be affixed to each schedule submitted to the secretary of state. The chair shall certify that the schedule has been adopted in accordance with the provi-

(2010 Ed.)

sions of state law and with the rules, if any, of the commission. Such schedules shall become effective ninety days after the filing thereof, except as provided in Article XXVIII, section 1 of the state Constitution. State laws regarding referendum petitions shall apply to such schedules to the extent consistent with Article XXVIII, section 1 of the state Constitution.

(6) Before the filing of any salary schedule, the commission shall first develop a proposed salary schedule and then hold no fewer than four regular meetings as defined by chapter 42.30 RCW to take public testimony on the proposed schedule within the four months immediately preceding the filing. In the 2009-2011 fiscal biennium, the commission shall hold no more than two regular meetings as defined by chapter 42.30 RCW to take public testimony on the proposed schedule within the four months immediately preceding the filing. At the last public hearing that is held as a regular meeting on the proposed schedule, the commission shall adopt the salary schedule as originally proposed or as amended at that meeting that will be filed with the secretary of state.

(7) All meetings, actions, hearings, and business of the commission shall be subject in full to the open public meetings act, chapter 42.30 RCW.

(8) Salaries of the officials referred to in subsection (1) of this section that are in effect on January 12, 1987, shall continue until modified by the commission under this section. [2009 c 564 § 925; 1998 c 164 § 1; 1995 c 3 § 2; 1986 c 155 § 3.]

Effective date—2009 c 564: See note following RCW 2.68.020.

Additional notes found at www.leg.wa.gov

Chapter 43.04 RCW USE OF STATE SEAL

Sections

43.04.010	Legislative findings.
43.04.020	Definitions.
43.04.030	Use of state seal—Official purposes.
43.04.040	Use of state seal—Commemorative and souvenir items—Historical, educational, and civil purposes—Application—Fee—Licensing agreements—Rules.
43.04.050	Use of state seal—Prohibitions—Imitations.
43.04.060	Endorsements prohibited.
43.04.070	Civil penalties—Injunctions.
43.04.080	Investigations—Enforcement.
43.04.090	Criminal penalty.
43.04.100	Deposit of fees, penalties, and damages—Use.
43.04.900	Severability—1988 c 120.

43.04.010 Legislative findings. The legislature finds that the seal of the state of Washington is a symbol of the authority and sovereignty of the state and is a valuable asset of its people. It is the intent of the legislature to ensure that appropriate uses are made of the state seal and to assist the secretary of state in the performance of the secretary's constitutional duty as custodian of the seal. [1988 c 120 § 1.]

43.04.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "State seal" means the seal of the state as described in Article XVIII, section 1 of the state Constitution and in RCW 1.20.080.

(2) "Secretary" means the secretary of state and any designee of the secretary of state. [1988 c 120 § 2.]

43.04.030 Use of state seal—Official purposes. Except as otherwise provided in this chapter, the state seal shall be used for official purposes only. [1988 c 120 § 3.]

43.04.040 Use of state seal—Commemorative and souvenir items—Historical, educational, and civil purposes—Application—Fee—Licensing agreements—Rules. (1) The secretary of state may authorize the use of the state seal on commemorative and souvenir items, and for historical, educational, and civic purposes. Such authorization shall be in writing.

(2) Application for such authorization shall be in writing and shall be accompanied by a filing fee, the amount of which shall be determined by the secretary of state. The secretary shall set the fee at a level adequate to cover the administrative costs of processing the applications.

(3) If the secretary determines that a permitted use of the seal could financially benefit the state, the secretary may condition authorization upon a licensing agreement to secure those benefits for the state.

(4) The secretary of state shall adopt rules under chapter 34.05 RCW to govern the use of the seal in a manner consistent with this chapter. Any rule governing the use of the seal shall be designed to prevent inappropriate or misleading use of the seal and to assure tasteful and high-quality reproduction of the seal. The rules shall also prescribe the circumstances when a licensing arrangement shall be required and the method for determining licensing fees. [1988 c 120 § 4.]

43.04.050 Use of state seal—Prohibitions—Imitations. (1) Except as otherwise provided in RCW 43.04.040, the state seal shall not be used on or in connection with any advertising or promotion for any product, business, organization, service, or article whether offered for sale for profit or offered without charge.

(2) The state seal shall never be used in a political campaign to assist or defeat any candidate for elective office.

(3) It is a violation of this chapter to use any symbol that imitates the seal or that is deceptively similar in appearance to the seal, in any manner that would be an improper use of the official seal itself.

(4) Nothing in this chapter shall prohibit the reproduction of the state seal for illustrative purposes by the news media if the reproduction by the news media is incidental to the publication or the broadcast. Nothing in this chapter shall prohibit a characterization of the state seal from being used in political cartoons. [1988 c 120 § 5.]

43.04.060 Endorsements prohibited. No use of the state seal may operate or be construed to operate in any way as an endorsement of any business, organization, product, service, or article. [1988 c 120 § 6.]

43.04.070 Civil penalties—Injunctions. Any person who violates RCW 43.04.050 (1) or (3) by using the state seal or an imitative or deceptively similar seal on or in connection with any product, business, organization, service, or article shall be liable for damages in a suit brought by the attorney general. The damages shall be equal to the gross monetary amount gained by the misuse of the state seal or the use of the imitative or deceptively similar seal, plus attorney's fees and other costs of the state in bringing the suit. The "gross monetary amount" is the total of the gross receipts that can be reasonably attributed to the misuse of the seal or the use of an imitative or deceptively similar seal. In addition to the damages, the violator is subject to a civil penalty imposed by the court in an amount not to exceed five thousand dollars. In imposing this penalty, the court shall consider the need to deter further violations of this chapter.

The attorney general may seek and shall be granted such injunctive relief as is appropriate to stop or prevent violations of this chapter. [1988 c 120 § 7.]

43.04.080 Investigations—Enforcement. The secretary of state shall conduct investigations for violations of this chapter and may request enforcement by the attorney general. [1988 c 120 § 8.]

43.04.090 Criminal penalty. Any person who wilfully violates this chapter is guilty of a misdemeanor. [1988 c 120 § 9.]

43.04.100 Deposit of fees, penalties, and damages—Use. All fees, penalties, and damages received under this chapter shall be paid to the secretary of state and with the exception of the filing fee authorized in RCW 43.04.040(2) shall be deposited by the secretary into the capitol furnishings preservation committee account created in RCW 27.48.040. [2007 c 453 § 4; 1988 c 120 § 10.]

Findings—2007 c 453: See RCW 44.73.005.

43.04.900 Severability—1988 c 120. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1988 c 120 § 13.]

Chapter 43.05 RCW

TECHNICAL ASSISTANCE PROGRAMS

Sections

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43.05.030	Technical assistance visit—Notice of violation.
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43.05.060	Department of ecology—Notice of correction.
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43.05.090	Department of labor and industries—Consultative visit, report—Compliance inspection, citation.
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43.05.120	Time for compliance—Extension.

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43.05.150	Agency immunity—Enforcement authority.
43.05.901	Conflict with federal requirements.
43.05.902	Resolution of conflict with federal requirements—Notification.
43.05.903	Part headings not law—1995 c 403.
43.05.904	Severability—1995 c 403.
43.05.905	Findings—Short title—Intent—1995 c 403.

43.05.005 Findings. The legislature finds that, due to the volume and complexity of laws and rules it is appropriate for regulatory agencies to adopt programs and policies that encourage voluntary compliance by those affected by specific rules. The legislature recognizes that a cooperative partnership between agencies and regulated parties that emphasizes education and assistance before the imposition of penalties will achieve greater compliance with laws and rules and that most individuals and businesses who are subject to regulation will attempt to comply with the law, particularly if they are given sufficient information. In this context, enforcement should assure that the majority of a regulated community that complies with the law are not placed at a competitive disadvantage and that a continuing failure to comply that is within the control of a party who has received technical assistance is considered by an agency when it determines the amount of any civil penalty that is issued. [1995 c 403 § 601.]

43.05.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Civil penalty" means a monetary penalty administratively issued by a regulatory agency for noncompliance with state or federal law or rules. The term does not include any criminal penalty, damage assessments, wages, premiums, or taxes owed, or interest or late fees on any existing obligation.

(2) "Regulatory agency" means an agency as defined in RCW 34.05.010 that has the authority to issue civil penalties. The term does not include the state patrol or any institution of higher education as defined in RCW 28B.10.016.

(3) "Technical assistance" includes:

(a) Information on the laws, rules, and compliance methods and technologies applicable to the regulatory agency's programs;

(b) Information on methods to avoid compliance problems;

(c) Assistance in applying for permits; and

(d) Information on the mission, goals, and objectives of the program.

(4) "Technical assistance documents" means documents prepared to provide information specified in subsection (3) of this section entitled a technical assistance document by the agency head or its designee. Technical assistance documents do not include notices of correction, violation, or enforcement action. Technical assistance documents do not impose mandatory obligations or serve as the basis for a citation. [1999 c 236 § 1; 1995 c 403 § 602.]

43.05.020 Agency programs—List of technical assistance providers. All regulatory agencies shall develop programs to encourage voluntary compliance by providing technical assistance consistent with statutory requirements. The

programs shall include but are not limited to technical assistance visits, printed information, information and assistance by telephone, training meetings, and other appropriate methods to provide technical assistance. In addition, all regulatory agencies shall provide upon request a list of organizations, including private companies, that provide technical assistance. This list shall be compiled by the agencies from information submitted by the organizations and shall not constitute an endorsement by an agency of any organization. [1995 c 403 § 603.]

43.05.030 Technical assistance visit—Notice of violation. (1) For the purposes of this chapter, a technical assistance visit is a visit by a regulatory agency to a facility, business, or other location that:

(a) Has been requested or is voluntarily accepted; and

(b) Is declared by the regulatory agency at the beginning of the visit to be a technical assistance visit.

(2) A technical assistance visit also includes a consultative visit pursuant to RCW 49.17.250.

(3) During a technical assistance visit, or within a reasonable time thereafter, a regulatory agency shall inform the owner or operator of the facility of any violations of law or agency rules identified by the agency as follows:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the agency requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the agency or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency. [1996 c 206 § 2; 1995 c 403 § 604.]

Findings—1996 c 206: "The legislature finds that many individuals and small businesses who are required to comply with laws and agency rules often do not have access to the Revised Code of Washington, the Washington Administrative Code, the United States Code, or the Code of Federal Regulations. In this case, those informed of violations do not know whether, or to what extent, the cited law or agency rule actually applies to their situation. In order to facilitate greater understanding of the law and agency rules, the legislature finds that those who make the effort to obtain technical assistance from a regulatory agency, and those who are issued a notice of correction, should be given the text of the specific section or subsection of the law or agency rule they are alleged to have violated." [1996 c 206 § 1.]

43.05.040 Time to correct violations—Revisit—Issuance of penalties. (1) The owner and operator shall be given a reasonable period of time to correct violations identified during a technical assistance visit before any civil penalty provided for by law is imposed for those violations. A regulatory agency may revisit a facility, business, or other location after a technical assistance visit and a reasonable period of time has passed to correct violations identified by the agency in writing and issue civil penalties as provided for by law for any uncorrected violations.

(2) During a visit under subsection (1) of this section, the regulatory agency may not issue civil penalties for violations not previously identified in a technical assistance visit, unless the violations are of the type for which the agency may issue

a citation: (a) During a technical assistance visit under RCW 43.05.050; or (b) under RCW 43.05.090. [2001 c 190 § 1; 1995 c 403 § 605.]

43.05.050 Issuance of penalty during technical assistance visit. A regulatory agency that observes a violation during a technical assistance visit may issue a civil penalty as provided for by law if: (1) The individual or business has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) the issue involves sales taxes due to the state and the individual or business is not remitting previously collected sales taxes to the state; or (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars. [1995 c 403 § 606.]

43.05.060 Department of ecology—Notice of correction. (1) If in the course of any site inspection or visit that is not a technical assistance visit, the department of ecology becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the department and are not subject to civil penalties as provided for in RCW 43.05.070, the department may issue a notice of correction to the responsible party that shall include:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the department or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the department issues a notice of correction, it shall not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice. [1996 c 206 § 3; 1995 c 403 § 607.]

Findings—1996 c 206: See note following RCW 43.05.030.

43.05.070 Department of ecology—Penalty. The department of ecology may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; or (3) the violation has a probability of placing a person in danger of death

or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars. [1995 c 403 § 608.]

43.05.080 Application of RCW 43.05.060 and 43.05.070—Limited. The provisions of RCW 43.05.060 and 43.05.070 affecting civil penalties issued by the department of ecology shall not apply to civil penalties for negligent discharge of oil as authorized under RCW 90.56.330 or to civil penalties as authorized under RCW 90.03.600 for unlawful use of water in violation of RCW 90.03.250 or 90.44.050. [1995 c 403 § 609.]

43.05.090 Department of labor and industries—Consultative visit, report—Compliance inspection, citation. (1) Following a consultative visit pursuant to RCW 49.17.250, the department of labor and industries shall issue a report to the employer that the employer shall make available to its employees. The report shall contain:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved;

(d) Notice of means to contact technical assistance services provided by the department; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) Following a compliance inspection pursuant to RCW 49.17.120, the department of labor and industries shall issue a citation for violations of industrial safety and health standards. The citation shall not assess a penalty if the violations:

(a) Are determined not to be of a serious nature;

(b) Have not been previously cited;

(c) Are not willful; and

(d) Do not have a mandatory penalty under chapter 49.17 RCW. [1996 c 206 § 4; 1995 c 403 § 610.]

Findings—1996 c 206: See note following RCW 43.05.030.

43.05.100 Departments of agriculture, fish and wildlife, health, licensing, natural resources—Notice of correction. (1) If in the course of any inspection or visit that is not a technical assistance visit, the department of agriculture, fish and wildlife, health, licensing, or natural resources becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the department and are not subject to civil penalties as provided for in RCW 43.05.110, the department may issue a notice of correction to the responsible party that shall include:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the department or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the department issues a notice of correction, it shall not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice. [1996 c 206 § 5; 1995 c 403 § 611.]

Findings—1996 c 206: See note following RCW 43.05.030.

43.05.110 Departments of agriculture, fish and wildlife, health, licensing, natural resources—Penalty. The department of agriculture, fish and wildlife, health, licensing, or natural resources may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; [or] (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars; or (4) the violation was committed by a business that employed fifty or more employees on at least one day in each of the preceding twelve months. In addition, the department of fish and wildlife may issue a civil penalty provided for by law without first issuing a notice of correction for a violation of any rule dealing with seasons, catch or bag limits, gear types, or geographical areas for fish or wildlife removal, reporting, or disposal.

This section does not apply to the civil penalties imposed under RCW 82.38.170(13). [1998 c 176 § 84; 1995 c 403 § 612.]

Rules—Findings—Effective date—1998 c 176: See RCW 82.36.800, 82.36.900, and 82.36.901.

43.05.120 Time for compliance—Extension. The date for compliance established by the department of ecology, labor and industries, agriculture, fish and wildlife, health, licensing, or natural resources pursuant to RCW 43.05.060, 43.05.090, or 43.05.100 respectively shall provide for a reasonable time to achieve compliance. Any person receiving a notice of correction pursuant to RCW 43.05.060 or 43.05.100 or a report or citation pursuant to RCW 43.05.090 may request an extension of time to achieve compliance for good cause from the issuing department. Requests shall be submitted to the issuing department and responded to by the issuing department in writing in accordance with procedures specified by the issuing department in the notice, report, or citation. [1995 c 403 § 613.]

(2010 Ed.)

43.05.130 Educational programs. The departments of revenue and labor and industries and the employment security department shall undertake an educational program directed at those who have the most difficulty in determining their tax or premium liability. The departments may rely on information from internal data, trade associations, and businesses to determine which entities should be selected. The educational programs may include, but not be limited to, targeted informational fact sheets, self-audits, or workshops, and may be presented individually by the agency or in conjunction with other agencies. [1995 c 403 § 614.]

43.05.140 Pilot voluntary audit program. The department of revenue, the department of labor and industries in respect to its duties in Title 51 RCW, and the employment security department shall develop and administer a pilot voluntary audit program. Voluntary audits can be requested by businesses from any of these agencies according to guidelines established by each agency. No penalty assessments may be made against participants in such a program except when the agency determines that either a good faith effort has not been made by the taxpayer or premium payer to comply with the law or that the taxpayer has failed to remit previously collected sales taxes to the state. The persons conducting the voluntary audit shall provide the business undergoing the voluntary audit an audit report that describes errors or omissions found and future reporting instructions. This program does not relieve a business from past or future tax or premium obligations. [1995 c 403 § 615.]

43.05.150 Agency immunity—Enforcement authority. Nothing in this chapter obligates a regulatory agency to conduct a technical assistance visit. The state and officers or employees of the state shall not be liable for damages to a person to the extent that liability is asserted to arise from providing technical assistance, or if liability is asserted to arise from the failure of the state or officers or employees of the state to provide technical assistance. This chapter does not limit the authority of any regulatory agency to take any enforcement action, other than a civil penalty, authorized by law. This chapter shall not limit a regulatory agency's authority to issue a civil penalty as authorized by law based upon a person's failure to comply with specific terms and conditions of any permit or license issued by the agency to that person. [1995 c 403 § 617.]

43.05.901 Conflict with federal requirements. If a regulatory agency determines any part of this chapter to be in conflict with federal law or program requirements, in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, or in conflict with the requirements for eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this chapter shall be inoperative solely to the extent of the conflict. Any rules under this chapter shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state. [1995 c 403 § 619.]

43.05.902 Resolution of conflict with federal requirements—Notification. If notified by responsible federal officials of any conflict of this chapter with federal law or program requirements or with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the regulatory agency notified of the conflict shall actively seek to resolve the conflict. If the agency determines that the conflict cannot be resolved without loss of benefits or authority to the state, the agency shall notify the governor, the president of the senate, and the speaker of the house of representatives in writing within thirty days of making that determination. [1995 c 403 § 620.]

43.05.903 Part headings not law—1995 c 403. Part headings as used in this act do not constitute any part of the law. [1995 c 403 § 1101.]

43.05.904 Severability—1995 c 403. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1995 c 403 § 1105.]

43.05.905 Findings—Short title—Intent—1995 c 403. See note following RCW 34.05.328.

Chapter 43.06 RCW GOVERNOR

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- state college boards of trustees: RCW 28B.40.100.
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 veterinary board of governors: RCW 18.92.021.
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- Approval of laws: State Constitution Art. 3 § 12.
- Associations of municipal corporations or officers to furnish information to governor: RCW 44.04.170.
- Attorney general, advice to governor: RCW 43.10.030.
- Board of natural resources member: RCW 43.30.205.
- Bonds, notes and other evidences of indebtedness, governor's duties: Chapter 39.42 RCW.
- Child welfare services, duty to determine whether to expand delivery by contractors: RCW 74.13.372.
- Clemency and pardons board, established as board in office of governor: RCW 9.94A.880.
- Collective bargaining negotiations for marine employees: RCW 47.64.170 and 47.64.175.
- Commander-in-chief of state militia: State Constitution Art. 3 § 8.
- Commissions issued by state, signed by: State Constitution Art. 3 § 15.
- Commutation of death sentence, power to commute: RCW 10.01.120.
- Continuity of government in event of enemy attack, succession to office of governor: RCW 42.14.020.
- Council for children and families, jurisdiction in governor: RCW 43.121.020.
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- Fines, power to remit: State Constitution Art. 3 § 11.
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- Labor and industries, department, biennial report to governor: RCW 43.22.330.
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- Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 36.93 RCW.
- Marketing agreements or orders, annual audit of financial affairs under, governor to receive reports of: RCW 15.65.490.
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- Motor vehicle administration, annual report of director of licensing to go to: RCW 46.01.290.
- OASI, agreement of state for participation of state and political subdivision employees, duties concerning: Chapter 41.48 RCW.
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- Official bonds, approval of: RCW 42.08.100.
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- Paroles, governor may revoke: RCW 9.95.160.
- Protection for governor, lieutenant governor, and governor elect, duty of chief of state patrol to provide: RCW 43.43.035.
- Puget Sound ferry and toll bridge system, governor's powers and duties relating to: Chapter 47.60 RCW.
- Registry of governor's acts kept by secretary of state: RCW 43.07.030.
- Remission of fines and forfeitures report to legislature with reasons: State Constitution Art. 3 § 11.
- Reports to governor
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 agricultural marketing legislation recommendations: RCW 15.64.010.
 agriculture director: RCW 43.23.130.
 annual report by state officers, etc., period covered: RCW 43.01.035.
 business license center: RCW 19.02.030.
 department of personnel: RCW 43.03.028.
 department of transportation, operation and construction activities: RCW 47.01.141.
 engineers and land surveyors board of registration: RCW 18.43.035.
 enrollment forecasts: RCW 43.62.050.
 financial management, director: RCW 43.88.160.
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 horse racing commission: RCW 67.16.015.
 human rights commission: RCW 49.60.100.
 indeterminate sentence review board: RCW 9.95.265.
 industrial insurance, violations: RCW 51.04.020.
 investment activities of state investment board: RCW 43.33A.150.
 judges of the supreme court to report defects or omissions in laws to: RCW 2.04.230.
 labor and industries director: RCW 43.22.330, 49.12.180.
 motor vehicle administration, director of licensing: RCW 46.01.290.
 prosecuting attorneys, annual report: RCW 36.27.020.

state arts commission: RCW 43.46.070.
 state board for community and technical colleges: RCW 28B.50.070.
 state board of health: RCW 43.20.100.
 state officers: State Constitution Art. 3 § 5.
 state parks and recreation commission: RCW 79A.05.030.
 superintendent of public instruction, biennial report: RCW 28A.300.040.
 University of Washington board of regents: RCW 28B.20.130.
 veterans' rehabilitation council: RCW 43.61.040.

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 report to legislature: State Constitution Art. 3 § 11.

Residence at seat of government: State Constitution Art. 3 § 24.

Resignation by state officers and members of legislature made to: RCW 42.12.020.

Salaries of public officials, governor's duties: RCW 43.03.028 and 43.03.040.

Salary of governor, amount of: State Constitution Art. 28 § 1; RCW 43.03.010.

Sale of unneeded toll facility property, governor to execute deed: RCW 47.56.255.

School apportionment demands estimate certified to: RCW 28A.300.170.

Secretary of transportation, governor to fix salary of: RCW 47.01.031.

Security and protection for governor, lieutenant governor, and governor elect, duty of state patrol to provide: RCW 43.43.035.

State building authority member: Chapter 43.75 RCW.

State capitol committee member: RCW 43.34.010.

State finance committee member: RCW 43.33.010.

State parks, disposal of land not needed for park purposes, conveyance instruments executed by: RCW 79A.05.175.

State participation within student exchange compact programs—Board to advise governor: RCW 28B.76.650.

Succession to governorship: State Constitution Art. 3 § 10.

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Supreme executive power vested in: State Constitution Art. 3 § 2.

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Toll bridge bonds, governor to countersign: RCW 47.56.140.

Toll bridges, improvement of existing bridge and construction of new bridge as single project, governor's powers and duties relating to: Chapter 47.58 RCW.

Traffic safety commission and programs, powers, duties and responsibilities of governor: Chapter 43.59 RCW.

Unanticipated receipts, governor as state's agent to receive: RCW 43.79.260.

Unemployment compensation, delinquent payments in lieu of contributions of political subdivisions, governor may withhold funds for: RCW 50.24.125.

Uniform interstate family support act extradition powers and duties: RCW 26.21A.650.
 governor defined for purposes of: RCW 26.21A.650.

United States senate, filling vacancy in: RCW 29A.28.030.

Vacancies

in court of appeals: State Constitution Art. 4 § 30; RCW 2.06.080.
 in legislature, duties: State Constitution Art. 2 § 15.
 in office filled by: State Constitution Art. 3 § 13.
 in superior court: State Constitution Art. 4 § 5.
 in supreme court: State Constitution Art. 4 § 3.

Vacancy in office of governor

election to fill: State Constitution Art. 3 § 10.
 succession to: State Constitution Art. 3 § 10.

Veto

initiatives and referendums, power does not extend to: State Constitution Art. 2 § 1.
 power of: State Constitution Art. 3 § 12.

Voluntary action center, establishment by governor: RCW 43.150.040.

Washington scholars' program, participation in: RCW 28A.600.100 through 28A.600.150.

Water pollution control, powers and duties pertaining to: RCW 90.48.260, 90.48.262.

43.06.010 General powers and duties. In addition to those prescribed by the Constitution, the governor may exercise the powers and perform the duties prescribed in this and the following sections:

(1) The governor shall supervise the conduct of all executive and ministerial offices;

(2) The governor shall see that all offices are filled, including as provided in RCW 42.12.070, and the duties thereof performed, or in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session;

(3) The governor shall make the appointments and supply the vacancies mentioned in this title;

(4) The governor is the sole official organ of communication between the government of this state and the government of any other state or territory, or of the United States;

(5) Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, the governor may direct the attorney general to appear on behalf of the state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(6) The governor may require the attorney general or any prosecuting attorney to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(7) The governor may require the attorney general to aid any prosecuting attorney in the discharge of the prosecutor's duties;

(8) The governor may offer rewards, not exceeding one thousand dollars in each case, payable out of the state treasury, for information leading to the apprehension of any person convicted of a felony who has escaped from a state correctional institution or for information leading to the arrest of any person who has committed or is charged with the commission of a felony;

(9) The governor shall perform such duties respecting fugitives from justice as are prescribed by law;

(10) The governor shall issue and transmit election proclamations as prescribed by law;

(11) The governor may require any officer or board to make, upon demand, special reports to the governor, in writing;

(12) The governor may, after finding that a public disorder, disaster, energy emergency, or riot exists within this state or any part thereof which affects life, health, property, or the public peace, proclaim a state of emergency in the area affected, and the powers granted the governor during a state of emergency shall be effective only within the area described in the proclamation;

(13) The governor may, after finding that there exists within this state an imminent danger of infestation of plant pests as defined in RCW 17.24.007 or plant diseases which

seriously endangers the agricultural or horticultural industries of the state of Washington, or which seriously threatens life, health, or economic well-being, order emergency measures to prevent or abate the infestation or disease situation, which measures, after thorough evaluation of all other alternatives, may include the aerial application of pesticides;

(14) On all compacts forwarded to the governor pursuant to RCW 9.46.360(6), the governor is authorized and empowered to execute on behalf of the state compacts with federally recognized Indian tribes in the state of Washington pursuant to the federal Indian Gaming Regulatory Act, 25 U.S.C. Sec. 2701 et seq., for conducting class III gaming, as defined in the Act, on Indian lands. [1994 c 223 § 3; 1993 c 142 § 5; 1992 c 172 § 1; 1991 c 257 § 22; 1982 c 153 § 1; 1979 ex.s. c 53 § 4; 1977 ex.s. c 289 § 15; 1975-'76 2nd ex.s. c 108 § 25; 1969 ex.s. c 186 § 8; 1965 c 8 § 43.06.010. Prior: 1890 p 627 § 1; RRS § 10982.]

Rewards by county legislative authorities: Chapter 10.85 RCW.

Additional notes found at www.leg.wa.gov

43.06.013 Requests for nonconviction criminal history fingerprint record checks for agency heads. When requested by the governor or the director of the department of personnel, nonconviction criminal history fingerprint record checks shall be conducted through the Washington state patrol identification and criminal history section and the federal bureau of investigation on applicants for agency head positions appointed by the governor. Information received pursuant to this section shall be confidential and made available only to the governor or director of the department of personnel or their employees directly involved in the selection, hiring, or background investigation of the subject of the record check. When necessary, applicants may be employed on a conditional basis pending completion of the criminal history record check. "Agency head" as used in this section has the same definition as provided in RCW 34.05.010. [2006 c 45 § 1.]

43.06.015 Interstate oil compact commission—Governor may join. The governor is authorized, on behalf of the state of Washington, to join the interstate oil compact commission as an associate member and to become an active member thereof if and when oil and gas are produced in Washington in commercial quantities and to attend meetings and participate in the activities carried on by said commission either in person or by a duly authorized representative. [1965 c 8 § 43.06.015. Prior: 1953 c 47 § 1.]

Interstate compact to conserve oil and gas: 65 Stat. 199 (P. L. 128, ch. 350) Aug. 28, 1951. Associate membership authorized by Art. 9 § 2 of the commission's bylaws.

43.06.020 Records to be kept. The governor must cause to be kept the following records:

First, a register of all pardons, commutations, executive paroles, final discharges, and restorations of citizenship made by him or her;

Second, an account of all his or her disbursements of state moneys, and of all rewards offered by him or her for the apprehension of criminals and persons charged with crime;

Third, a register of all appointments made by him or her with date of commission, name of appointee and name of pre-

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decessor, if any. [2009 c 549 § 5013; 1965 c 8 § 43.06.020. Prior: 1921 c 28 § 1; 1890 p 628 § 2; RRS § 10983.]

43.06.030 Appointments to senate for confirmation—Notice. For a gubernatorial appointment to be effective, the governor must transmit to the secretary of the senate notice of the appointment, along with pertinent information regarding the appointee, within fourteen days after making any appointment subject to senate confirmation. [1981 c 338 § 12; 1965 c 8 § 43.06.030. Prior: 1890 p 629 § 3; RRS § 10984.]

43.06.040 Lieutenant governor acts in governor's absence. If the governor absents himself or herself from the state, he or she shall, prior to his or her departure, notify the lieutenant governor of his or her proposed absence, and during such absence the lieutenant governor shall perform all the duties of the governor. [2009 c 549 § 5014; 1965 c 8 § 43.06.040. Prior: 1890 p 629 § 6; RRS § 10985.]

Duties of lieutenant governor: State Constitution Art. 3 § 16.

43.06.050 Powers and duties of acting governor. Every provision of law in relation to the powers and duties of the governor, and in relation to acts and duties to be performed by others towards him or her, extends to the person performing for the time being the duties of governor. [2009 c 549 § 5015; 1965 c 8 § 43.06.050. Prior: 1890 p 629 § 4; RRS § 10986.]

43.06.055 Governor-elect—Appropriation to provide office and staff. The legislature preceding the gubernatorial election shall make an appropriation which may only be expended by a newly elected governor other than the incumbent for the purpose of providing office and staff for the governor-elect preparatory to his or her assumption of duties as governor. The funds for the appropriation shall be made available to him or her not later than thirty days prior to the date when the legislature will convene. [2009 c 549 § 5016; 1969 ex.s. c 88 § 1.]

43.06.060 Expense of publishing proclamations. When the governor is authorized or required by law to issue a proclamation, payment for publishing it shall be made out of the state treasury. [1965 c 8 § 43.06.060. Prior: 1881 p 45 §§ 1-3; Code 1881 § 2367; RRS § 10988.]

43.06.070 Removal of appointive officers. The governor may remove from office any state officer appointed by him or her not liable to impeachment, for incompetency, misconduct, or malfeasance in office. [2009 c 549 § 5017; 1965 c 8 § 43.06.070. Prior: 1893 c 101 § 1; RRS § 10988.]

43.06.080 Removal of appointive officers—Statement of reasons to be filed. Whenever the governor is satisfied that any officer not liable to impeachment has been guilty of misconduct, or malfeasance in office, or is incompetent, he or she shall file with the secretary of state a statement showing his or her reasons, with his or her order of removal, and the secretary of state shall forthwith send a certified copy of such order of removal and statement of causes by legis-

tered mail to the last known post office address of the officer in question. [2009 c 549 § 5018; 1965 c 8 § 43.06.080. Prior: 1893 c 101 § 2; RRS § 10989.]

43.06.090 Removal of appointive officers—Filling of vacancy. At the time of making any removal from office, the governor shall appoint some proper person to fill the office, who shall forthwith demand and receive from the officer removed the papers, records, and property of the state pertaining to the office, and shall perform the duties of the office and receive the compensation thereof until his or her successor is appointed. [2009 c 549 § 5019; 1965 c 8 § 43.06.090. Prior: 1893 c 101 § 3; RRS § 10990.]

43.06.092 Gubernatorial appointees—Continuation of service—Appointments to fill vacancies. (1) Any gubernatorial appointee subject to senate confirmation shall continue to serve unless rejected by a vote of the senate. An appointee who is rejected by a vote of the senate shall not be reappointed to the same position for a period of one year from termination of service.

(2) Any person appointed by the governor to fill the unexpired term of an appointment subject to senate confirmation must also be confirmed by the senate. [1981 c 338 § 2.]

43.06.094 Gubernatorial appointees—Removal prior to confirmation. Gubernatorial appointees subject to senate confirmation, other than those who serve at the governor's pleasure, may not be removed from office without cause by the governor prior to confirmation except upon consent of the senate as provided for by the rules of the senate. [1981 c 338 § 1.]

43.06.110 Economic opportunity act programs—State participation—Authority of governor. The governor, or his or her designee, is hereby authorized and empowered to undertake such programs as will, in the judgment of the governor, or his or her designee, enable families and individuals of all ages, in rural and urban areas, in need of the skills, knowledge, motivations, and opportunities to become economically self-sufficient to obtain and secure such skills, knowledge, motivations, and opportunities. Such programs may be engaged in as solely state operations, or in conjunction or cooperation with any appropriate agency of the federal government, any branch or agency of the government of this state, any city or town, county, municipal corporation, metropolitan municipal corporation or other political subdivision of the state, or any private corporation. Where compliance with the provisions of federal law or rules or regulations promulgated thereunder is a necessary condition to the receipt of federal funds by the state, the governor or his or her designee, is hereby authorized to comply with such laws, rules or regulations to the extent necessary for the state to cooperate most fully with the federal government in furtherance of the programs herein authorized. [2009 c 549 § 5020; 1971 ex.s. c 177 § 2; 1965 c 14 § 2.]

County participation in Economic Opportunity Act programs: RCW 36.32.410.

43.06.115 Militarily impacted area—Declaration by governor. (1) The governor may, by executive order, after consultation with or notification of the executive-legislative committee on economic development created by *chapter . . . (Senate Bill No. 5300), Laws of 1993, declare a community to be a "military impacted area." A "military impacted area" means a community or communities, as identified in the executive order, that experience serious social and economic hardships because of a change in defense spending by the federal government in that community or communities.

(2) If the governor executes an order under subsection (1) of this section, the governor shall establish a response team to coordinate state efforts to assist the military impacted community. The response team may include, but not be limited to, one member from each of the following agencies: (a) The **department of community, trade, and economic development; (b) the department of social and health services; (c) the employment security department; (d) the state board for community and technical colleges; (e) the higher education coordinating board; and (f) the department of transportation. The governor may appoint a response team coordinator. The governor shall seek to actively involve the impacted community or communities in planning and implementing a response to the crisis. The governor may seek input or assistance from the community diversification advisory committee, and the governor may establish task forces in the community or communities to assist in the coordination and delivery of services to the local community. The state and community response shall consider economic development, human service, and training needs of the community or communities impacted. [1998 c 245 § 47; 1996 c 186 § 505; 1995 c 399 § 61; 1993 c 421 § 2.]

Reviser's note: *(1) Senate Bill No. 5300 was vetoed by the governor.

** (2) The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—Intent—1993 c 421: "The legislature finds that military base expansions, closures, and defense procurement contract cancellations may have extreme economic impacts on communities and firms. The legislature began to address this concern in 1990 by establishing the community diversification program in the department of community development. While this program has helped military dependent communities begin the long road to diversification, base expansions or closures or major procurement contract reductions in the near future will find these communities unable to respond adequately, endangering the health, safety, and welfare of the community. The legislature intends to target emergency state assistance to military dependent communities significantly impacted by defense spending. The emergency state assistance and the long-term strategy should be driven by the impacted community and consistent with the state plan for diversification required under RCW 43.63A.450(4)." [1993 c 421 § 1.]

43.06.120 Federal funds and programs—Acceptance of funds by governor authorized—Administration and disbursement. The governor is authorized to accept on behalf of the state of Washington funds provided by any act of congress for the benefit of the state or its political subdivisions. He or she is further authorized to administer and disburse such funds, or to designate an agency to administer and disburse them, until the legislature otherwise directs. [2009 c 549 § 5021; 1967 ex.s. c 41 § 1.]

43.06.130 Federal funds and programs—Payment of travel expenses of committees, councils, or other bodies.

Members of advisory committees, councils, or other bodies established to meet requirements of acts of congress may be paid travel expenses incurred pursuant to RCW 43.03.050 and 43.03.060 as now existing or hereafter amended from such funds as may be available by legislative appropriation or as may otherwise be available as provided by law. [1975-'76 2nd ex.s. c 34 § 97; 1973 2nd ex.s. c 17 § 1; 1967 ex.s. c 41 § 2.]

Additional notes found at www.leg.wa.gov

43.06.150 Federal funds and programs—Participating agencies to notify director of financial management, joint legislative audit and review committee and legislative council—Progress reports. See RCW 43.88.205.

43.06.155 Health care reform deliberations—Principles—Policies. (1) The following principles shall provide guidance to the state of Washington in its health care reform deliberations:

(a) **Guarantee choice.** Provide the people of Washington state with a choice of health plans and physicians, including health plans offered through the private insurance market and public programs, for those who meet eligibility standards. People will be allowed to keep their own doctor and their employer-based health plan.

(b) **Make health coverage affordable.** Reduce waste and fraud, high administrative costs, unnecessary tests and services, and other inefficiencies that drive up costs with no added health benefits.

(c) **Protect families' financial health.** Reduce the growing premiums and other costs that the people of Washington state pay for health care. People must be protected from bankruptcy due to catastrophic illness.

(d) **Invest in prevention and wellness.** Invest in public health measures proven to reduce cost drivers in our system, such as obesity, sedentary lifestyles, and smoking, as well as guarantee access to proven preventive treatments.

(e) **Provide portability of coverage.** People should not be locked into their job just to secure health coverage, and no American should be denied coverage because of preexisting conditions.

(f) **Aim for universality.** Building on the work of the blue ribbon commission and other state health care reform initiatives and recognizing the current economic climate, the state will partner with national health care reform efforts toward a goal of enabling all Washingtonians to have access to affordable, effective health care by 2014 as economic conditions and national reforms indicate.

(g) **Improve patient safety and quality care.** Ensure the implementation of proven patient safety measures and provide incentives for changes in the delivery system to reduce unnecessary variability in patient care. Support the widespread use of health information technology with rigorous privacy protections and the development of data on the effectiveness of medical interventions to improve the quality of care delivered.

(h) **Maintain long-term fiscal sustainability.** Any reform plan must pay for itself by reducing the level of cost growth, improving productivity, dedicating additional sources of revenue, and defining the appropriate role of the private and

public sectors in financing health care coverage in Washington state.

(2) Over the past twenty years, both the private and public health care sectors in the state of Washington have implemented policies that are consistent with the principles in subsection (1) of this section. Most recently, the governor's blue ribbon commission on health reform agreed to recommendations that are highly consistent with those principles. Current policies in Washington state in accord with those principles include:

(a) With respect to aiming for universality and access to a choice of affordable health care plans and health care providers:

(i) The Washington basic health plan offers affordable health coverage to low-income families and individuals in Washington state through a choice of private managed health care plans and health care providers;

(ii) Apple health for kids will achieve its dual goals that every child in Washington state have health care coverage by 2010 and that the health status of children in Washington state be improved. Only four percent of children in Washington state lack health insurance, due largely to efforts to expand coverage that began in 1993;

(iii) Through the health insurance partnership program, Washington state has designed the infrastructure for a health insurance exchange for small employers that would give employers and employees a choice of private health benefit plans and health care providers, offer portability of coverage and provide a mechanism to offer premium subsidies to low-wage employees of these employers;

(iv) Purchasers, insurance carriers, and health care providers are working together to significantly reduce health care administrative costs. These efforts have already produced efficiencies, and will continue through the activities provided in *Second Substitute Senate Bill No. 5346, if enacted by the 2009 legislature; and

(v) Over one hundred thousand Washingtonians have enrolled in the state's discount prescription drug card program, saving consumers over six million dollars in prescription drug costs since February 2007, with an average discount of twenty-two dollars or forty-three percent of the price of each prescription filled.

(b) With respect to improving patient safety and quality of care and investing in prevention and wellness, the public and private health care sectors are engaged in numerous nationally recognized efforts:

(i) The Puget Sound health alliance is a national leader in identifying evidence-based health care practices, and reporting to the public on health care provider performance with respect to these practices. Many of these practices address disease prevention and management of chronic illness;

(ii) The Washington state health technology assessment program and prescription drug program use medical evidence and independent clinical advisors to guide the purchasing of clinically and cost-effective health care services by state-purchased health care programs;

(iii) Washington state's health record bank pilot projects are testing a new model of patient controlled electronic health records in three geographic regions of the state. The state has also provided grants to a number of small provider practices to help them implement electronic health records;

(iv) Efforts are underway to ensure that the people of Washington state have a medical home, with primary care providers able to understand their needs, meet their care needs effectively, better manage their chronic illnesses, and coordinate their care across the health care system. These efforts include group health cooperative of Puget Sound's medical home projects, care collaboratives sponsored by the state department of health, state agency chronic care management pilot projects, development of apple health for kids health improvement measures as indicators of children having a medical home, and implementation of medical home reimbursement pilot projects under **Substitute Senate Bill No. 5891, if enacted by the 2009 legislature; and

(v) Health care providers, purchasers, the state, and private quality improvement organizations are partnering to undertake numerous patient safety efforts, including hospital and ambulatory surgery center adverse events reporting, with root cause analysis to identify actions to be undertaken to prevent further adverse events; reporting of hospital acquired infections and undertaking efforts to reduce the rate of these infections; developing a surgical care outcomes assessment program that includes a presurgery checklist to reduce medical errors; and developing a patient decision aid pilot to more fully inform patients of the risks and benefits of treatment alternatives, decrease unnecessary procedures and variation in care, and provide increased legal protection to physicians whose patients use a patient decision aid to provide informed consent. [2009 c 545 § 2.]

Reviser's note: *(1) Second Substitute Senate Bill No. 5346 became chapter 298, Laws of 2009.

***(2) Substitute Senate Bill No. 5891 became chapter 305, Laws of 2009.

Findings—2009 c 545: "The legislature finds that the principles for health care reform articulated by the president of the United States in his proposed federal fiscal year 2010 budget to the congress of the United States provide an opportunity for the state of Washington to be both a partner with, and a model for, the federal government in its health care reform efforts. The legislature further finds that the recommendations of the 2007 blue ribbon commission on health care costs and access are consistent with these principles." [2009 c 545 § 1.]

43.06.200 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in RCW 43.06.010, and 43.06.200 through 43.06.270 each as now or hereafter amended shall have the following meaning:

"State of emergency" means an emergency proclaimed as such by the governor pursuant to RCW 43.06.010 as now or hereafter amended.

"Governor" means the governor of this state or, in case of his or her removal, death, resignation or inability to discharge the powers and duties of his or her office, then the person who may exercise the powers of governor pursuant to the Constitution and laws of this state relating to succession in office.

"Criminal offense" means any prohibited act for which any criminal penalty is imposed by law and includes any misdemeanor, gross misdemeanor, or felony. [2009 c 549 § 5022; 1977 ex.s. c 328 § 11; 1975-'76 2nd ex.s. c 108 § 26; 1969 ex.s. c 186 § 1.]

Energy supply emergencies: Chapter 43.21G RCW.

Additional notes found at www.leg.wa.gov

43.06.210 Proclamations—Generally—State of emergency. The proclamation of a state of emergency and other proclamations or orders issued by the governor pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended shall be in writing and shall be signed by the governor and shall then be filed with the secretary of state. The governor shall give as much public notice as practical through the news media of the issuance of proclamations or orders pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended. The state of emergency shall cease to exist upon the issuance of a proclamation of the governor declaring its termination: PROVIDED, That the governor must terminate said state of emergency proclamation when order has been restored in the area affected. [1977 ex.s. c 328 § 12; 1975-'76 2nd ex.s. c 108 § 27; 1969 ex.s. c 186 § 2.]

Energy supply emergencies: Chapter 43.21G RCW.

Additional notes found at www.leg.wa.gov

43.06.220 State of emergency—Powers of governor pursuant to proclamation. (1) The governor after proclaiming a state of emergency and prior to terminating such, may, in the area described by the proclamation issue an order prohibiting:

(a) Any person being on the public streets, or in the public parks, or at any other public place during the hours declared by the governor to be a period of curfew;

(b) Any number of persons, as designated by the governor, from assembling or gathering on the public streets, parks, or other open areas of this state, either public or private;

(c) The manufacture, transfer, use, possession or transportation of a molotov cocktail or any other device, instrument or object designed to explode or produce uncontained combustion;

(d) The transporting, possessing or using of gasoline, kerosene, or combustible, flammable, or explosive liquids or materials in a glass or uncapped container of any kind except in connection with the normal operation of motor vehicles, normal home use or legitimate commercial use;

(e) The possession of firearms or any other deadly weapon by a person (other than a law enforcement officer) in a place other than that person's place of residence or business;

(f) The sale, purchase or dispensing of alcoholic beverages;

(g) The sale, purchase or dispensing of other commodities or goods, as he or she reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace;

(h) The use of certain streets, highways or public ways by the public; and

(i) Such other activities as he or she reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace.

(2) The governor after proclaiming a state of emergency and prior to terminating such may, in the area described by the proclamation, issue an order or orders concerning waiver or suspension of statutory obligations or limitations in any or all of the following areas as further specified and limited by chapter 181, Laws of 2008:

- (a) Liability for participation in interlocal agreements;
 - (b) Inspection fees owed to the department of labor and industries;
 - (c) Application of the family emergency assistance program;
 - (d) Regulations, tariffs, and notice requirements under the jurisdiction of the utilities and transportation commission;
 - (e) Application of tax due dates and penalties relating to collection of taxes; and
 - (f) Permits for industrial, business, or medical uses of alcohol.
- (3) In imposing the restrictions provided for by RCW 43.06.010, and 43.06.200 through 43.06.270, the governor may impose them for such times, upon such conditions, with such exceptions and in such areas of this state he or she from time to time deems necessary.

(4) Any person willfully violating any provision of an order issued by the governor under this section is guilty of a gross misdemeanor. [2008 c 181 § 1; 2003 c 53 § 222; 1969 ex.s. c 186 § 3.]

Part headings not law—2008 c 181: "Part headings used in this act are not any part of the law." [2008 c 181 § 701.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

43.06.230 State of emergency—Destroying or damaging property or causing personal injury—Penalty. After the proclamation of a state of emergency as provided in RCW 43.06.010, any person who maliciously destroys or damages any real or personal property or maliciously injures another is guilty of a class B felony and upon conviction thereof shall be imprisoned in a state correctional facility for not less than two years nor more than ten years. [2003 c 53 § 223; 1992 c 7 § 39; 1969 ex.s. c 186 § 4.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

43.06.240 State of emergency—Disorderly conduct after emergency proclaimed—Penalty. After the proclamation of a state of emergency pursuant to RCW 43.06.010, every person who:

- (1) Wilfully causes public inconvenience, annoyance, or alarm, or recklessly creates a risk thereof, by:
 - (a) engaging in fighting or in violent, tumultuous, or threatening behavior; or
 - (b) making an unreasonable noise or an offensively coarse utterance, gesture, or display, or addressing abusive language to any person present; or
 - (c) dispersing any lawful procession or meeting of persons, not being a peace officer of this state and without lawful authority; or
 - (d) creating a hazardous or physically offensive condition which serves no legitimate purpose; or
- (2) Engages with at least one other person in a course of conduct as defined in subsection (1) of this section which is likely to cause substantial harm or serious inconvenience, annoyance, or alarm, and refuses or knowingly fails to obey an order to disperse made by a peace officer shall be guilty of disorderly conduct and be punished by imprisonment in the county jail for not more than one year or fined not more than

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one thousand dollars or by both fine and imprisonment. [1969 ex.s. c 186 § 5.]

43.06.250 State of emergency—Refusing to leave public way or property when ordered—Penalty. Any person upon any public way or any public property, within the area described in the state of emergency, who is directed by a public official to leave the public way or public property and refuses to do so shall be guilty of a misdemeanor. [1969 ex.s. c 186 § 6.]

43.06.260 State of emergency—Prosecution of persons sixteen years or over as adults. After the proclamation of a state of emergency as provided in RCW 43.06.010 any person sixteen years of age or over who violates any provision of RCW 43.06.010, and 43.06.200 through 43.06.270 shall be prosecuted as an adult. [1969 ex.s. c 186 § 7.]

43.06.270 State of emergency—State militia or state patrol—Use in restoring order. The governor may in his or her discretion order the state militia pursuant to chapter 38.08 RCW or the state patrol to assist local officials to restore order in the area described in the proclamation of a state of emergency. [2009 c 549 § 5023; 1969 ex.s. c 186 § 9.]

43.06.335 Washington quality award council—Organization—Duties. (1) The Washington quality award council shall be organized as a private, nonprofit corporation, in accordance with chapter 24.03 RCW and this section.

(2) The council shall oversee the governor's Washington state quality award program. The purpose of the program is to improve the overall competitiveness of the state's economy by stimulating Washington state industries, business, and organizations to bring about measurable success through setting standards of organizational excellence, encouraging organizational self-assessment, identifying successful organizations as role models, and providing a valuable mechanism for promoting and strengthening a commitment to continuous quality improvement in all sectors of the state's economy. The governor shall annually present the award to organizations that improve the quality of their products and services and are noteworthy examples of high-performing work organizations, as determined by the council in consultation with the governor or appointed representative.

(3) The governor shall appoint a representative to serve on the board of directors of the council.

(4) The council shall establish a board of examiners, a recognition committee, and such other committees or subgroups as it deems appropriate to carry out its responsibilities.

(5) The council may conduct such public information, research, education, and assistance programs as it deems appropriate to further quality improvement in organizations operating in the state of Washington.

(6) The council shall:

- (a) Approve and announce award recipients;
- (b) Approve guidelines to examine applicant organizations;
- (c) Approve appointment of board of examiners; and

(d) Arrange appropriate annual awards and recognition for recipients. [2004 c 245 § 1; 2000 c 216 § 1; 1998 c 245 § 86; 1997 c 329 § 1; 1994 c 306 § 1. Formerly RCW 43.07.290, 43.330.140.]

43.06.350 Foreign nationals or citizens, convicted offenders—Transfers and sentences. Whenever any convicted offender, who is a citizen or national of a foreign country and is under the jurisdiction of the department of corrections, requests transfer to the foreign country of which he or she is a citizen or national, under a treaty on the transfer of offenders entered into between the United States and a foreign country, the governor or the governor's designee:

(1) May grant the approval of the state to such transfer as provided in the treaty; and

(2) Shall have, notwithstanding any provision of chapter 9.95 or 72.68 RCW, the plenary authority to fix the duration of the offender's sentence, if not otherwise fixed, whenever a fixed sentence is a condition precedent to transfer. [1983 c 255 § 9.]

Additional notes found at www.leg.wa.gov

43.06.400 Listing of reduction in revenues from tax exemptions to be submitted to legislature by department of revenue—Periodic review and submission of recommendations to legislature by governor. Beginning in January 1984, and in January of every fourth year thereafter, the department of revenue shall submit to the legislature prior to the regular session a listing of the amount of reduction for the current and next biennium in the revenues of the state or the revenues of local government collected by the state as a result of tax exemptions. The listing shall include an estimate of the revenue lost from the tax exemption, the purpose of the tax exemption, the persons, organizations, or parts of the population which benefit from the tax exemption, and whether or not the tax exemption conflicts with another state program. The listing shall include but not be limited to the following revenue sources:

(1) Real and personal property tax exemptions under Title 84 RCW;

(2) Business and occupation tax exemptions, deductions, and credits under chapter 82.04 RCW;

(3) Retail sales and use tax exemptions under chapters 82.08, 82.12, and 82.14 RCW;

(4) Public utility tax exemptions and deductions under chapter 82.16 RCW;

(5) Food fish and shellfish tax exemptions under chapter 82.27 RCW;

(6) Leasehold excise tax exemptions under chapter 82.29A RCW;

(7) Motor vehicle and special fuel tax exemptions and refunds under chapters 82.36 and 82.38 RCW;

(8) Aircraft fuel tax exemptions under chapter 82.42 RCW;

(9) Motor vehicle excise tax exclusions under chapter 82.44 RCW; and

(10) Insurance premiums tax exemptions under chapter 48.14 RCW.

The department of revenue shall prepare the listing required by this section with the assistance of any other agencies or departments as may be required.

The department of revenue shall present the listing to the ways and means committees of each house in public hearings.

Beginning in January 1984, and every four years thereafter the governor is requested to review the report from the department of revenue and may submit recommendations to the legislature with respect to the repeal or modification of any tax exemption. The ways and means committees of each house and the appropriate standing committee of each house shall hold public hearings and take appropriate action on the recommendations submitted by the governor.

As used in this section, "tax exemption" means an exemption, exclusion, or deduction from the base of a tax; a credit against a tax; a deferral of a tax; or a preferential tax rate. [1999 c 372 § 5; 1987 c 472 § 16; 1983 2nd ex.s. c 3 § 60.]

Review and termination of tax preferences: Chapter 43.136 RCW.

Additional notes found at www.leg.wa.gov

43.06.410 State internship program—Governor's duties. There is established within the office of the governor the Washington state internship program to assist students and state employees in gaining valuable experience and knowledge in various areas of state government. In administering the program, the governor shall:

(1) Consult with the secretary of state, the director of personnel, the commissioner of the employment security department, and representatives of labor;

(2) Encourage and assist agencies in developing intern positions;

(3) Develop and coordinate a selection process for placing individuals in intern positions. This selection process shall give due regard to the responsibilities of the state to provide equal employment opportunities;

(4) Develop and coordinate a training component of the internship program which balances the need for training and exposure to new ideas with the intern's and agency's need for on-the-job work experience;

(5) Work with institutions of higher education in developing the program, soliciting qualified applicants, and selecting participants; and

(6) Develop guidelines for compensation of the participants. [1993 c 281 § 47; 1985 c 442 § 1.]

Additional notes found at www.leg.wa.gov

43.06.415 State internship program coordinator—Rules. (1) The governor may appoint a coordinator to assist in administering the program created by RCW 43.06.410.

(2) The governor shall adopt such rules as are necessary to administer RCW 43.06.410. [1985 c 442 § 2.]

Additional notes found at www.leg.wa.gov

43.06.420 Undergraduate internship program—Executive fellows program. The state internship program shall consist of two individual internship programs as follows:

(1) An undergraduate internship program consisting of three-month to six-month positions for students working toward an undergraduate degree. In addition, a public sector employee, whether working toward a degree or not, shall be eligible to participate in the program upon the written recommendation of the head of the employee's agency.

(2) An executive fellows program consisting of one-year to two-year placements for students who have successfully completed at least one year of graduate level work and have demonstrated a substantial interest in public sector management. Positions in this program shall be as assistants or analysts at the midmanagement level or higher. In addition, a public sector employee, whether working toward an advanced degree or not, or who has not successfully completed one year of graduate-level work as required by this subsection, shall be eligible to participate in the program upon the written recommendation of the head of the employee's agency. Participants in the executive fellows program who were not public employees prior to accepting a position in the program shall receive insurance and retirement credit commensurate with other employees of the employing agency. [1985 c 442 § 3.]

Additional notes found at www.leg.wa.gov

43.06.425 Interns—Effect of employment experience—Rights of reversion—Fringe benefits—Sick and vacation leave. The director of personnel shall adopt rules to provide that:

(1) Successful completion of an internship under RCW 43.06.420 shall be considered as employment experience at the level at which the intern was placed;

(2) Persons leaving classified or exempt positions in state government in order to take an internship under RCW 43.06.420: (a) Have the right of reversion to the previous position at any time during the internship or upon completion of the internship; and (b) shall continue to receive all fringe benefits as if they had never left their classified or exempt positions;

(3) Participants in the undergraduate internship program who were not public employees prior to accepting a position in the program receive sick leave allowances commensurate with other state employees;

(4) Participants in the executive fellows program who were not public employees prior to accepting a position in the program receive sick and vacation leave allowances commensurate with other state employees. [2002 c 354 § 229; 1993 c 281 § 48; 1985 c 442 § 4.]

Short title—Headings, captions not law—Severability—Effective dates—2002 c 354: See RCW 41.80.907 through 41.80.910.

State internship program—Positions exempt from chapter 41.06 RCW: RCW 41.06.088.

Additional notes found at www.leg.wa.gov

43.06.435 Interns—Effect on full time equivalent staff position limitations. An agency shall not be deemed to exceed any limitation on full time equivalent staff positions on the basis of intern positions established under RCW 43.06.420. [1985 c 442 § 6.]

Additional notes found at www.leg.wa.gov

(2010 Ed.)

43.06.450 Cigarette tax contracts—Intent—Finding—Limitations. The legislature intends to further the government-to-government relationship between the state of Washington and Indians in the state of Washington by authorizing the governor to enter into contracts concerning the sale of cigarettes. The legislature finds that these cigarette tax contracts will provide a means to promote economic development, provide needed revenues for tribal governments and Indian persons, and enhance enforcement of the state's cigarette tax law, ultimately saving the state money and reducing conflict. In addition, it is the intent of the legislature that the negotiations and the ensuing contracts shall have no impact on the state's share of the proceeds under the master settlement agreement entered into on November 23, 1998, by the state. Chapter 235, Laws of 2001 does not constitute a grant of taxing authority to any Indian tribe nor does it provide precedent for the taxation of non-Indians on fee land. [2001 c 235 § 1.]

43.06.455 Cigarette tax contracts—Requirements—Use of revenue—Enforcement—Definitions. (1) The governor may enter into cigarette tax contracts concerning the sale of cigarettes. All cigarette tax contracts shall meet the requirements for cigarette tax contracts under this section. Except for cigarette tax contracts under RCW 43.06.460, the rates, revenue sharing, and exemption terms of a cigarette tax contract are not effective unless authorized in a bill enacted by the legislature.

(2) Cigarette tax contracts shall be in regard to retail sales in which Indian retailers make delivery and physical transfer of possession of the cigarettes from the seller to the buyer within Indian country, and are not in regard to transactions by non-Indian retailers. In addition, contracts shall provide that retailers shall not sell or give, or permit to be sold or given, cigarettes to any person under the age of eighteen years.

(3) A cigarette tax contract with a tribe shall provide for a tribal cigarette tax in lieu of all state cigarette taxes and state and local sales and use taxes on sales of cigarettes in Indian country by Indian retailers. The tribe may allow an exemption for sales to tribal members.

(4) Cigarette tax contracts shall provide that all cigarettes possessed or sold by a retailer shall bear a cigarette stamp obtained by wholesalers from a bank or other suitable stamp vendor and applied to the cigarettes. The procedures to be used by the tribe in obtaining tax stamps must include a means to assure that the tribal tax will be paid by the wholesaler obtaining such cigarettes. Tribal stamps must have serial numbers or some other discrete identification so that each stamp can be traced to its source.

(5) Cigarette tax contracts shall provide that retailers shall purchase cigarettes only from:

(a) Wholesalers or manufacturers licensed to do business in the state of Washington;

(b) Out-of-state wholesalers or manufacturers who, although not licensed to do business in the state of Washington, agree to comply with the terms of the cigarette tax contract, are certified to the state as having so agreed, and who do in fact so comply. However, the state may in its sole discretion exercise its administrative and enforcement powers over

such wholesalers or manufacturers to the extent permitted by law;

(c) A tribal wholesaler that purchases only from a wholesaler or manufacturer described in (a), (b), or (d) of this subsection; and

(d) A tribal manufacturer.

(6) Cigarette tax contracts shall be for renewable periods of no more than eight years. A renewal may not include a renewal of the phase-in period.

(7) Cigarette tax contracts shall include provisions for compliance, such as transport and notice requirements, inspection procedures, stamping requirements, recordkeeping, and audit requirements.

(8) Tax revenue retained by a tribe must be used for essential government services. Use of tax revenue for subsidization of cigarette and food retailers is prohibited.

(9) The cigarette tax contract may include provisions to resolve disputes using a nonjudicial process, such as mediation.

(10) The governor may delegate the power to negotiate cigarette tax contracts to the department of revenue. The department of revenue shall consult with the liquor control board during the negotiations.

(11) Information received by the state or open to state review under the terms of a contract is subject to the provisions of RCW 82.32.330.

(12) It is the intent of the legislature that the liquor control board and the department of revenue continue the division of duties and shared authority under chapter 82.24 RCW and therefore the liquor control board is responsible for enforcement activities that come under the terms of chapter 82.24 RCW.

(13) Each cigarette tax contract shall include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the contract should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the contract so allow. A contract shall provide for termination of the contract if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period. In addition, the contract shall include provisions delineating the respective roles and responsibilities of the tribe, the department of revenue, and the liquor control board.

(14) For purposes of this section and RCW 43.06.460, 82.08.0316, 82.12.0316, and 82.24.295:

(a) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, job services, sewer, water, environmental and land use, transportation, utility services, and economic development;

(b) "Indian retailer" or "retailer" means (i) a retailer wholly owned and operated by an Indian tribe, (ii) a business wholly owned and operated by a tribal member and licensed by the tribe, or (iii) a business owned and operated by the Indian person or persons in whose name the land is held in trust; and

(c) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington. [2001 c 235 § 2.]

43.06.460 Cigarette tax contracts—Eligible tribes—

Tax rate. (1) The governor is authorized to enter into cigarette tax contracts with the Squaxin Island Tribe, the Nisqually Tribe, Tulalip Tribes, the Muckleshoot Indian Tribe, the Quinault Nation, the Jamestown S'Klallam Indian Tribe, the Port Gamble S'Klallam Tribe, the Stillaguamish Tribe, the Sauk-Suiattle Tribe, the Skokomish Indian Tribe, the Yakama Nation, the Suquamish Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, the Upper Skagit Tribe, the Snoqualmie Tribe, the Swinomish Tribe, the Samish Indian Nation, the Quileute Tribe, the Kalispel Tribe, the Confederated Tribes of the Colville Reservation, the Cowlitz Indian Tribe, the Lower Elwha Klallam Tribe, the Makah Tribe, the Hoh Tribe, the Spokane Tribe, and the Shoalwater Bay Tribe. Each contract adopted under this section shall provide that the tribal cigarette tax rate be one hundred percent of the state cigarette and state and local sales and use taxes within three years of enacting the tribal tax and shall be set no lower than eighty percent of the state cigarette and state and local sales and use taxes during the three-year phase-in period. The three-year phase-in period shall be shortened by three months each quarter the number of cartons of nontribal manufactured cigarettes is at least ten percent or more than the quarterly average number of cartons of nontribal manufactured cigarettes from the six-month period preceding the imposition of the tribal tax under the contract. Sales at a retailer operation not in existence as of the date a tribal tax under this section is imposed are subject to the full rate of the tribal tax under the contract. The tribal cigarette tax is in lieu of the state cigarette and state and local sales and use taxes, as provided in RCW 43.06.455(3).

(2) A cigarette tax contract under this section is subject to RCW 43.06.455. [2008 c 241 § 1; 2007 c 320 § 1; 2005 c 208 § 1; 2003 c 236 § 1; 2002 c 87 § 1; 2001 2nd sp.s. c 21 § 1; 2001 c 235 § 3.]

Effective date—2007 c 320: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007." [2007 c 320 § 2.]

43.06.465 Cigarette tax agreement with Puyallup

Tribe of Indians. (1) The governor may enter into a cigarette tax agreement with the Puyallup Tribe of Indians concerning the sale of cigarettes, subject to the limitations in this section. The legislature intends to address the uniqueness of the Puyallup Indian reservation and its selling environment through pricing and compliance strategies, rather than through the imposition of equivalent taxes. It is the legislature's intent (a) that an increase in prices through a flat tax will reduce much of the competitive advantage that has historically existed due to the discrepancy in the difference between state and tribal taxes, and (b) that the tribal retailers can remain in business under the changed circumstances. The governor may delegate the authority to negotiate a cigarette tax agreement with the Puyallup Tribe to the department of revenue. The department of revenue shall consult with the liquor control board during the negotiations.

(2) Any agreement must require the tribe to impose a tax of eleven dollars and seventy-five cents on each carton of cigarettes, with ten packs a carton and twenty cigarettes per pack being the industry standard. This tax shall be prorated for cartons and packs that are nonstandard. This tribal tax is in lieu of the combined state and local sales and use taxes, and state cigarette taxes, and as such these state taxes are not imposed during the term of the agreement on any transaction governed by the agreement. The tribal tax shall increase or decrease by the same dollar amount as any increase or decrease in the state cigarette tax.

(3) The agreement must include a provision requiring the tribe to transmit thirty percent of the tribal tax revenue on all cigarette sales to the state. The funds shall be transmitted to the state treasurer on a quarterly basis for deposit by the state treasurer into the general fund. The remaining tribal tax revenue must be used for essential government services, as that term is defined in RCW 43.06.455.

(4) The agreement is limited to retail sales in which Indian retailers make delivery and physical transfer of possession of the cigarettes from the seller to the buyer within Indian country, and are not in regard to transactions by non-Indian retailers. In addition, agreements shall provide that retailers shall not sell or give, or permit to be sold or given, cigarettes to any person under the age of eighteen years.

(5)(a) The agreement must include a provision to price and sell the cigarettes so that the retail selling price is not less than the price paid by the retailer for the cigarettes.

(b) The tribal tax is in addition to the retail selling price.

(c) The agreement must include a provision to assure the price paid to the retailer includes the tribal tax, as evidenced by the tribe's cigarette stamp.

(d) If the tribe is acting as a wholesaler to tribal retailers, the retail selling price must not be less than the price the tribe paid for such cigarettes plus the tribal tax, as evidenced by the tribe's cigarette stamp.

(6)(a) The agreement must include provisions regarding enforcement and compliance by the tribe in regard to enrolled tribal members who sell cigarettes and shall describe the individual and joint responsibilities of the tribe, the department of revenue, and the liquor control board.

(b) The agreement must include provisions for tax administration and compliance, such as transport and notice requirements, inspection procedures, stamping requirements, recordkeeping, and audit requirements.

(c) The agreement must include provisions for sharing of information among the tribe, the department of revenue, and the liquor control board.

(7) The agreement must provide that all cigarettes possessed or sold by a tribal retailer shall bear a tribal cigarette stamp obtained by wholesalers from a bank or other suitable stamp vendor and applied to the cigarettes. Tribal stamps must have serial numbers or some other discrete identification so that each stamp can be traced to its source.

(8) The agreement must provide that retailers shall purchase cigarettes only from wholesalers or manufacturers licensed to do business in the state of Washington.

(9) The agreement must be for a renewable period of no more than eight years.

(10) The agreement must include provisions to resolve disputes using a nonjudicial process, such as mediation, and

shall include a dispute resolution protocol. The protocol shall include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the agreement should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the agreement so allow. An agreement must provide for termination of the agreement if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period.

(11) The agreement may not include any provisions that impact the state's share of the master settlement agreement, and as such this agreement does not authorize negotiation regarding a redistribution of the state's proceeds under the master settlement agreement.

(12) Information received by the state or open to state review under the terms of an agreement is subject to RCW 82.32.330.

(13) It is the intent of the legislature that the liquor control board and the department of revenue continue the division of duties and shared authority under chapter 82.24 RCW.

(14) For purposes of this section:

(a) "Indian country" has the same meaning as in chapter 82.24 RCW.

(b) "Indian retailer" or "retailer" means (i) a retailer wholly owned and operated by an Indian tribe or (ii) a business wholly owned and operated by an enrolled tribal member and licensed by the tribe.

(c) "Indian tribe" or "tribe" means the Puyallup Tribe of Indians, which is a federally recognized Indian tribe located within the geographical boundaries of the state of Washington. [2005 c 11 § 2.]

Findings—Intent—2005 c 11: "In 2001, the legislature enacted Engrossed Substitute Senate Bill No. 5372, which authorized the governor to enter into cigarette contracts with fourteen Indian tribes. In subsequent sessions, the legislature increased to twenty-one the number of tribes with whom the governor may negotiate under the terms of RCW 43.06.460. The legislature finds that this effort has been effective, as measured by the success of the existing agreements.

The legislature further finds the agreements resolved decades of conflict between the state and tribes over the sale of contraband cigarettes to non-Indians; benefited the tribes through tribal tax revenues; benefited the state because cigarettes are stamped and taxed; enhanced public health because access to low-priced cigarettes is reduced; improved law and order; and reduced the competitive advantage gained through the sale of tax-free cigarettes.

The 2001 legislation and its later amendments did not encompass the Puyallup Tribe of Indians within its scope due to the very different nature of the cigarette trade on the Puyallup Indian reservation. The legislature therefore intends to address the special circumstances on the Puyallup Indian reservation by recognizing the substantial distinctions and enacting legislation authorizing a cigarette tax agreement with the tribe that differs from the contracts entered into under RCW 43.06.460. Section 2 of this act provides the governor authority to enter into an agreement and sets forth the general framework for the agreement." [2005 c 11 § 1.]

Explanatory statement—Effective date—2005 c 11: "(1) On January 5, 2005, it was announced that a cigarette tax agreement had been reached between the state of Washington and the Puyallup Indian Tribe. Before being signed by the governor, the legislature must provide authorization to the governor to sign such an agreement. Because the state and the Puyallup Indian Tribe have reached an agreement in principle, time for implementation is of the essence.

(2) This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing

public institutions, and takes effect immediately [April 5, 2005]." [2005 c 11 § 6.]

43.06.466 Cigarette tax agreement—Yakama Nation. (1) The legislature finds that entering into a cigarette tax agreement with the Yakama Nation is a positive step and that such an agreement will support a stable and orderly environment on the Yakima Reservation for regulation of cigarette sales. The legislature further finds that the very special circumstances of the Yakama Nation pursuant to the Treaty with the Yakamas of 1855 (12 Stat. 951) support a cigarette tax agreement that reflects those circumstances. The legislature also finds that the provisions of the agreement with the Yakama Nation authorized by chapter 228, Laws of 2008 are reasonably necessary to prevent fraudulent transactions and place a minimal burden on the Yakama Nation, pursuant to the United States supreme court's decision in *Washington v. Confederated Tribes of the Colville Indian Reservation*, 447 U.S. 134 (1980).

It is the intent of the legislature that the cigarette tax agreement with the Yakama Nation reflects the uniqueness of the Yakama Nation's Treaty through specific terms that govern pricing of cigarettes, tribal cigarette tax revenue, information sharing, and administration of the agreement.

(2) For purposes of this section:

(a) "Cigarette" has the same meaning as in chapter 82.24 RCW; and

(b) "Tribal retailer" means a cigarette retailer as that term is defined in RCW 82.24.010 that is licensed by and located within the jurisdiction of the Yakama Nation and is wholly owned by the Yakama Nation or any of its enrolled members.

(3) The governor may enter into a cigarette tax agreement with the Yakama Nation, a federally recognized Indian tribe located within the geographical boundaries of the state of Washington, concerning the sale of cigarettes, subject to the provisions of this section. The governor may delegate the authority to negotiate the agreement to the department of revenue.

(4) The agreement must be for a renewable period of no more than eight years.

(5) All cigarettes possessed or sold by tribal retailers must be subject to the agreement, except cigarettes manufactured within the jurisdiction of the Yakama Nation by the Yakama Nation or its enrolled members.

(6) The agreement must allow the Yakama Nation to exempt its enrolled members from the tribal cigarette tax imposed under subsection (7) of this section.

(a) Sales of cigarettes exempt under this subsection must be subject to the requirements of subsection (9) of this section.

(b) The exemption must be provided only at the point of sale and reimbursement provided to the tribal retailer by the Yakama Nation.

(7) The agreement must require the Yakama Nation to impose and maintain in effect on the sale of cigarettes by tribal retailers a tax as provided in this subsection.

(a) The rate of tax will be expressed in dollars and cents and must be the percentage of tax imposed by the state under chapter 82.24 RCW for the period of the agreement as stated here:

(i) Eighty percent during the first six years;

(ii) Eighty-four percent during the seventh year; and
(iii) Eighty-seven and six-tenths percent during the eighth year.

(b) The tax must be imposed on each carton, or portion of a carton, of cigarettes, with ten packs per carton and twenty cigarettes per pack being the industry standard, and prorated for cartons and packs that are not standard.

(c) The tax must be in lieu of the combined state and local sales and use taxes, and state cigarette taxes, and, as provided in RCW 82.24.302, 82.08.0316, and 82.12.0316, the taxes imposed by chapters 82.08, 82.12, and 82.24 RCW do not apply during the term of the agreement on any transaction governed by the agreement.

(d) Throughout the term of the agreement and any renewal of the agreement, the tax must increase or decrease in correspondence with the state cigarette tax by applying the percentages in (a) of this subsection.

(8) The revenue generated by the tax imposed under subsection (7) of this section must be used by the Yakama Nation for essential government services, as that term is defined in RCW 43.06.455.

(9) All cigarettes possessed or sold by a tribal retailer must bear a tribal cigarette tax stamp as provided in this subsection.

(a) The Yakama Nation may act as its own stamp vendor, subject to meeting reasonable requirements for internal controls.

(b) The stamps must have serial numbers or other discrete identification that allow stamps to be traced to their source.

(10) The price paid by the tribal retailer to the wholesaler must not be less than the total of the price paid by the Yakama Nation or other wholesaler and the tax imposed under subsection (7) of this section.

(11) The retail selling price of cigarettes sold by tribal retailers must not be less than the price paid by them under subsection (10) of this section.

(12) Tribal retailers must not sell or give, or permit to be sold or given, cigarettes to any person under the age of eighteen years.

(13) The authority and the individual and joint responsibility of the Yakama Nation, the department of revenue, and the liquor control board for administration and enforcement must be specified in the agreement including, but not limited to, requirements regarding transport of cigarettes, keeping of records, reporting, notice, inspection, audit, and mutual exchange of information.

(a) Requirements must provide for sharing of information regarding transport of cigarettes in the state of Washington by the Yakama Nation or its enrolled members, reporting of information on sales to customers located outside the jurisdiction of the Yakama Nation, and authority for unannounced inspection by the state of tribal retailers to verify compliance with stamping and pricing provisions.

(b) Information received by the state or open to state review under the terms of the agreement is subject to RCW 82.32.330.

(14) The agreement must provide for resolution of disputes using a nonjudicial process, such as mediation, and establish a dispute resolution protocol that includes the following elements:

(a) A procedure for notifying the other party that a violation has occurred;

(b) A procedure for establishing whether a violation has in fact occurred;

(c) An opportunity to correct the violation;

(d) A procedure for terminating the agreement in the event of a failure to correct the violation, such termination subject to mediation should the terms of the agreement so allow; and

(e) Termination of the agreement for cause.

(15) The agreement may not include any provisions that impact the state's share of the master settlement agreement or concern redistribution of the state's proceeds under the master settlement agreement.

(16) The department of revenue may share with the Yakama Nation tax information under RCW 82.32.330 that is necessary for the Yakama Nation's compliance with the agreement. [2008 c 228 § 1.]

Authorization for agreement—2008 c 228: "In December 2007 it was announced that a cigarette tax agreement between the state of Washington and the Yakama Nation had been reached in principle. The legislature must provide authorization to the governor to sign such an agreement. Because the parties have reached an agreement in principle, time for implementation is of the essence." [2008 c 228 § 5.]

Effective date—2008 c 228: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 28, 2008]." [2008 c 228 § 6.]

43.06.475 Timber harvest excise tax agreements. (1)

The governor may enter into timber harvest excise tax agreements concerning the harvest of timber. All timber harvest excise tax agreements must meet the requirements for timber harvest excise tax agreements under this section. The terms of a timber harvest excise tax agreement are not effective unless the agreement is authorized in RCW 43.06.480.

(2) Timber harvest excise tax agreements shall be in regard to timber harvests on fee land within the exterior boundaries of the reservation of the Indian tribe and are not in regard to timber harvests on trust land or land owned by the tribe within the exterior boundaries of the reservation.

(3) The agreement must provide that the tribal tax shall be credited against the state and county taxes imposed under RCW 84.33.041 and 84.33.051.

(4) Tribal ordinances for timber harvest excise taxation, or other authorizing tribal laws, which implement the timber harvest excise tax agreement with the state, must incorporate or contain provisions identical to chapter 84.33 RCW that relate to the tax rates and measures, such as stumpage values.

(5) Timber harvest excise tax agreements must be for renewable periods of no more than eight years.

(6) Timber harvest excise tax agreements must include provisions for compliance, such as inspection procedures, recordkeeping, and audit requirements.

(7) Tax revenue retained by the tribe must be used for essential government services. Use of tax revenue for subsidization of timber harvesters is prohibited.

(8) The timber harvest excise tax agreement may include provisions to resolve disputes using a nonjudicial process, such as mediation.

(2010 Ed.)

(9) The governor may delegate the power to negotiate the timber harvest excise tax agreements to the department of revenue.

(10) Information received by the state or open to state review under the terms of a timber harvest excise tax agreement is subject to the provisions of RCW 82.32.330. The department of revenue may enter into an information sharing agreement with the tribe to facilitate sharing information to improve tax collection.

(11) The timber harvest excise tax agreement must include dispute resolution procedures, contract termination procedures, and provisions delineating the respective roles and responsibilities of the tribe and the department of revenue.

(12) The timber harvest excise tax agreement must include provisions to require taxpayers to submit information that may be required by the department of revenue or tribe.

(13) For the purposes of this section:

(a) "Essential government services" means services such as forest land management; protection, enhancement, regulation, and stewardship of forested land; land consolidation; tribal administration; public facilities; fire; police; public health; education; job services; sewer; water; environmental and land use; transportation; utility services; and public facilities serving economic development purposes as those terms are defined in RCW 82.14.370(3)(c);

(b) "Forest land" has the same meaning as in RCW 84.33.035;

(c) "Harvester" has the same meaning as in RCW 84.33.035;

(d) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington; and

(e) "Timber" has the same meaning as in RCW 84.33.035. [2007 c 69 § 2.]

Findings—Intent—2007 c 69: "The legislature finds that in certain areas of taxation, where both a tribe and the state have jurisdiction and where there are challenges to administering a tax, tax agreements between the state and a tribe are a sound approach to resolving issues and simplifying processes. The legislature specifically recognizes that in the area of the timber excise tax, within the boundaries of the Quinault Reservation, the state faces challenges due to access to land and access to taxpayers. The activity being taxed takes place entirely within the reservation and is regulated by the tribe and by the state. The legislature therefore finds that shifting from a state administered tax, to a tribal tax credited against the state tax, will bring benefits such as consistent taxation, improved forest practices and water quality, improved fisheries, and sustainability. The legislature intends to further the government-to-government relationship between the state of Washington and the Quinault Nation by authorizing the governor to enter into an agreement related to timber harvest excise taxes." [2007 c 69 § 1.]

43.06.480 Timber harvest excise tax agreements—Quinault Nation. (1) The governor is authorized to enter into a timber harvest excise tax agreement with the Quinault Nation. Agreements adopted under this section must provide that the tribal timber harvest excise tax rate be one hundred percent of the state timber harvest excise tax.

(2) A timber harvest excise tax agreement under this section is subject to RCW 43.06.475. [2007 c 69 § 3.]

Findings—Intent—2007 c 69: See note following RCW 43.06.475.

Chapter 43.06A RCW

OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN

Sections

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43.06A.050	Confidentiality.
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43.06A.070	Release of identifying information.
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43.06A.100	Communication with children in custody of department of social and health services—Access to information in possession or control of department or state institutions.
43.06A.110	Child fatality review recommendations—Annual report.
43.06A.900	Construction.

43.06A.010 Office created—Purpose. There is hereby created an office of the family and children's ombudsman within the office of the governor for the purpose of promoting public awareness and understanding of family and children services, identifying system issues and responses for the governor and the legislature to act upon, and monitoring and ensuring compliance with administrative acts, relevant statutes, rules, and policies pertaining to family and children's services and the placement, supervision, and treatment of children in the state's care or in state-licensed facilities or residences. The ombudsman shall report directly to the governor and shall exercise his or her powers and duties independently of the secretary. [1996 c 131 § 2.]

Additional notes found at www.leg.wa.gov

43.06A.020 Ombudsman—Appointment, term of office. (1) Subject to confirmation by the senate, the governor shall appoint an ombudsman who shall be a person of recognized judgment, independence, objectivity, and integrity, and shall be qualified by training or experience, or both, in family and children's services law and policy. Prior to the appointment, the governor shall consult with, and may receive recommendations from the committee, regarding the selection of the ombudsman.

(2) The person appointed ombudsman shall hold office for a term of three years and shall continue to hold office until reappointed or until his or her successor is appointed. The governor may remove the ombudsman only for neglect of duty, misconduct, or inability to perform duties. Any vacancy shall be filled by similar appointment for the remainder of the unexpired term. [1998 c 288 § 7; 1996 c 131 § 3.]

Additional notes found at www.leg.wa.gov

43.06A.030 Duties. The ombudsman shall perform the following duties:

(1) Provide information as appropriate on the rights and responsibilities of individuals receiving family and children's services, and on the procedures for providing these services;

(2) Investigate, upon his or her own initiative or upon receipt of a complaint, an administrative act alleged to be contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or

erroneous grounds; however, the ombudsman may decline to investigate any complaint as provided by rules adopted under this chapter;

(3) Monitor the procedures as established, implemented, and practiced by the department to carry out its responsibilities in delivering family and children's services with a view toward appropriate preservation of families and ensuring children's health and safety;

(4) Review periodically the facilities and procedures of state institutions serving children, and state-licensed facilities or residences;

(5) Recommend changes in the procedures for addressing the needs of families and children;

(6) Submit annually to the committee and to the governor by November 1 a report analyzing the work of the office including recommendations;

(7) Grant the committee access to all relevant records in the possession of the ombudsman unless prohibited by law; and

(8) Adopt rules necessary to implement this chapter. [1996 c 131 § 4.]

43.06A.050 Confidentiality. The ombudsman shall treat all matters under investigation, including the identities of service recipients, complainants, and individuals from whom information is acquired, as confidential, except as far as disclosures may be necessary to enable the ombudsman to perform the duties of the office and to support any recommendations resulting from an investigation. Upon receipt of information that by law is confidential or privileged, the ombudsman shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law. Investigative records of the office of the ombudsman are confidential and are exempt from public disclosure under chapter 42.56 RCW. [2005 c 274 § 294; 1996 c 131 § 6.]

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

43.06A.060 Admissibility of evidence—Testimony regarding official duties. Neither the ombudsman nor the ombudsman's staff may be compelled, in any judicial or administrative proceeding, to testify or to produce evidence regarding the exercise of the official duties of the ombudsman or of the ombudsman's staff. All related memoranda, work product, notes, and case files of the ombudsman's office are confidential, are not subject to discovery, judicial or administrative subpoena, or other method of legal compulsion, and are not admissible in evidence in a judicial or administrative proceeding. This section shall not apply to the *legislative oversight committee. [1998 c 288 § 1.]

***Reviser's note:** "Legislative oversight committee" apparently refers to the "legislative children's oversight committee" created in RCW 44.04.220.

Additional notes found at www.leg.wa.gov

43.06A.070 Release of identifying information. Identifying information about complainants or witnesses shall not be subject to any method of legal compulsion, nor shall such information be revealed to the *legislative oversight committee or the governor except under the following circum-

stances: (1) The complainant or witness waives confidentiality; (2) under a legislative subpoena when there is a legislative investigation for neglect of duty or misconduct by the ombudsman or ombudsman's office when the identifying information is necessary to the investigation of the ombudsman's acts; or (3) under an investigation or inquiry by the governor as to neglect of duty or misconduct by the ombudsman or ombudsman's office when the identifying information is necessary to the investigation of the ombudsman's [ombudsman's] acts.

For the purposes of this section, "identifying information" includes the complainant's or witness's name, location, telephone number, likeness, social security number or other identification number, or identification of immediate family members. [1998 c 288 § 2.]

***Reviser's note:** "Legislative oversight committee" apparently refers to the "legislative children's oversight committee" created in RCW 44.04.220.

Additional notes found at www.leg.wa.gov

43.06A.080 Inapplicability of privilege in RCW 43.06A.060. The privilege described in RCW 43.06A.060 does not apply when:

(1) The ombudsman or ombudsman's staff member has direct knowledge of an alleged crime, and the testimony, evidence, or discovery sought is relevant to that allegation;

(2) The ombudsman or a member of the ombudsman's staff has received a threat of, or becomes aware of a risk of, imminent serious harm to any person, and the testimony, evidence, or discovery sought is relevant to that threat or risk;

(3) The ombudsman has been asked to provide general information regarding the general operation of, or the general processes employed at, the ombudsman's office; or

(4) The ombudsman or ombudsman's staff member has direct knowledge of a failure by any person specified in RCW 26.44.030, including the state family and children's ombudsman or any volunteer in the ombudsman's office, to comply with RCW 26.44.030. [1998 c 288 § 3.]

Additional notes found at www.leg.wa.gov

43.06A.085 Liability for good faith performance—Privileged communications. (1) An employee of the office of the family and children's ombudsman is not liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against an employee of the department, an employee of a contracting agency of the department, a foster parent, or a recipient of family and children's services for any communication made, or information given or disclosed, to aid the office of the family and children's ombudsman in carrying out its responsibilities, unless the communication or information is made, given, or disclosed maliciously or without good faith. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by an ombudsman, if reasonably related to the requirements of that individual's responsibilities under this chapter and done in good faith, are privileged and that privilege shall serve as a defense in any action in libel or slander. [2009 c 88 § 2; 1999 c 390 § 7.]

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43.06A.090 Report of conduct warranting criminal or disciplinary proceedings. When the ombudsman or ombudsman's staff member has reasonable cause to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary proceedings, the ombudsman or ombudsman's staff member shall report the matter, or cause a report to be made, to the appropriate authorities. [1998 c 288 § 4.]

Additional notes found at www.leg.wa.gov

43.06A.100 Communication with children in custody of department of social and health services—Access to information in possession or control of department or state institutions. The department of social and health services shall:

(1) Allow the ombudsman or the ombudsman's designee to communicate privately with any child in the custody of the department for the purposes of carrying out its duties under this chapter;

(2) Permit the ombudsman or the ombudsman's designee physical access to state institutions serving children, and state licensed facilities or residences for the purpose of carrying out its duties under this chapter;

(3) Upon the ombudsman's request, grant the ombudsman or the ombudsman's designee the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the department that the ombudsman considers necessary in an investigation; and

(4) Grant the office of the family and children's ombudsman unrestricted online access to the case and management information system (CAMIS) or any successor information system for the purpose of carrying out its duties under this chapter. [2008 c 211 § 3; 1999 c 390 § 5.]

43.06A.110 Child fatality review recommendations—Annual report. The office of the family and children's ombudsman shall issue an annual report to the legislature on the status of the implementation of child fatality review recommendations. [2008 c 211 § 2.]

43.06A.900 Construction. Nothing in this chapter shall be construed to conflict with the duty to report specified in RCW 26.44.030. [1998 c 288 § 5.]

Additional notes found at www.leg.wa.gov

Chapter 43.06B RCW

OFFICE OF THE EDUCATION OMBUDSMAN

Sections

- 43.06B.010 Office created—Purposes—Appointment—Regional education ombudsmen.
- 43.06B.020 Powers and duties.
- 43.06B.030 Liability for good faith performance—Privileged communications.
- 43.06B.040 Confidentiality.
- 43.06B.050 Annual reports.
- 43.06B.060 Public school antiharassment policies and strategies—Lead agency.
- 43.06B.900 Findings—Intent—2006 c 116.

43.06B.010 Office created—Purposes—Appointment—Regional education ombudsmen. (1) There is

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hereby created the office of the education ombudsman within the office of the governor for the purposes of providing information to parents, students, and others regarding their rights and responsibilities with respect to the state's public elementary and secondary education system, and advocating on behalf of elementary and secondary students.

(2)(a) The governor shall appoint an ombudsman who shall be a person of recognized judgment, independence, objectivity, and integrity and shall be qualified by training or experience or both in the following areas:

- (i) Public education law and policy in this state;
- (ii) Dispute resolution or problem resolution techniques, including mediation and negotiation; and
- (iii) Community outreach.

(b) The education ombudsman may not be an employee of any school district, the office of the superintendent of public instruction, or the state board of education while serving as an education ombudsman.

(3) Before the appointment of the education ombudsman, the governor shall share information regarding the appointment to a six-person legislative committee appointed and comprised as follows:

(a) The committee shall consist of three senators and three members of the house of representatives from the legislature.

(b) The senate members of the committee shall be appointed by the president of the senate. Two members shall represent the majority caucus and one member the minority caucus.

(c) The house of representatives members of the committee shall be appointed by the speaker of the house of representatives. Two members shall represent the majority caucus and one member the minority caucus.

(4) If sufficient appropriations are provided, the education ombudsman shall delegate and certify regional education ombudsmen. The education ombudsman shall ensure that the regional ombudsmen selected are appropriate to the community in which they serve and hold the same qualifications as in subsection (2)(a) of this section. The education ombudsman may not contract with the superintendent of public instruction, or any school, school district, or current employee of a school, school district, or the office of the superintendent of public instruction for the provision of regional ombudsman services. [2006 c 116 § 3.]

43.06B.020 Powers and duties. The education ombudsman shall have the following powers and duties:

(1) To develop parental involvement materials, including instructional guides developed to inform parents of the essential academic learning requirements required by the superintendent of public instruction. The instructional guides also shall contain actions parents may take to assist their children in meeting the requirements, and should focus on reaching parents who have not previously been involved with their children's education;

(2) To provide information to students, parents, and interested members of the public regarding this state's public elementary and secondary education system;

(3) To identify obstacles to greater parent and community involvement in school shared decision-making processes and recommend strategies for helping parents and commu-

nity members to participate effectively in school shared decision-making processes, including understanding and respecting the roles of school building administrators and staff;

(4) To identify and recommend strategies for improving the success rates of ethnic and racial student groups and students with disabilities, with disproportionate academic achievement;

(5) To refer complainants and others to appropriate resources, agencies, or departments;

(6) To facilitate the resolution of complaints made by parents and students with regard to the state's public elementary and secondary education system;

(7) To perform such other functions consistent with the purpose of the education ombudsman; and

(8) To consult with representatives of the following organizations and groups regarding the work of the office of the education ombudsman, including but not limited to:

- (a) The state parent teacher association;
- (b) Certificated and classified school employees;
- (c) School and school district administrators;
- (d) Parents of special education students;
- (e) Parents of English language learners;
- (f) The Washington state commission on Hispanic affairs;

(g) The Washington state commission on African-American affairs;

(h) The Washington state commission on Asian Pacific American affairs; and

(i) The governor's office of Indian affairs. [2008 c 165 § 2; 2006 c 116 § 4.]

43.06B.030 Liability for good faith performance—Privileged communications. (1) Neither the education ombudsman nor any regional educational ombudsmen are liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against any student or employee of any school district, the office of the superintendent of public education [instruction], or the state board of education, for any communication made, or information given or disclosed, to aid the education ombudsman in carrying out his or her duties and responsibilities, unless the same was done without good faith or maliciously. This subsection is not intended to infringe upon the rights of a school district to supervise, discipline, or terminate an employee for other reasons or to discipline a student for other reasons.

(3) All communications by the education ombudsman or the ombudsman's staff or designee, if reasonably related to the education ombudsman's duties and responsibilities and done in good faith, are privileged and that privilege shall serve as a defense to any action in libel or slander. [2006 c 116 § 5.]

43.06B.040 Confidentiality. The education ombudsman shall treat all matters, including the identities of students, complainants, and individuals from whom information is acquired, as confidential, except as necessary to enable the education ombudsman to perform the duties of the office. Upon receipt of information that by law is confidential or

privileged, the ombudsman shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law. [2006 c 116 § 6.]

43.06B.050 Annual reports. The education ombudsman shall report on the work and accomplishment of the office and advise and make recommendations to the governor, the legislature, and the state board of education annually. The initial report to the governor, the legislature, and the state board of education shall be made by September 1, 2007, and there shall be annual reports by September 1st each year thereafter. The annual reports shall provide at least the following information:

(1) How the education ombudsman's services have been used and by whom;

(2) Methods for the education ombudsman to increase and enhance family and community involvement in public education;

(3) Recommendations to eliminate barriers and obstacles to meaningful family and community involvement in public education; and

(4) Strategies to improve the educational opportunities for all students in the state, including recommendations from organizations and groups provided in RCW 43.06B.020(8). [2006 c 116 § 7.]

43.06B.060 Public school antiharassment policies and strategies—Lead agency. In addition to duties assigned under RCW 43.06B.020, the office of the education ombudsman shall serve as the lead agency to provide resources and tools to parents and families about public school antiharassment policies and strategies. [2010 c 239 § 3.]

Finding—Intent—2010 c 239: See note following RCW 28A.300.285.

43.06B.900 Findings—Intent—2006 c 116. See note following RCW 28A.300.130.

Chapter 43.07 RCW SECRETARY OF STATE

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43.07.010	Official bond.
43.07.020	Assistant and deputy secretary of state.
43.07.030	General duties.
43.07.035	Memorandum of agreement or contract for secretary of state's services with state agencies or private entities.
43.07.037	Gifts, grants, conveyances—Receipt, sale—Rules.
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43.07.050	Bureau of statistics—Secretary ex officio commissioner.
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43.07.205	Contract to issue conditional federal employer identification numbers, credentials, and documents in conjunction with license applications.
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43.07.400	Domestic partnership registry—Forms—Rules.
43.07.900	Transfer of powers, duties, and functions—Legislative oral history program.

Acquisition and disposition of highway property, powers and duties relating to: Chapter 47.12 RCW.

Address confidentiality: Chapter 40.24 RCW.

Attests commissions issued by state: State Constitution Art. 3 § 15.

Attorney for former residents and nonresidents for service of process arising out of motor vehicle operation in this state: RCW 46.64.040.

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state officers' bonds: RCW 43.07.030.

state treasurer: RCW 43.08.020.

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Civil rights, issuance of copies of instruments restoring civil rights: RCW 5.44.090.

County seats, removal, notice: RCW 36.12.070.

Duties: State Constitution Art. 3 § 17.

Election of: State Constitution Art. 3 § 1.

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certificates of election, issuance by: RCW 29A.52.370.

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county auditors, election laws for: RCW 29A.04.235.

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Filing with

banks: Chapter 30.08 RCW.

corporations: Title 23B RCW.

credit unions: Chapter 31.12 RCW.

department of transportation: RCW 47.68.210.

domestic insurers: RCW 48.06.200.

engrossed bills: RCW 44.20.010.

initiatives and referendums: State Constitution Art. 2 § 1; RCW 29A.72.010, 29A.72.170.

mutual savings banks: RCW 32.08.061, 32.08.070.

savings and loan associations: RCW 33.08.080.

standard uniforms for sheriffs: RCW 36.28.170.

statute law committee code correction orders: RCW 1.08.016.

trust companies: Chapter 30.08 RCW.

Foreign corporations, duties: Chapters 23B.01 and 23B.15 RCW.

Initiatives and referendums

acceptance or rejection of petitions for filing: RCW 29A.72.170.

filing of proposals and petitions with: State Constitution Art. 2 § 1; RCW 29A.72.010.

numbering of initiative and referendum measures: RCW 29A.72.040.

transmittal of copies to attorney general: RCW 29A.72.060.

Jury source list—Master jury list—Creation—Adoption of rules for implementation of methodology and standards by agencies: RCW 2.36.054 and 2.36.0571.

Legislative journals, custodian of: RCW 43.07.040.

Local government redistricting: Chapter 29A.76 RCW.

Massachusetts trusts, power to prescribe rules and regulations as to: RCW 23.90.040.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Oath of office: RCW 43.01.020.

Official bond: RCW 43.07.010.

Process deposited with

domestic corporation without officer in state upon whom process can be served: RCW 4.28.090.

foreign corporation failing to maintain agent in state: RCW 23B.14.300, nonadmitted foreign corporations having powers as to notes secured by real estate mortgages: RCW 23B.18.040 and 23B.18.050.

nonresident or former resident motorists: RCW 46.64.040.

trademark registration actions: RCW 19.77.090.

Records, custodian of: State Constitution Art. 3 § 24; RCW 43.07.040.

Registry of governor's acts kept by: RCW 43.07.030.

Residence to be maintained at seat of government: State Constitution Art. 3 § 24.

Salary, amount of: State Constitution Art. 3 § 17, Art. 28 § 1; RCW 43.03.010.

Sale of unneeded toll facility property, secretary to attest deed and deliver: RCW 47.56.255.

Session laws

custodian of: RCW 43.07.040.

engrossed bill filed with: RCW 44.20.010.

numbering of: RCW 44.20.020.

State canvassing board member: RCW 29A.60.240.

Statute law committee code correction orders filed with: RCW 1.08.016.

Succession to office of governor: State Constitution Art. 3 § 10.

Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.

Trademarks and trade names

filing fee: RCW 43.07.120.

registration of, duties: Chapter 19.77 RCW.

43.07.010 Official bond. The secretary of state must execute an official bond to the state in the sum of ten thousand dollars, conditioned for the faithful performance of the duties of his or her office, and shall receive no pay until such bond, approved by the governor, is filed with the state auditor. [2009 c 549 § 5024; 1965 c 8 § 43.07.010. Prior: 1890 p 633 § 10; RRS § 10994.]

43.07.020 Assistant and deputy secretary of state. The secretary of state may have one assistant secretary of state and one deputy secretary of state each of whom shall be appointed by him or her in writing, and continue during his or her pleasure. The assistant secretary of state and deputy secretary of state shall have the power to perform any act or duty relating to the secretary of state's office, that the secretary of state has, and the secretary of state shall be responsible for the acts of said assistant and deputy. [2009 c 549 § 5025; 1965 c 8 § 43.07.020. Prior: 1947 c 107 § 1; 1903 c 75 § 1; 1890 p 633 § 12; RRS § 10995.]

43.07.030 General duties. The secretary of state shall:

(1) Keep a register of and attest the official acts of the governor;

(2) Affix the state seal, with his or her attestation, to commissions, pardons, and other public instruments to which the signature of the governor is required, and also attestations and authentications of certificates and other documents properly issued by the secretary;

(3) Record all articles of incorporation, deeds, or other papers filed in the secretary of state's office;

(4) Receive and file all the official bonds of officers required to be filed with the secretary of state;

(5) Take and file in the secretary of state's office receipts for all books distributed by him or her;

(6) Certify to the legislature the election returns for all officers required by the Constitution to be so certified, and certify to the governor the names of all other persons who have received at any election the highest number of votes for any office the incumbent of which is to be commissioned by the governor;

(7) Furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the secretary of state's office;

(8) Present to the speaker of the house of representatives, at the beginning of each regular session of the legislature during an odd-numbered year, a full account of all purchases made and expenses incurred by the secretary of state on account of the state;

(9) File in his or her office an impression of each and every seal in use by any state officer;

(10) Keep a record of all fees charged or received by the secretary of state. [2009 c 549 § 5026; 1982 c 35 § 186; 1980 c 87 § 21; 1969 ex.s. c 53 § 3; 1965 c 8 § 43.07.030. Prior: 1890 p 630 § 2; RRS § 10992.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.035 Memorandum of agreement or contract for secretary of state's services with state agencies or private entities. The secretary of state shall have the authority to enter into a memorandum of agreement or contract with any agency of state government or private entity to provide for the performance of any of the secretary of state's services or duties under the various corporation statutes of this state. [1985 c 156 § 19; 1982 c 35 § 190.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Additional notes found at www.leg.wa.gov

43.07.037 Gifts, grants, conveyances—Receipt, sale—Rules. The secretary of state and the *council may accept gifts, grants, conveyances, bequests, and devises, of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms. The secretary of state shall adopt rules to govern and protect the receipt and expenditure of the proceeds. [1996 c 253 § 105.]

*Reviser's note: 1996 c 253 § 101, which created the international education and exchange council, was vetoed.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 28B.109.010.

43.07.040 Custodian of state records. The secretary of state is charged with the custody:

- (1) Of all acts and resolutions passed by the legislature;
- (2) Of the journals of the legislature;
- (3) Of the seal of the state;
- (4) Of all books, records, deeds, parchments, maps, and papers required to be kept on deposit in his or her office pursuant to law;
- (5) Of the enrolled copy of the Constitution. [2009 c 549 § 5027; 1965 c 8 § 43.07.040. Prior: 1903 c 107 § 1; 1890 p 629 § 1; RRS § 10991.]

43.07.050 Bureau of statistics—Secretary ex officio commissioner. The secretary of state shall be ex officio commissioner of statistics. He or she shall establish within his or her office, and under his or her immediate supervision, a bureau to be known as the bureau of statistics, agriculture and immigration. [2009 c 549 § 5028; 1965 c 8 § 43.07.050. Prior: 1895 c 85 § 1; RRS § 10933.]

43.07.090 Bureau of statistics—Power to obtain statistics—Penalty. The commissioner shall have the power to send for persons and papers whenever in his or her opinion it is necessary, and he or she may examine witnesses under oath, being hereby qualified to administer the same in the performance of his or her duty, and the testimony so taken must be filed and preserved in his or her office. He or she shall have free access to all places and works of labor, and any principal, owner, operator, manager, or lessee of any mine, factory, workshop, warehouse, manufacturing or mercantile establishment, or any agent or employee of any such principal, owner, operator, manager, or lessee, who shall refuse to the commissioner or his or her duly authorized representative admission therein, or who shall, when requested by him or her, wilfully neglect or refuse to furnish him or her any statistics or information pertaining to his or her lawful duties which may be in the possession or under the control of said principal, owner, operator, lessee, manager, or agent thereof, shall be punished by a fine of not less than fifty nor more than two hundred dollars. [2009 c 549 § 5029; 1965 c 8 § 43.07.090. Prior: 1895 c 85 § 5; RRS § 10937.]

43.07.100 Bureau of statistics—Information confidential—Penalty. No use shall be made in the report of the bureau of the names of individuals, firms, or corporations supplying the information called for by these sections, such information being deemed confidential and not for the purpose of disclosing any person's affairs; and any agent or employee of said bureau violating this provision shall upon conviction thereof be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not to exceed six months. [1965 c 8 § 43.07.100. Prior: 1895 c 85 § 6; RRS § 10938.]

43.07.110 Bureau of statistics—Deputy commissioner. The commissioner shall appoint a deputy commissioner, who shall act in his or her absence, and the deputy shall receive the sum of twelve hundred dollars per annum to be paid by the state treasurer in the same manner as other state officers are paid; the sum allowed for deputy and other

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incidental expenses of the bureau shall not exceed the sum of three thousand dollars any one year. The commissioner shall have authority to employ one person to act as immigration agent, which agent shall reside in such city as said commissioner may designate, and he or she shall be provided with such literature and incidental accessories as in his or her judgment may be necessary. [2009 c 549 § 5030; 1965 c 8 § 43.07.110. Prior: 1895 c 85 § 7; RRS § 10939.]

43.07.120 Fees—Rules. (1) The secretary of state must establish by rule and collect the fees in this subsection:

- (a) For a copy of any law, resolution, record, or other document or paper on file in the secretary's office;
- (b) For any certificate under seal;
- (c) For filing and recording trademark;
- (d) For each deed or patent of land issued by the governor;
- (e) For recording miscellaneous records, papers, or other documents.

(2) The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under Title 23B RCW, chapter 18.100, 19.09, 19.34, 19.77, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, 25.04, 25.15, 25.10, 25.05, or 26.60 RCW:

- (a) Any service rendered in-person at the secretary of state's office;
- (b) Any expedited service;
- (c) The electronic or facsimile transmittal of information from corporation records or copies of documents;
- (d) The providing of information by micrographic or other reduced-format compilation;
- (e) The handling of checks, drafts, or credit or debit cards upon adoption of rules authorizing their use for which sufficient funds are not on deposit; and
- (f) Special search charges.

(3) To facilitate the collection of fees, the secretary of state may establish accounts for deposits by persons who may frequently be assessed such fees to pay the fees as they are assessed. The secretary of state may make whatever arrangements with those persons as may be necessary to carry out this section.

(4) The secretary of state may adopt rules for the use of credit or debit cards for payment of fees.

(5) No member of the legislature, state officer, justice of the supreme court, judge of the court of appeals, or judge of the superior court may be charged for any search relative to matters pertaining to the duties of his or her office; nor may such official be charged for a certified copy of any law or resolution passed by the legislature relative to his or her official duties, if such law has not been published as a state law. [2010 1st sp.s. c 29 § 6; 1998 c 103 § 1309. Prior: 1994 c 211 § 1310; 1994 c 60 § 5; 1993 c 269 § 15; 1991 c 72 § 53; 1989 c 307 § 39; 1982 c 35 § 187; 1971 c 81 § 107; 1965 c 8 § 43.07.120; prior: 1959 c 263 § 5; 1907 c 56 § 1; 1903 c 151 § 1; 1893 c 130 § 1; RRS § 10993.]

Intent—2010 1st sp.s. c 29: See note following RCW 23B.01.530.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Additional notes found at www.leg.wa.gov

43.07.125 Fees—Charitable trusts—Charitable solicitations. The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under chapter 11.110 or 19.09 RCW:

- (1) Any service rendered in-person at the secretary of state's office;
- (2) Any expedited service;
- (3) The electronic transmittal of documents;
- (4) The providing of information by microfiche or other reduced-format compilation;
- (5) The handling of checks or drafts for which sufficient funds are not on deposit;
- (6) The resubmission of documents previously submitted to the secretary of state where the documents have been returned to the submitter to make such documents conform to the requirements of the applicable statute;
- (7) The handling of telephone requests for information; and
- (8) Special search charges. [1993 c 471 § 24; 1993 c 269 § 14.]

Additional notes found at www.leg.wa.gov

43.07.128 Fees—Washington state heritage center.

(1) In addition to other required filing fees, the secretary of state shall collect a fee of five dollars at the time of filing for:

- (a) Articles of incorporation for domestic corporations or applications for certificates of authority for foreign corporations under Title 23B RCW;
- (b) Certificates of formation for domestic limited liability companies or registrations of foreign limited liability companies under chapter 25.15 RCW;
- (c) Registrations of foreign and domestic partnerships and limited liability partnerships under chapter 25.05 RCW;
- (d) Certificates of limited partnership[s] and registration[s] of foreign limited partnerships under chapter 25.10 RCW; and
- (e) Registrations of trademarks under chapter 19.77 RCW.

(2) Moneys received under subsection (1) of this section must be deposited into the Washington state heritage center account. [2007 c 523 § 1.]

Effective date—2007 c 523 § 1: "Section 1 of this act takes effect January 1, 2009." [2007 c 523 § 7.]

Contingency—2007 c 523: "If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void." [2007 c 523 § 6.] Funding was provided in 2007 c 520 § 6013(9) (capital budget).

43.07.129 Washington state heritage center account.

The Washington state heritage center account is created in the custody of the state treasurer. All moneys received under RCW 36.18.010(11) and 43.07.128 must be deposited in the account. Expenditures from the account may be made only for the following purposes:

- (1) Payment of the certificate of participation issued for the Washington state heritage center;
- (2) Capital maintenance of the Washington state heritage center; and
- (3) Program operations that serve the public, relate to the collections and exhibits housed in the Washington state heri-

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tage center, or fulfill the missions of the state archives, state library, and capital museum.

Only the secretary of state or the secretary of state's designee may authorize expenditures from the account. An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW. [2007 c 523 § 4.]

Contingency—2007 c 523: See note following RCW 43.07.128.

43.07.130 Secretary of state's revolving fund—Publication fees authorized, disposition.

There is created within the state treasury a revolving fund, to be known as the "secretary of state's revolving fund," which must be used by the office of the secretary of state to defray the costs of providing registration and information services authorized by law by the office of the secretary of state, and any other cost of carrying out the functions of the secretary of state under Title 11, 18, 19, 23, 23B, 24, 25, 26, 30, 42, 43, or 64 RCW.

The secretary of state is authorized to charge a fee for publications in an amount which will compensate for the costs of printing, reprinting, and distributing such printed matter. Fees recovered by the secretary of state under RCW 43.07.120(2), 19.09.305, 19.09.315, 19.09.440, 23B.01.220 (1)(e), (6) and (7), 23B.18.050, 24.03.410, 24.06.455, *25.10.600(6), 25.10.916(1)(e), or 46.64.040, and such other moneys as are expressly designated for deposit in the secretary of state's revolving fund must be placed in the secretary of state's revolving fund.

During the 2005-2007 fiscal biennium, the legislature may transfer from the secretary of state's revolving fund to the state general fund such amounts as reflect the excess fund balance of the fund. [2010 1st sp.s. c 29 § 7; 2005 c 518 § 924; 1994 c 211 § 1311; 1991 c 72 § 54; 1989 c 307 § 40; 1982 c 35 § 188; 1973 1st ex.s. c 85 § 1; 1971 ex.s. c 122 § 1.]

***Reviser's note:** RCW 25.10.600 was repealed by 2009 c 188 § 1305, effective July 1, 2010.

Intent—2010 1st sp.s. c 29: See note following RCW 23B.01.530.

Severability—Effective date—2005 c 518: See notes following RCW 28A.500.030.

Legislative finding—1989 c 307: See note following RCW 23.86.007.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Additional notes found at www.leg.wa.gov

43.07.140 Materials specifically authorized to be printed and distributed. The secretary of state is hereby specifically authorized to print, reprint, and distribute the following materials:

- (1) Lists of active corporations;
- (2) The provisions of Title 23 RCW;
- (3) The provisions of Title 23B RCW;
- (4) The provisions of Title 24 RCW;
- (5) The provisions of chapter 25.10 RCW;
- (6) The provisions of *Title 29 RCW;
- (7) The provisions of chapter 18.100 RCW;
- (8) The provisions of chapter 19.77 RCW;
- (9) The provisions of chapter 43.07 RCW;
- (10) The provisions of the Washington state Constitution;
- (11) The provisions of chapters 40.14, 40.16, and 40.20 RCW, and any statutes, rules, schedules, indexes, guides,

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descriptions, or other materials related to the public records of state or local government or to the state archives; and

(12) Rules and informational publications related to the statutory provisions set forth above. [1991 c 72 § 55; 1982 c 35 § 189; 1973 1st ex.s. c 85 § 2.]

***Reviser's note:** Title 29 RCW was repealed and/or recodified pursuant to 2003 c 111, effective July 1, 2004. See Title 29A RCW.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.150 Uniform commercial code powers, duties, and functions transferred to department of licensing. All powers, duties, and functions vested by law in the secretary of state relating to the Uniform Commercial Code are transferred to the department of licensing. [1979 c 158 § 92; 1977 ex.s. c 117 § 1.]

Additional notes found at www.leg.wa.gov

43.07.160 Authenticating officers—Appointment authorized—Use of facsimile signature. The secretary of state may appoint authenticating officers and delegate to the authenticating officers power to sign for the secretary of state any document which, to have legal effect, requires the secretary of state's signature and which is of a class which the secretary of state has authorized for signature by the authenticating officers in a writing on file in the secretary of state's office. Authenticating officers shall sign in the following manner: "., Authenticating Officer for the Secretary of State"

The secretary of state may also delegate to the authenticating officers power to use the secretary of state's facsimile signature for signing any document which, to have legal effect, requires the secretary of state's signature and is of a class with respect to which the secretary of state has authorized use of his or her facsimile signature by a writing filed in the secretary of state's office. As used in this section, "facsimile signature" includes, but is not limited to, the reproduction of any authorized signature by a copper plate, a rubber stamp, or by a photographic, photostatic, or mechanical device.

The secretary of state shall effect the appointment and delegation by placing on file in the secretary of state's office in a single document the names of all persons appointed as authenticating officers and each officer's signature, a list of the classes of documents each authenticating officer is authorized to sign for the secretary of state, a copy of the secretary of state's facsimile signature, and a list of the classes of documents which each authenticating officer may sign for the secretary of state by affixing the secretary of state's facsimile signature. The secretary of state may revoke the appointment or delegation or powers by placing on file in the secretary of state's office a new single document which expressly revokes the authenticating officers and the powers delegated to them. The secretary of state shall record and index documents filed by him or her under this section, and the documents shall be open for public inspection.

The authorized signature of an authenticating officer or an authorized facsimile signature of the secretary of state shall have the same legal effect and validity as the genuine manual signature of the secretary of state. [1982 c 35 § 2.]

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Intent—1982 c 35: "The legislature finds that the secretary of state's office, particularly the corporations division, performs a valuable public service for the business and nonprofit corporate community, and for the state of Washington. The legislature further finds that numerous filing and other requirements of the laws relating to the secretary of state's responsibilities have not been recently updated, thereby causing problems and delays for the corporate community as well as the secretary of state's office.

To provide better service to the corporate community in this state, and to permit the secretary of state to make efficient use of state resources and improve collection of state revenues, statutory changes are necessary. It is the intent of the legislature to provide for the modernization and updating of the corporate laws and other miscellaneous filing statutes and to give the secretary of state the appropriate authority the secretary of state needs to implement the modernization and streamlining effort." [1982 c 35 § 1.]

Additional notes found at www.leg.wa.gov

43.07.170 Establishment of a corporate filing system using other methods authorized. (1) If the secretary of state determines that the public interest and the purpose of the filing and registration statutes administered by the secretary of state would be best served by a filing system utilizing microfilm, microfiche, methods of reduced-format document recording, or electronic or online filing, the secretary of state may, by rule adopted under chapter 34.05 RCW, establish such a filing system.

(2) In connection with a reduced-format filing system, the secretary of state may eliminate any requirement for a duplicate original filing copy, and may establish reasonable requirements concerning paper size, print legibility, and quality for photo-reproduction processes as may be necessary to ensure utility and readability of any reduced-format filing system.

(3) In connection with an electronic or online filing system, the secretary of state may eliminate any requirement for a duplicate original filing copy and may establish reasonable requirements for electronic filing, including but not limited to signature technology, file format and type, delivery, types of filing that may be completed electronically, and methods for the return of filed documents. [2002 c 74 § 20; 1982 c 35 § 191.]

Captions not law—2002 c 74: See note following RCW 19.09.020.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.173 Facsimile transmissions—Acceptance and filing by the secretary of state. (1) The secretary of state shall accept and file in the secretary's office facsimile transmissions of any documents authorized or required to be filed pursuant to Title 23, 23B, 24, or 25 RCW or chapter 18.100 RCW. The acceptance by the secretary of state is conditional upon the document being legible and otherwise satisfying the requirements of state law or rules with respect to form and content, including those established under RCW 43.07.170. If the document must be signed, that requirement is satisfied by a facsimile copy of the signature.

(2) If a fee is required for filing the document, the secretary may reject the document for filing if the fee is not received before, or at the time of, receipt. [1998 c 38 § 1.]

43.07.175 Copies of certain filed documents to insurance commissioner. The secretary of state shall deliver to the office of the insurance commissioner copies of corporate documents filed with the secretary of state by health care ser-

vice contractors and health maintenance organizations that have been provided for the insurance commissioner under RCW 48.44.013 and 48.46.012. [1998 c 23 § 18.]

43.07.180 Staggered corporate license renewal system authorized. The secretary of state may, by rule adopted under chapter 34.05 RCW, adopt and implement a system of renewals for annual corporate licenses or filings in which the renewal dates are staggered throughout the year.

To facilitate the implementation of the staggered system, the secretary of state may extend the duration of corporate licensing periods or report filing periods and may impose and collect such additional proportional fees as may be required on account of the extended periods. [1982 c 35 § 192.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.190 Use of a summary face sheet or cover sheet with the filing of certain documents authorized. Where the secretary of state determines that a summary face sheet or cover sheet would expedite review of any documents made under Title 23B RCW, or chapter 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.36, or 25.10 RCW, the secretary of state may require the use of a summary face sheet or cover sheet that accurately reflects the contents of the attached document. The secretary of state may, by rule adopted under chapter 34.05 RCW, specify the required contents of any summary face sheet and the type of document or documents in which the summary face sheet will be required, in addition to any other filing requirements which may be applicable. [1991 c 72 § 56; 1989 c 307 § 41; 1982 c 35 § 193.]

Legislative finding—1989 c 307: See note following RCW 23.86.007.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Additional notes found at www.leg.wa.gov

43.07.200 Business license center as secretary of state's agent for corporate renewals—Proposals for—Schedule. Not later than July 1, 1982, the secretary of state and the director of licensing shall propose to the director of financial management a contract and working agreement with accompanying fiscal notes designating the business license center as the secretary of state's agent for issuing all or a portion of the corporation renewals within the jurisdiction of the secretary of state. The secretary of state and the director of licensing shall submit the proposed contract and accompanying fiscal notes to the legislature before October 1, 1982.

The secretary of state and the director of licensing shall jointly submit to the legislature by January 10, 1983, a schedule for designating the center as the secretary of state's agent for all such corporate renewals not governed by the contract. [1982 c 182 § 12.]

Business license center act: Chapter 19.02 RCW.

Certain business or professional activity licenses exempt: RCW 19.02.800.

Master license system—Existing licenses or permits registered under, when: RCW 19.02.810.

Additional notes found at www.leg.wa.gov

43.07.205 Contract to issue conditional federal employer identification numbers, credentials, and documents in conjunction with license applications. The secretary of state may contract with the federal internal revenue service, or other appropriate federal agency, to issue conditional federal employer identification numbers, or other federal credentials or documents, at specified offices and locations of the agency in conjunction with any application for state licenses under chapter 19.02 RCW. [1997 c 51 § 3.]

Intent—1997 c 51: See note following RCW 19.02.300.

43.07.210 Filing false statements—Penalty. Any person who files a false statement, which he or she knows to be false, in the articles of incorporation or in any other materials required to be filed with the secretary of state shall be guilty of a gross misdemeanor punishable under chapter 9A.20 RCW. [1984 c 75 § 25.]

43.07.300 Division of elections—Director. The secretary of state shall establish a division of elections within the office of the secretary of state and under the secretary's supervision. The division shall be under the immediate supervision of a director of elections who shall be appointed by the secretary of state and serve at the secretary's pleasure. [1992 c 163 § 1.]

43.07.310 Division of elections—Duties. The secretary of state, through the division of elections, is responsible for the following duties, as prescribed by Title 29A RCW:

- (1) The filing, verification of signatures, and certification of state initiative, referendum, and recall petitions;
- (2) The production and distribution of a state voters' pamphlet;
- (3) The examination, testing, and certification of voting equipment, voting devices, and vote-tallying systems;
- (4) The administration, canvassing, and certification of the presidential primary, state primaries, and state general elections;
- (5) The administration of motor voter and other voter registration and voter outreach programs;
- (6) The training, testing, and certification of state and local elections personnel as established in RCW 29A.04.530;
- (7) The conduct of reviews as established in RCW 29A.04.570; and
- (8) Other duties that may be prescribed by the legislature. [2009 c 415 § 11; 2003 c 111 § 2303; 1992 c 163 § 2.]

Effective date—2003 c 111: See RCW 29A.04.903.

43.07.350 Citizens' exchange program. The secretary of state, in consultation with the *department of trade, the department of agriculture, economic development consultants, the consular corps, and other international trade organizations, shall develop a Washington state citizens' exchange program that will initiate and promote:

- (1) Citizen exchanges between Washington state agricultural, technical, and educational groups and organizations with their counterparts in targeted foreign countries.
- (2) Expanded educational and training exchanges between Washington state individuals and organizations with similar groups in targeted foreign countries.

(3) Programs to extend Washington state expertise to targeted foreign countries to help promote better health and technical assistance in agriculture, water resources, hydroelectric power, forestry management, education, and other areas.

(4) Efforts where a special emphasis is placed on utilizing Washington state's rich human resources who are retired from public and private life and have the time to assist in this program.

(5) People-to-people programs that may result in increased tourism, business relationships, and trade from targeted foreign nations to the Pacific Northwest. [1993 c 113 § 1.]

***Reviser's note:** The department of trade and economic development was the correct name for this department. The name of the department is now the department of community, trade, and economic development, pursuant to 1993 c 280. The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.07.363 Washington state legacy project—Oral histories—Advisory council. (1) The secretary of state shall administer and conduct a program to record and document oral histories of current and former members and staff of the Washington state executive and judicial branches, the state's congressional delegation, and other citizens who have participated in the political history of Washington state. The program shall be called the Washington state legacy project. The secretary of state may contract with independent oral historians or history departments of the state universities to interview and record oral histories. The manuscripts and publications shall be made available for research and reference through the state archives. The transcripts, together with current and historical photographs, may be published for distribution to libraries and the general public, and be posted on the secretary of state's web site.

(2) The Washington state legacy project may act as a principal repository for oral histories related to community, family, and other various projects.

(3) The oral history of a person who occupied positions, or was staff to a person who occupied positions, in more than one branch of government shall be conducted by the entity authorized to conduct oral histories of persons in the position last held by the person who is the subject of the oral history. However, the person being interviewed may select the entity he or she wishes to prepare his or her oral history.

(4) The secretary of state may create a Washington state legacy project advisory council to provide advice and guidance on matters pertaining to operating the legacy project. The secretary of state may not compensate members of the legacy project advisory council but may provide reimbursement to members for expenses that are incurred in the conduct of their official duties. [2008 c 222 § 10.]

Purpose—2008 c 222: See note following RCW 44.04.320.

43.07.365 Washington state legacy project—Funding—Rules. The secretary of state may fund Washington state legacy project activities through donations as provided in RCW 43.07.037. The activities may include, but not be limited to, conducting interviews, preparing and indexing transcripts, publishing transcripts and photographs, and presenting displays and programs. Donations that do not meet

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the criteria of the Washington state legacy project may not be accepted. The secretary of state shall adopt rules necessary to implement this section. [2008 c 222 § 11; 2002 c 358 § 3.]

Purpose—2008 c 222: See note following RCW 44.04.320.

43.07.370 Washington state legacy project—Gifts, grants, conveyances—Expenditures—Rules. (1) The secretary of state may solicit and accept gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms.

(2) Moneys received under this section may be used only for the following purposes:

(a) Conducting the Washington state legacy project;

(b) Archival activities;

(c) Washington state library activities;

(d) Development, construction, and operation of the Washington state heritage center; and

(e) Donation of Washington state flags.

(3)(a) Moneys received under subsection (2)(a) through (c) of this section must be deposited in the Washington state legacy project, state library, and archives account established in RCW 43.07.380.

(b) Moneys received under subsection (2)(d) of this section must be deposited in the Washington state heritage center account created in RCW 43.07.129.

(c) Moneys received under subsection (2)(e) of this section must be deposited in the Washington state flag account created in RCW 43.07.388.

(4) The secretary of state shall adopt rules to govern and protect the receipt and expenditure of the proceeds. [2009 c 71 § 1; 2008 c 222 § 12; 2007 c 523 § 3; 2003 c 164 § 1.]

Purpose—2008 c 222: See note following RCW 44.04.320.

Contingency—2007 c 523: See note following RCW 43.07.128.

43.07.380 Washington state legacy project, state library, and archives account. The Washington state legacy project, state library, and archives account is created in the custody of the state treasurer. All moneys received under RCW 43.07.370 must be deposited in the account. Expenditures from the account may be made only for the purposes of the Washington state legacy project under RCW 43.07.363, archives program under RCW 40.14.020, and the state library program under chapter 27.04 RCW. Only the secretary of state or the secretary of state's designee may authorize expenditures from the account. An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW. [2008 c 222 § 13; 2003 c 164 § 2.]

Purpose—2008 c 222: See note following RCW 44.04.320.

43.07.388 Washington state flag account. The Washington state flag account is created in the custody of the state treasurer. All moneys received under RCW 43.07.370(2)(e) must be deposited in the account. Expenditures from the account may be used only for the purpose of donating Washington state flags to Washington state military personnel. Only the secretary of state or the secretary of state's designee

may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2009 c 71 § 2.]

43.07.390 Real estate excise tax enforcement—Disclosure of transfer of controlling interest, real property.

(1)(a) The secretary of state must adopt rules requiring any entity that is required to file an annual report with the secretary of state, including entities under Titles 23, 23B, 24, and 25 RCW, to disclose: (i) Any transfer of the controlling interest in the entity; and (ii) the granting of any option to acquire an interest in the entity if the exercise of the option would result in a sale as defined in RCW 82.45.010(2).

(b) The disclosure requirement in this subsection only applies to entities owning an interest in real property located in this state.

(2) This information must be made available to the department of revenue upon request for the purposes of tracking the transfer of the controlling interest in entities owning real property and to determine when the real estate excise tax is applicable in such cases.

(3) For the purposes of this section, "controlling interest" has the same meaning as provided in RCW 82.45.033. [2010 1st sp.s. c 23 § 213; 2005 c 326 § 2.]

Effective date—2010 1st sp.s. c 23: See note following RCW 82.32.655.

Findings—Intent—2010 1st sp.s. c 23: See notes following RCW 82.04.220.

43.07.400 Domestic partnership registry—Forms—Rules. (1) The state domestic partnership registry is created within the secretary of state's office.

(2)(a) The secretary shall prepare forms entitled "declaration of state registered domestic partnership" and "notice of termination of state registered domestic partnership" to meet the requirements of RCW 26.60.010, 26.60.020, 26.60.030, and 26.60.070.

(b) The "declaration of state registered domestic partnership" form must contain a statement that registration may affect property and inheritance rights, that registration is not a substitute for a will, deed, or partnership agreement, and that any rights conferred by registration may be completely superseded by a will, deed, or other instrument that may be executed by either party. The form must also contain instructions on how the partnership may be terminated.

(c) The "notice of termination of state registered domestic partnership" form must contain a statement that termination may affect property and inheritance rights, including beneficiary designations, and other agreements, such as the appointment of a state registered domestic partner as an attorney-in-fact under a power of attorney.

(3) The secretary shall distribute these forms to each county clerk. These forms shall be available to the public at the secretary of state's office, each county clerk, and on the internet.

(4) The secretary shall adopt rules necessary to implement the administration of the state domestic partnership registry. [2007 c 156 § 3.]

43.07.900 Transfer of powers, duties, and functions—Legislative oral history program. (1) All powers, duties, and functions of the secretary of state pertaining to the legislative oral history program are transferred to the secretary of the senate and the chief clerk of the house of representatives. All references to the secretary of state or the office of the secretary of state in the Revised Code of Washington shall be construed to mean the secretary of the senate and the chief clerk of the house of representatives when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the secretary of state pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the secretary of the senate and the chief clerk of the house of representatives. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the secretary of the senate and the chief clerk of the house of representatives.

(b) Any appropriations made to the secretary of state for carrying out the powers, functions, and duties transferred shall, on June 12, 2008, be transferred and credited to the secretary of the senate and the chief clerk of the house of representatives.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the secretary of state pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the secretary of the senate and the chief clerk of the house of representatives. All existing contracts and obligations shall remain in full force and shall be performed by the secretary of the senate and the chief clerk of the house of representatives.

(4) The transfer of the powers, duties, functions, and personnel of the secretary of state shall not affect the validity of any act performed before June 12, 2008.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the public employment relations commission as provided by law.

(7) The secretary of the senate and the chief clerk of the house of representatives will determine location and staff reporting for the program. [2008 c 222 § 9.]

Purpose—2008 c 222: See note following RCW 44.04.320.

Chapter 43.08 RCW
STATE TREASURER

Sections

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Gambling revolving fund, treasurer as custodian: RCW 9.46.100.

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Obsolete funds and accounts—List provided to the office of financial management and legislative committees: RCW 43.79.018.
Obstructions on highway right-of-way, treasurer's duties relating to: RCW 47.32.060.
Off-road and nonhighway vehicles, treasurer's duties: RCW 46.09.030, 46.09.170.
Payments from, judgments against state: RCW 4.92.040.
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receipt and keeping of: RCW 43.88.160.
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Public utility districts, privilege taxes, duties in regard to: RCW 54.28.040.
Puget Sound ferry and toll bridge system, treasurer's powers and duties relating to: Chapter 47.60 RCW.
Purchase of bridges or ferries by department of transportation, treasurer's powers and duties relating to: RCW 47.56.050.
Records and accounts to be kept at seat of government: State Constitution Art. 3 § 24.
Residence must be at seat of government: State Constitution Art. 3 § 24.
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Snowmobile act, treasurer's duties: Chapter 46.10 RCW.
State canvassing board member: RCW 29A.60.240.
State finance committee chair: RCW 43.33.040.
member: RCW 43.33.010.
State trade fair fund, horse racing moneys: RCW 43.31.805.
Succession to governorship: State Constitution Art. 3 § 10.
Surplus funds, investment program: Chapter 43.86A RCW.
Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.
Toll bridges, improvement of existing bridge and construction of new bridge as single project, treasurer's powers and duties relating to: Chapter 47.58 RCW.
Vehicle wreckers' licensing, treasurer's powers and duties relating to: Chapter 46.80 RCW.
Vocational rehabilitation funds, custodian of: RCW 74.29.050.
Volunteer firefighters' board of trustees, report, duties: RCW 41.24.070.
Warrants or checks, unlawful to issue except upon forms prescribed by director of financial management: RCW 43.88.160.
Washington State University bonds and securities, annual report to regents: RCW 28B.30.300.
receiving agent for federal aid to: RCW 28B.30.270.

43.08.010 General duties. The state treasurer shall:

(1) Receive and keep all moneys of the state in the manner provided in RCW 43.88.160, as now or hereafter amended;

(2) Disburse the public moneys only upon warrants or checks drawn upon the treasurer in the manner provided by law;

(3) Account for moneys in the manner provided by law;

(4) Render accounts in the manner provided by law;

(5) Indorse on each warrant when required by law, the date of payment, the amount of the principal, and the interest due on that date;

(6) Report annually to the legislature a detailed statement of the condition of the treasury, and of its operations for the preceding fiscal year;

(7) Give information, in writing, to either house of the legislature, whenever required, upon any subject connected with the treasury, or touching any duty of his or her office;

(8) Account for and pay over all moneys on hand to his or her successor in office, and deliver all books, vouchers, and effects of office to him or her, who shall receipt therefor;

(9) Upon payment of any warrant, or check, take upon the back thereof the indorsement of the person to whom it is paid. [2009 c 549 § 5031; 1977 c 75 § 38; 1965 c 8 § 43.08.010. Prior: 1890 p 642 § 1; RRS § 11019; prior: 1886 p 134 § 2; 1871 p 77 § 2; 1864 p 52 § 3; 1854 p 413 § 3.]

Budget and accounting system, powers and duties: RCW 43.88.160.

43.08.015 Cash management duties. Within the policies and procedures established pursuant to RCW *43.41.110(13) and 43.88.160(1), the state treasurer shall take such actions as are necessary to ensure the effective cash management of public funds. This cash management shall include the authority to represent the state in all contractual relationships with financial institutions. The state treasurer may delegate cash management responsibilities to the affected agencies with the concurrence of the office of financial management. [1993 c 500 § 3.]

***Reviser's note:** RCW 43.41.110 was amended by 2002 c 332 § 23, changing subsection (13) to subsection (14).

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.08.020 Residence—Bond—Oath. The state treasurer shall reside and keep his or her office at the seat of government. Before entering upon his or her duties, he or she shall execute and deliver to the secretary of state a bond to the state in a sum of not less than five hundred thousand dollars, to be approved by the secretary of state and one of the justices of the supreme court, conditioned to pay all moneys at such times as required by law, and for the faithful performance of all duties required of him or her by law. He or she shall take an oath of office, to be indorsed on his or her commission, and file a copy thereof, together with the bond, in the office of the secretary of state. [2009 c 549 § 5032; 1972 ex.s. c 12 § 1. Prior: 1971 c 81 § 108; 1971 c 14 § 1; 1965 c 8 § 43.08.020; prior: 1890 p 642 § 2; RRS § 11022; prior: 1886 p 133 § 1; 1881 p 18 § 1; 1871 p 76 § 1; 1864 p 51 § 2; 1854 p 413 § 2.]

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43.08.030 Seal. The treasurer shall keep a seal of office for the authentication of all papers, writings, and documents required to be certified by him or her. [2009 c 549 § 5033; 1965 c 8 § 43.08.030. Prior: 1890 p 643 § 6; RRS § 11025; prior: 1886 p 135 § 6; 1871 p 78 § 6; 1864 p 53 § 7; 1854 p 414 § 7.]

43.08.040 Administration of oaths. The treasurer may administer all oaths required by law in matters pertaining to the duties of his or her office. [2009 c 549 § 5034; 1965 c 8 § 43.08.040. Prior: 1890 p 643 § 5; RRS § 11024; prior: 1886 p 135 § 5; 1871 p 78 § 5; 1864 p 53 § 6; 1854 p 414 § 6.]

43.08.050 Records and accounts—Public inspection. All the books, papers, letters, and transactions pertaining to the office of treasurer shall be open for the inspection of a committee of the legislature to examine or settle all accounts, and to count all money; and to the inspection of the public generally during office hours; and when the successor of any treasurer is elected and qualified, the state auditor shall examine and settle all the accounts of the treasurer remaining unsettled, and give him or her a certified statement showing the balance of moneys, securities, and effects for which he or she is accountable, which have been delivered to his or her successor, and report the same to the legislature. [2009 c 549 § 5035; 1965 c 8 § 43.08.050. Prior: 1890 p 643 § 3; RRS § 11023; prior: 1886 p 134 § 3; 1864 p 53 § 4; 1854 p 414 § 4.]

Public records, budget and accounting system: RCW 43.88.200.

43.08.060 Duplicate receipts. All persons required by law to pay any moneys into the state treasury, or to transmit any public funds to the state treasurer on state accounts, shall, at the time of making such payments or transmissions specify the amount and date of such payment, and for what particular fund or account.

For all sums of money so paid the state treasurer shall forthwith give duplicate receipts in accordance with the rules and regulations promulgated by the office of financial management as authorized by RCW 43.88.160(1). [1979 c 151 § 89; 1977 c 16 § 1; 1965 c 8 § 43.08.060. Prior: 1890 p 643 § 4; RRS § 5504; prior: 1886 p 134 § 4; 1871 p 78 § 4; 1864 p 53 § 5; 1854 p 414 § 5.]

43.08.061 Warrants—Public printer to print—Retention of redeemed warrants. The public printer shall print all state treasury warrants for distribution as directed by the state treasurer. All warrants redeemed by the state treasurer shall be retained for a period of one year, following their redemption, after which they may be destroyed without regard to the requirements imposed for their destruction by chapter 40.14 RCW. [1993 c 38 § 1; 1981 c 10 § 1; 1975 c 48 § 2.]

Actions against state on redeemed warrants, time limitation: RCW 4.92.200.

43.08.062 Warrants—Presentation—Cancellation. Should the payee or legal holder of any warrant drawn against the state treasury fail to present the warrant for payment within one hundred eighty days of the date of its issue or, if registered and drawing interest, within one hundred

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eighty days of its call, the state treasurer shall enter the same as canceled on the books of his or her office.

Should the payee or legal owner of such a canceled warrant thereafter present it for payment, the state treasurer may, upon proper showing by affidavit and the delivery of the warrant into his or her possession, issue a new warrant in lieu thereof, and the state treasurer is authorized to pay the new warrant. [2009 c 549 § 5036; 1986 c 99 § 1; 1981 c 10 § 2; 1965 c 8 § 43.08.062. Prior: 1890 p 638 § 13; RRS § 11008; prior: 1883 p 61 § 1. Formerly RCW 43.09.100.]

43.08.064 Lost or destroyed warrants, instruments, or other evidence of indebtedness—Issuing officer to issue duplicate. In case of the loss or destruction of a state warrant for the payment of money, or any bond or other instrument or evidence of indebtedness, issued by any state officer, or agency, such officer, or such agency through its appropriate officer may issue or cause to be issued a duplicate in lieu thereof, bearing the same number, class, or designation in all respects and for the same amount as the original, except that the word duplicate shall plainly appear upon the face of the new instrument in such a manner as to clearly identify it as a duplicate instrument. The duplicate instrument so issued shall be subject in all other respects to the same provisions of law as the original instrument. [1979 ex.s. c 71 § 3; 1975-76 2nd ex.s. c 77 § 2; 1965 ex.s. c 61 § 1; 1965 c 8 § 43.08.064. Prior: 1890 p 639 § 15; RRS § 11010; prior: 1888 p 236 § 1. Formerly RCW 43.09.110.]

Lost or destroyed evidence of indebtedness issued by local governments: Chapter 39.72 RCW.

43.08.066 Lost or destroyed warrants, instruments, or other evidence of indebtedness—Conditions on issuance. Before a duplicate instrument is issued, the state treasurer or other issuing officer shall require the person making application for its issue to file in his or her office a written affidavit specifically alleging on oath that he or she is the proper owner, payee, or legal representative of such owner or payee of the original instrument, giving the date of issue, the number, amount, and for what services or claim or purpose the original instrument or series of instruments of which it is a part was issued, and that the same has been lost or destroyed, and has not been paid, or has not been received by him or her: PROVIDED, That in the event that an original and its duplicate instrument are both presented for payment as a result of forgery or fraud, the issuing officer shall be the state agency responsible for endeavoring to recover any losses suffered by the state. [2009 c 549 § 5037; 1979 ex.s. c 71 § 4; 1972 ex.s. c 74 § 1; 1971 ex.s. c 54 § 1; 1965 ex.s. c 61 § 2; 1965 c 8 § 43.08.066. Prior: 1890 p 639 § 16; RRS § 11011; prior: 1888 p 236 § 2. Formerly RCW 43.09.120.]

43.08.068 Lost or destroyed warrants, instruments, or other evidence of indebtedness—Records to be kept—Cancellation of originals—Notice. The state treasurer or other issuing officer shall keep a full and complete record of all warrants, bonds or other instruments alleged to have been lost or destroyed, which were issued by such agency, and of the issue of any duplicate therefor; and upon the issuance of any duplicate, the officer shall enter upon his or her books the

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cancellation of the original instrument and immediately notify the state treasurer, the state auditor, and all trustees and paying agents authorized to redeem such instruments on behalf of the state of Washington, of such cancellation. The treasurer shall keep a similar list of all warrants, bonds or other instruments so canceled. [2009 c 549 § 5038; 1965 ex.s. c 61 § 3; 1965 c 8 § 43.08.068. Prior: 1890 p 640 § 17; RRS § 11012; prior: 1888 p 236 § 3. Formerly RCW 43.09.130.]

43.08.070 Warrants—Indorsement—Interest—Issuance of new warrants. Upon the presentation of any state warrant to the state treasurer, if there is not sufficient money then available in the appropriate fund with which to redeem all warrants drawn against such fund which the treasurer anticipates will be presented for payment during the current business day, he or she may endorse on the warrant, "Not paid for want of funds," with the day and date of presentation, and the warrant shall draw legal interest from and including that date until five days from and after being called for payment in accordance with RCW 43.08.080, or until paid, whichever occurs first; or, in the alternative, the treasurer may prepare and register a single new warrant, drawn against the appropriate fund, and exchange such new warrant for one or more warrants not paid for want of funds when presented for payment totaling a like amount but not exceeding one million dollars, which new warrant shall then draw legal interest from and including its date of issuance until five days from and after being called for payment in accordance with RCW 43.08.080, or until paid, whichever occurs first. The legal rate or rates of interest on these warrants shall be established by the state treasurer in accordance with RCW 39.56.030. [2009 c 549 § 5039; 1981 c 10 § 3; 1971 ex.s. c 88 § 2; 1965 c 8 § 43.08.070. Prior: 1869 p 408 § 2; RRS § 5516.]

Additional notes found at www.leg.wa.gov

43.08.080 Call of warrants. When the state treasurer deems that there is sufficient money in a fund to pay all or part of the registered warrants of such fund, and the warrants are not presented for payment, he or she may advertise at least once in some newspaper published at the seat of government, stating the serial number of the warrants he or she is calling and prepared to pay; and if such warrants are not presented for payment within five days from and after the date of publication of the notice, the warrants shall not then draw any further interest: PROVIDED, That when said fund has a balance in excess of three percent of the preceding monthly warrant issue of said fund, or at any time that the money in the fund exceeds the warrants outstanding, the state treasurer shall similarly advertise a call for all those registered warrants which can be fully paid out of said fund in accordance with their registration sequence. [2009 c 549 § 5040; 1971 ex.s. c 88 § 3; 1965 c 8 § 43.08.080. Prior: 1890 p 644 § 8; RRS § 5517; prior: 1886 p 135 § 9; 1871 p 79 § 9.]

Additional notes found at www.leg.wa.gov

43.08.090 Fiscal agent for state. The state treasurer shall be ex officio the fiscal agent of the state. [1965 c 8 § 43.08.090. Prior: 1891 c 138 § 1; RRS § 5484.]

Fiscal agencies: Chapter 43.80 RCW.

43.08.100 Fiscal agent for state—Duties of fiscal agent. The fiscal agent of the state shall receive all moneys due the state from any other state or from the federal government, take all necessary steps for the collection thereof, and apply the same to the funds to which they belong. He or she shall collect from time to time all moneys that may accrue to the state by virtue of section 13 of the enabling act, or from any other source not otherwise provided for by law. [2009 c 549 § 5041; 1965 c 8 § 43.08.100. Prior: (i) 1891 c 138 § 2; RRS § 5485. (ii) 1891 c 138 § 4; RRS § 5487.]

43.08.110 Fiscal agent for state—Fiscal agent's receipts. The fiscal agent shall issue the necessary receipts for all moneys collected, and such receipts shall show the date when paid, the amount, from whom received, and on what account the money was collected.

One or more copies of such receipt shall be given to the persons from whom the money was received, and one copy shall be given to the director of financial management. [1979 c 151 § 90; 1965 c 8 § 43.08.110. Prior: 1891 c 138 § 3; RRS § 5486.]

43.08.120 Assistant—Deputies—Responsibility for acts. The state treasurer may appoint an assistant state treasurer, who shall have the power to perform any act or duty which may be performed by the state treasurer, and in case of a vacancy in the office of state treasurer, perform the duties of the office until the vacancy is filled as provided by law.

The state treasurer may appoint no more than three deputy state treasurers, who shall have the power to perform any act or duty which may be performed by the state treasurer.

The assistant state treasurer and the deputy state treasurers shall be exempt from the provisions of chapter 41.06 RCW and shall hold office at the pleasure of the state treasurer; they shall, before entering upon the duties of their office, take and subscribe, and file with the secretary of state, the oath of office provided by law for other state officers.

The state treasurer shall be responsible on his or her official bond for all official acts of the assistant state treasurer and the deputy state treasurers. [2009 c 549 § 5042; 1973 c 10 § 1; 1971 c 15 § 1; 1965 c 8 § 43.08.120. Prior: 1921 c 36 § 1; RRS § 11020.]

43.08.130 Wilful refusal to pay warrants—Exceptions—Recovery. If the state treasurer wilfully refuses to pay except in accordance with the provisions of RCW 43.08.070 or by cash or check any warrant designated as payable in the state treasurer's office which is lawfully drawn upon the state treasury, or knowingly pays any warrant otherwise than as provided by law, then any person injured thereby may recover by action against the treasurer and the sureties on his or her official bond. [2009 c 549 § 5043; 1972 ex.s. c 145 § 2; 1965 c 8 § 43.08.130. Prior: 1890 p 644 § 7; RRS § 11026; prior: 1886 p 135 § 8; 1871 p 78 § 8; 1864 p 53 § 8; 1854 p 414 § 8.]

43.08.135 Cash or demand deposits—Duty to maintain—RCW 9A.56.060(1) not deemed violated, when. The state treasurer shall maintain at all times cash, or demand deposits in qualified public depositories in an amount needed

to meet the operational needs of state government: PROVIDED, That the state treasurer shall not be considered in violation of RCW 9A.56.060(1) if he or she maintains demand accounts in public depositories in an amount less than all treasury warrants issued and outstanding. [2009 c 549 § 5044; 1983 c 3 § 100; 1972 ex.s. c 145 § 3.]

43.08.140 Embezzlement—Penalty. If any person holding the office of state treasurer fails to account for and pay over all moneys in his or her hands in accordance with law, or unlawfully converts to his or her own use in any way whatever, or uses by way of investment in any kind of property, or loans without authority of law, any portion of the public money intrusted to him or her for safekeeping, transfer, or disbursement, or unlawfully converts to his or her own use any money that comes into his or her hands by virtue of his or her office, the person is guilty of a class B felony, and upon conviction thereof, shall be imprisoned in a state correctional facility not exceeding fourteen years, and fined a sum equal to the amount embezzled. [2003 c 53 § 224; 1992 c 7 § 40; 1965 c 8 § 43.08.140. Prior: 1890 p 644 § 10; RRS § 11027; prior: 1886 p 105 § 11.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Misappropriation of funds: RCW 42.20.070, 42.20.090.

43.08.150 Monthly financial report on funds and accounts. As soon as possible after the close of each calendar month, the state treasurer shall prepare a report as to the state of the general fund and every other fund under his or her control itemized as to:

- (1) The amount in the fund at the close of business at the end of the preceding month;
- (2) The amount of revenue deposited or transferred to the credit of each fund during the current month;
- (3) The amount of withdrawals or transfers from each fund during the current month; and
- (4) The amount on hand in each fund at the close of business at the end of the current month.

One copy of each report shall be provided promptly to those requesting them so long as the supply lasts. The report shall be posted on the official web site of the state treasurer. The report shall also include a graphical display of month end balances, for both the current and previous fiscal year, for the general fund, total funds in the treasury, total funds in the treasurer's trust fund, and total funds managed by the state treasurer. [2010 c 222 § 2; 2009 c 549 § 5045; 1977 c 75 § 39; 1965 c 8 § 43.08.150. Prior: 1947 c 32 § 1; Rem. Supp. 1947 § 11019-1.]

Intent—2010 c 222: "The legislature recognizes the significant financial benefits realized by the state through consolidated cash management activities. It is the intent of this act to encourage and, when financially advantageous, to expand those activities." [2010 c 222 § 1.]

Biennial reports, periods: RCW 43.01.035.

Investment of surplus funds, rules and allocations to be published in report: RCW 43.86A.050.

Reports, budget and accounting system: RCW 43.88.160.

43.08.160 Monthly financial report—Report to be printed. The state treasurer shall cause all such reports to be printed as other public documents are printed and the

approval of no other officer of the state shall be necessary in carrying out the purposes of RCW 43.08.150. [1965 c 8 § 43.08.160. Prior: 1947 c 32 § 2; Rem. Supp. 1947 § 11019-2.]

43.08.180 Cashing checks, drafts, and state warrants—Discretionary—Conditions—Procedure upon dishonor. The state treasurer is hereby authorized, in the treasurer's discretion and as a service to state officers and employees, and to those known by the treasurer or the treasurer's staff, to accept in exchange for cash the checks, drafts, or Washington state warrants drawn or endorsed by these authorized persons and presented to the treasurer's office as meet each of the following conditions:

(1) The check or draft must be drawn to the order of cash or bearer and be immediately payable by a drawee financial institution; and

(2) The person presenting the check, draft, or Washington state warrant to the treasurer must produce such identification as the treasurer may require.

In the event that any check or draft cashed for a state officer or employee by the state treasurer under this section is dishonored by the drawee financial institution when presented for payment, the treasurer is authorized, after notice to the drawer or endorser of the dishonor, to withhold from the drawer's or endorser's next state salary warrant the full amount of the dishonored check or draft. [1984 c 74 § 1; 1971 c 5 § 1.]

43.08.190 State treasurer's service fund—Creation—Purpose. There is hereby created a fund within the state treasury to be known as the "state treasurer's service fund." Such fund shall be used solely for the payment of costs and expenses incurred in the operation and administration of the state treasurer's office.

Moneys shall be allocated monthly and placed in the state treasurer's service fund equivalent to a maximum of one percent of the trust and treasury average daily cash balances from the earnings generated under the authority of RCW 43.79A.040 and 43.84.080 other than earnings generated from investment of balances in funds and accounts specified in RCW 43.79A.040(4)(c). The allocation shall precede the distribution of the remaining earnings as prescribed under RCW 43.79A.040 and 43.84.092. The state treasurer shall establish a uniform allocation rate for all funds and accounts; except that the state treasurer may negotiate a different allocation rate with any state agency that has independent authority over funds not statutorily required to be held in the state treasury or in the custody of the state treasurer. In no event shall the rate be less than the actual costs incurred by the state treasurer's office. If no rate is separately negotiated, the default rate for any funds held shall be the rate set for funds held pursuant to statute.

During the 2009-2011 fiscal biennium, the legislature may transfer from the state treasurer's service fund to the state general fund such amounts as reflect the excess fund balance of the fund. [2010 c 222 § 3; 2009 c 564 § 926; 2008 c 329 § 912; 2005 c 518 § 925; 2003 1st sp.s. c 25 § 916; 1991 sp.s. c 13 § 83; 1985 c 405 § 506; 1973 c 27 § 2.]

Intent—2010 c 222: See note following RCW 43.08.150.

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Effective date—2009 c 564: See note following RCW 2.68.020.

Severability—Effective date—2008 c 329: See notes following RCW 28B.105.110.

Severability—Effective date—2005 c 518: See notes following RCW 28A.500.030.

Severability—Effective date—2003 1st sp.s. c 25: See notes following RCW 19.28.351.

Additional notes found at www.leg.wa.gov

43.08.200 State treasurer's service fund—Expenditure limitation. All moneys deposited in the state treasurer's service fund shall be expended only pursuant to legislative appropriation and for the purposes set forth in RCW 43.08.190, 43.08.200, and *43.85.241. [1973 c 27 § 3.]

***Reviser's note:** RCW 43.85.241 was repealed by 1985 c 57 § 90, effective July 1, 1985.

43.08.250 Money received by treasurer from certain court actions—Use. (1) The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the state general fund.

(2) The money received by the state treasurer from the increase in fees imposed by sections 9, 10, 12, 13, 14, 17, and 19, chapter 457, Laws of 2005 shall be deposited in the state general fund. It is the intent of the legislature that fifty percent of such money be appropriated to the administrator for the courts for the purposes of contributing to district court judges' salaries and to eligible elected municipal court judges' salaries. It is further the intent of the legislature that the balance of such moneys be used to fund criminal indigent defense assistance and enhancement at the trial court level, representation of parents in dependency and termination proceedings, and civil legal representation of indigent persons. [2009 c 479 § 26; 2008 c 329 § 913; 2007 c 522 § 950. Prior: 2005 c 518 § 926; 2005 c 457 § 8; 2005 c 282 § 44; 2003 1st sp.s. c 25 § 918; prior: 2001 2nd sp.s. c 7 § 914; 2001 c 289 § 4; 2000 2nd sp.s. c 1 § 911; 1999 c 309 § 915; 1997 c 149 § 910; 1996 c 283 § 901; 1995 2nd sp.s. c 18 § 912; 1993 sp.s. c 24 § 917; 1992 c 54 § 3; prior: 1991 sp.s. c 16 § 919; 1991 sp.s. c 13 § 25; 1985 c 57 § 27; 1984 c 258 § 338.]

Effective date—2009 c 479: See note following RCW 2.56.030.

Severability—Effective date—2008 c 329: See notes following RCW 28B.105.110.

Severability—Effective date—2007 c 522: See notes following RCW 15.64.050.

Severability—Effective date—2005 c 518: See notes following RCW 28A.500.030.

Intent—2005 c 457: "The legislature recognizes the state's obligation to provide adequate representation to criminal indigent defendants and to parents in dependency and termination cases. The legislature also recognizes that trial courts are critical to maintaining the rule of law in a free society and that they are essential to the protection of the rights and enforcement of obligations for all. Therefore, the legislature intends to create a dedicated revenue source for the purposes of meeting the state's commitment to improving trial courts in the state, providing adequate representation to criminal indigent defendants, providing for civil legal services for indigent persons, and ensuring equal justice for all citizens of the state." [2005 c 457 § 1.]

Findings—Effective date—2005 c 105: See RCW 2.53.005 and 2.53.900.

Severability—Effective date—2003 1st sp.s. c 25: See notes following RCW 19.28.351.

Severability—Effective date—2001 2nd sp.s. c 7: See notes following RCW 43.320.110.

Severability—Effective date—2000 2nd sp.s. c 1: See notes following RCW 41.05.143.

Intent—1984 c 258: See note following RCW 3.34.130.

Public safety and education assessment: RCW 3.62.090.

Additional notes found at www.leg.wa.gov

43.08.280 Statewide custody contract for local governments and institutions of higher education. (1) The state treasurer is authorized to negotiate a statewide custody contract for custody services for local governments and institutions of higher education. The term of the contract shall be for a minimum of four years.

(2) The state treasurer shall, as soon as is practical after negotiations have been successfully completed, notify local governments and institutions of higher education that a statewide custody contract has been negotiated.

(3) Following such notification, each local government or institution of higher education may, at its option, become a signatory to the statewide contract. Each local government or institution of higher education may only become a signatory to the contract by having its authorized local government official or financial officer and the statewide custodian execute the statewide contract. The contract is between the statewide custodian and the respective local government or institution of higher education. It is the responsibility of the local government official or financial officer to fully understand the terms and conditions of the statewide custody contract prior to its execution, and to ensure those terms and conditions are observed by the statewide custodian during the term of the contract.

(4) The state treasurer may adopt rules to implement this section, including, but not limited to, those rules deemed necessary to provide for an orderly transition in the event of a different statewide custodian in a new statewide custody contract.

(5) Any statewide custodian who becomes a signatory to the statewide custody contract may be exempted from the requirements of chapter 39.58 RCW for the purposes of this section, based on rules adopted by the public deposit protection commission.

(6) For the purposes of this section:

(a) "Financial institution" means a bank or trust company chartered and supervised under state or federal law;

(b) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including any public corporation created by such an entity, which legally possesses and exercises investment authority;

(c) "Statewide custody contract" means a contract negotiated between the state treasurer and a financial institution that establishes terms and fees for custody services which are optional to any local government for the term of the contract;

(d) "Statewide custodian" means the financial institution with whom the state treasurer has negotiated a statewide custody contract;

(e) "Custody services" means services performed by a financial institution such as the settlement, safekeeping, valuation, and market-value reporting of negotiable instruments owned by the local government;

(f) "Local government official" means any officer or employee of a local government who has been designated by statute or local charter, ordinance, or resolution as the officer having the authority to invest the funds of the local government. However, the county treasurer is the only local government official for all political subdivisions for which the county treasurer has statutory or contractual authority to invest the funds thereof;

(g) "Financial officer" means the board-appointed treasurer of a college, university, community or technical college district, or the state board for community and technical colleges. [1999 c 293 § 2.]

Purpose—1999 c 293: "Local governments enter into separate, individual contracts with banks for custody services. The rate and terms which each local government obtains from a given bank sometimes varies widely depending upon the size of the local government's portfolio, and thus fails to provide all of the state's taxpayers with the most advantageous rates and terms for such custody services. The purpose of this act is to enable local governments and institutions of higher education, through a statewide custody contract, to collectively obtain the most advantageous rate and terms from a single financial institution for custodial banking services. Under such a statewide custody contract, smaller local governments may receive a higher level of service, while paying lower fees than they might have individually obtained." [1999 c 293 § 1.]

Additional notes found at www.leg.wa.gov

43.08.290 City-county assistance account—Use and distribution of funds. (1) The city-county assistance account is created in the state treasury. All receipts from real estate excise tax disbursements provided under RCW 82.45.060 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes provided in this section.

(2) Funds deposited in the city-county assistance account must be distributed equally to the cities and counties.

(3)(a) Funds distributed to counties must, to the extent possible, increase the sum of revenues under RCW 82.14.030(1) and streamlined sales tax mitigation funds received by each county to the greater of two hundred fifty thousand dollars or:

(i) For a county with an unincorporated population of one hundred thousand or less, seventy percent of the statewide weighted average per capita level of sales and use tax revenues received under RCW 82.14.030(1) with respect to taxable activity in the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year, for certifications before October 1, 2009, or the previous fiscal year, for certifications on and after October 1, 2009; and

(ii) For a county with an unincorporated population of more than one hundred thousand, sixty-five percent of the statewide weighted average per capita level of sales and use tax revenues received under RCW 82.14.030(1) with respect to taxable activity in the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year, for certifications before October 1, 2009, or the previous fiscal year, for certifications on and after October 1, 2009.

(b) For each county with an unincorporated population of fifteen thousand or less, the county must receive the greater of the amount in (a) of this subsection or the amount

received in local government assistance provided by section 716, chapter 276, Laws of 2004.

(c) For each county with an unincorporated population of more than fifteen thousand and less than twenty-two thousand, the county must receive in calendar year 2006 and 2007 the greater of the amount provided in (a) of this subsection or the amount received in local government assistance provided by section 716, chapter 276, Laws of 2004.

(d) To the extent that revenues are insufficient to fund the distributions under this subsection, the distributions of all counties as otherwise determined under this subsection must be ratably reduced.

(e) To the extent that revenues exceed the amounts needed to fund the distributions under this subsection, the excess funds must be divided ratably based upon unincorporated population among those counties receiving funds under this subsection and imposing the tax authorized under RCW 82.14.030(2) at the maximum rate.

(4)(a) For each city with a population of five thousand or less with a per capita assessed property value less than twice the statewide average per capita assessed property value for all cities for the calendar year previous to the certification under subsection (6) of this section, the city must receive the greater of the following three amounts:

(i) An amount necessary to increase the sum of revenues under RCW 82.14.030(1) and streamlined sales tax mitigation funds received by a city up to fifty-five percent of the statewide weighted average per capita level of sales and use tax revenues received under RCW 82.14.030(1) with respect to taxable activity in all cities imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year, for certifications before October 1, 2009, or the previous fiscal year, for certifications on and after October 1, 2009.

(ii) The amount received in local government assistance provided for fiscal year 2005 by section 721, chapter 25, Laws of 2003 1st sp. sess.

(iii) For a city with a per capita assessed property value less than fifty-five percent of the statewide average per capita assessed property value for all cities, an amount determined by subtracting the city's per capita assessed property value from fifty-five percent of the statewide average per capita assessed property value, dividing that amount by one thousand, and multiplying the result by the city's population.

(b) For each city with a population of more than five thousand with a per capita assessed property value less than the statewide average per capita assessed property value for all cities for the calendar year previous to the certification under subsection (6) of this section, the city must receive the greater of the following two amounts:

(i) An amount necessary to increase the sum of revenues under RCW 82.14.030(1) and streamlined sales tax mitigation funds received by a city up to fifty percent of the statewide weighted average per capita level of sales and use tax revenues received under RCW 82.14.030(1) with respect to taxable activity in all cities imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year, for certifications before October 1, 2009, or the previous fiscal year, for certifications on and after October 1, 2009.

(ii) For a city with a per capita assessed property value less than fifty-five percent of the statewide average per capita assessed property value for all cities, an amount determined by subtracting the city's per capita assessed property value from fifty-five percent of the statewide average per capita assessed property value, dividing that amount by one thousand, and multiplying the result by the city's population.

(c) No city may receive an amount greater than one hundred thousand dollars a year under (a) or (b) of this subsection.

(d) To the extent that revenues are insufficient to fund the distributions under this subsection, the distributions of all cities as otherwise determined under this subsection must be ratably reduced.

(e) To the extent that revenues exceed the amounts needed to fund the distributions under this subsection, the excess funds must be divided ratably based upon population among those cities receiving funds under this subsection and imposing the tax collected under RCW 82.14.030(2) at the maximum rate.

(f) This subsection only applies to cities incorporated before August 1, 2005.

(5) The two hundred fifty thousand dollar amount in subsection (3) of this section and the one hundred thousand dollar amount in subsection (4) of this section must be increased each year beginning in calendar year 2006 by inflation as defined in RCW 84.55.005, as determined by the department of revenue.

(6)(a) Distributions under subsections (3) and (4) of this section must be made quarterly beginning on October 1, 2005, based on population as last determined by the office of financial management. The department of revenue must certify the amounts to be distributed under this section by the state treasurer. The certification must be made by October 1, 2005, for the October 1, 2005, distribution and the January 1, 2006, distribution, based on calendar year 2004 department of revenue distributions of sales and use taxes authorized under RCW 82.14.030(1). The certification must be made by March 1, 2006, for distributions beginning April 1, 2006, by March 1, 2007, for distributions beginning April 1, 2007, and by March 1, 2008, for distributions beginning April 1, 2008. The March 1st certification must be used for distributions occurring on April 1st, July 1st, and October 1st of the year of certification and on January 1st of the year following certification.

(b) By March 1, 2009, the department of revenue must certify the amounts to be distributed under this section on April 1, 2009, July 1, 2009, and October 1, 2009. The certification must be based on calendar year 2008 department of revenue distributions of sales and use taxes authorized under RCW 82.14.030(1), and the population as last determined by the office of financial management.

(c) By October 1, 2009, the department of revenue must certify the amounts to be distributed under this section on January 1, 2010, April 1, 2010, July 1, 2010, and October 1, 2010. The certification must be based on department of revenue distributions in fiscal year 2009 of sales and use taxes authorized under RCW 82.14.030(1), streamlined sales tax mitigation data for mitigation distributions authorized under RCW 82.14.495 made December 2008 through September

2009, and population as last determined by the office of financial management.

(d) By September 1, 2010, and September 1st of every year thereafter, the department of revenue must make available a preliminary certification of the amounts to be distributed under this section on January 1st, April 1st, July 1st, and October 1st of the year immediately following certification. By October 1, 2010, and October 1st of every year thereafter, the department must finalize the certification. Once finalized, no changes may be made to the certification for any reason. Certifications must be based on distributions of sales and use taxes imposed under RCW 82.14.030(1) made by the department of revenue in the fiscal year that ended during the calendar year of certification, streamlined sales tax mitigation data for mitigation distributions authorized under RCW 82.14.495 made in the fiscal year that ended during the calendar year of certification, and population as last determined by the office of financial management.

(7) All distributions to local governments from the city-county assistance account constitute increases in state distributions of revenue to political subdivisions for purposes of state reimbursement for the costs of new programs and increases in service levels under RCW 43.135.060, including any claims or litigation pending against the state on or after January 1, 2005.

(8) As used in this section, "streamlined sales tax mitigation funds" means an amount determined by the department of revenue equal to the actual mitigation distribution amount under RCW 82.14.495 received by a jurisdiction in four consecutive calendar quarters, less the mitigation distribution amount that would have been received by the jurisdiction during the same four calendar quarters had mitigation been calculated without the local sales tax authorized under RCW 82.14.030(1). If the difference is a negative amount or if a jurisdiction does not receive any mitigation distribution during the applicable four calendar quarters, then "streamlined sales tax mitigation funds" is zero. [2009 c 127 § 1; 2005 c 450 § 2.]

Application—2009 c 127: "This act applies both prospectively and retroactively to March 1, 2009." [2009 c 127 § 2.]

Effective date—2005 c 450: See note following RCW 82.45.060.

43.08.300 Public deposit protection—Report. By December 1, 2009, and each December 1st thereafter, the office of the state treasurer shall report to the legislature actions taken by the public deposit protection commission and the state treasurer regarding public deposit protection. [2009 c 9 § 18.]

Effective date—2009 c 9: See note following RCW 39.58.010.

Chapter 43.09 RCW STATE AUDITOR

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GENERALLY

43.09.010 Residence—Office—Bond—Oath. The state auditor shall reside and keep his or her office at the seat of government. Before entering upon his or her duties he or she shall execute and deliver to the secretary of state a bond to the state in the sum of fifty thousand dollars, to be approved by the governor, conditioned for the faithful performance of all duties required by law. He or she shall take an oath of office before any person authorized to administer oaths, and file a copy thereof, together with the required bond, in the office of the secretary of state. [1995 c 301 § 1; 1965 c 8 § 43.09.010. Prior: 1890 p 634 § 1; RRS § 10996; prior: Code 1881 § 2566; 1871 p 96 § 1; 1854 p 409 § 2.]

43.09.020 Auditor of public accounts. The auditor shall be auditor of public accounts, and shall have such powers and perform such duties in connection therewith as may be prescribed by law. [1989 c 140 § 1; 1965 c 8 § 43.09.020. Prior: 1890 p 635 § 2; RRS § 10997; prior: Code 1881 § 2567; 1871 p 97 § 4; 1854 p 409 § 3.]

Budget and accounting system, powers and duties: RCW 43.88.160.
 Fiscal records open to public: RCW 43.88.200.

43.09.025 Deputy auditors—Assistant directors. The state auditor may appoint deputies and assistant directors as necessary to carry out the duties of the office of the state auditor. These individuals serve at the pleasure of the state auditor and are exempt from the provisions of chapter 41.06 RCW as stated in *RCW 41.06.070(1)(y). [1995 c 301 § 2.]

*Reviser's note: RCW 41.06.070 was amended by 1995 c 163 § 1, changing subsection (1)(y) to subsection (1)(x); was subsequently amended by 2002 c 354 § 209, changing subsection (1)(x) to subsection (1)(w); and was subsequently amended by 2009 c 33 § 36, changing subsection (1)(w) to subsection (1)(x).

43.09.035 Assistants—Personnel. The state auditor may appoint and employ other assistants and personnel necessary to carry out the work of the office of the state auditor. [1995 c 301 § 3.]

43.09.045 Contracts with certified public accountants. The state auditor may contract with public accountants certified in Washington to carry out those portions of the

duties of auditing state agencies and local governments as the state auditor may determine. [1995 c 301 § 4.]

43.09.050 General duties of auditor. The auditor shall:

(1) Except as otherwise specifically provided by law, audit the accounts of all collectors of the revenue and other holders of public money required by law to pay the same into the treasury;

(2) In his or her discretion, inspect the books of any person charged with the receipt, safekeeping, and disbursement of public moneys;

(3) Investigate improper governmental activity under chapter 42.40 RCW;

(4) Inform the attorney general in writing of the necessity for the attorney general to direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state;

(5) Give information in writing to the legislature, whenever required, upon any subject relating to the financial affairs of the state, or touching any duties of his or her office;

(6) Report to the director of financial management in writing the names of all persons who have received any moneys belonging to the state, and have not accounted therefor;

(7) Authenticate with his or her official seal papers issued from his or her office;

(8) Make his or her official report annually on or before the 31st of December. [1992 c 118 § 6; 1979 c 151 § 91. Prior: 1977 ex.s. c 144 § 7; 1977 c 75 § 40; 1971 ex.s. c 170 § 1; 1965 c 8 § 43.09.050; prior: 1890 p 636 § 5; RRS § 11001; prior: Code 1881 § 2570; 1854 p 410 § 5.]

Advances: Chapter 42.24 RCW.

Information to legislature: RCW 43.88.160.

Investigations of improper governmental actions—Protection of employee disclosures: Chapter 42.40 RCW.

Post-audit duties: RCW 43.88.160.

Powers and duties, budget and accounting system: RCW 43.88.160.

Report of irregularities to attorney general: RCW 43.88.160.

Report to legislature: RCW 43.88.160.

Additional notes found at www.leg.wa.gov

43.09.055 Audit of entities with state contracts or grants—Costs. The state auditor may, where there is reasonable cause to believe that a misuse of state moneys has occurred, conduct an audit of financial and legal compliance of any entity that receives public moneys through contract or grant in return for services. This authority includes examinations of not-for-profit corporations who provide personal services to a state agency or to clients of a state agency. Such a financial audit shall be performed in a manner consistent with this chapter, and may be performed according to an agreed upon procedures engagement as in the existing 1998 standards of the American institute of certified public accountants professional standards section 600.

The state auditor may charge the contracting agency, whether state or local, for the costs of an audit of a not-for-profit corporation that receives public moneys through con-

tract or grant in return for services. Any contracting agency that is responsible to the state auditor for such costs shall use due diligence to recover costs from the audited entity. [1998 c 232 § 3.]

Findings—Intent—1998 c 232: "The legislature finds that the state auditor lacks the needed authority to investigate the finances of state nongovernmental contractors. The legislature further finds that current contract oversight and management procedures cannot ensure that services under contract are delivered effectively and efficiently. Therefore, the legislature intends to enhance the authority of the state auditor to audit entities that provide services to the state or its clients under contract with state agencies." [1998 c 232 § 1.]

43.09.065 Audit of entities with state contracts or grants—Report regarding criminal misuse of public moneys. If after a financial audit of an entity that receives public moneys under contract or grant in return for services, there is reasonable cause to believe that a criminal misuse of public moneys has occurred, the office of the state auditor, within thirty days from receipt of the report, shall deliver a copy of the report to the appropriate local prosecuting authority. [1998 c 232 § 4.]

Findings—Intent—1998 c 232: See note following RCW 43.09.055.

43.09.165 Subpoenas—Compulsory process—Witnesses—Oaths—Testimony—Penalty. (1) The state auditor, his or her employees and every person legally appointed to perform such service, may issue subpoenas and compulsory process and direct the service thereof by any constable or sheriff, compel the attendance of witnesses and the production of books and papers before him or her at any designated time and place, and may administer oaths.

(2) When any person summoned to appear and give testimony neglects or refuses to do so, or neglects or refuses to answer any question that may be put to him or her touching any matter under examination, or to produce any books or papers required, the person making such examination shall apply to a superior court judge of the proper county to issue a subpoena for the appearance of such person before him or her; and the judge shall order the issuance of a subpoena for the appearance of such person forthwith before him or her to give testimony; and if any person so summoned fails to appear, or appearing, refuses to testify, or to produce any books or papers required, he or she shall be subject to like proceedings and penalties for contempt as witnesses in the superior court.

(3) Willful false swearing in any such examination is perjury under chapter 9A.72 RCW. [2003 c 53 § 225; 1995 c 301 § 5.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

43.09.170 May administer oaths. The state auditor may administer all oaths required by law in matters pertaining to the duties of his or her office. [1995 c 301 § 6; 1965 c 8 § 43.09.170. Prior: 1890 p 641 § 23; RRS § 11017; prior: Code 1881 § 2586.]

43.09.180 Seal—Copies of documents as evidence. The state auditor shall keep a seal of office for the identification of all papers, writings, and documents required by law to be certified by him or her, and copies authenticated and certi-

fied of all papers and documents lawfully deposited in his or her office shall be received in evidence with the same effect as the originals. [1995 c 301 § 7; 1965 c 8 § 43.09.180. Prior: 1890 p 641 § 24; RRS § 11018; prior: Code 1881 § 2587.]

43.09.185 Loss of public funds—Illegal activity—Report to state auditor’s office. State agencies and local governments shall immediately report to the state auditor’s office known or suspected loss of public funds or assets or other illegal activity. [1995 c 301 § 8.]

43.09.186 Toll-free efficiency hotline—Duties—Annual overview and update. (1) Within existing funds, the state auditor must establish a toll-free telephone line that is available to public employees and members of the public to recommend measures to improve efficiency in state and local government and to report waste, inefficiency, or abuse, as well as examples of efficiency or outstanding achievement, by state and local agencies, public employees, or persons under contract with state and local agencies.

(2) The state auditor must prepare information that explains the purpose of the hotline, and the hotline telephone number must be prominently displayed in the information. Hotline information must be posted in all government offices in locations where it is most likely to be seen by the public. The state auditor must publicize the availability of the toll-free hotline through print and electronic media and other means of communication with the public.

(3) The state auditor must designate staff to be responsible for processing recommendations for improving efficiency and reports of waste, inefficiency, or abuse received through the hotline. The state auditor must conduct an initial review of each recommendation for efficiency and report of waste, inefficiency, or abuse made by public employees and members of the public. Following the initial review, the state auditor must determine which assertions require further examination or audit under the auditor’s current authority and must assign qualified staff.

(4) The identity of a person making a report through the hotline, by e-mail through the state auditor’s web site, or other means of communication is confidential at all times unless the person making a report consents to disclosure by written waiver, or until the investigation described in subsection (3) of this section is complete. All documents related to the report and subsequent investigation are also confidential until completion of the investigation or audit or when the documents are otherwise statutorily exempt from public disclosure.

(5) The state auditor must prepare a written determination of the results of the investigation performed, including any background information that the auditor deems necessary. The state auditor must report publicly the conclusions of each investigation and recommend ways to correct any deficiency and to improve efficiency. The reports must be distributed to the affected state agencies.

(6) The state auditor must provide an annual overview and update of hotline investigations, including the results and efficiencies achieved, to the legislature and to the appropriate legislative committees. [2007 c 41 § 1.]

(2010 Ed.)

LOCAL GOVERNMENT ACCOUNTING

43.09.200 Local government accounting—Uniform system of accounting. The state auditor shall formulate, prescribe, and install a system of accounting and reporting for all local governments, which shall be uniform for every public institution, and every public office, and every public account of the same class.

The system shall exhibit true accounts and detailed statements of funds collected, received, and expended for account of the public for any purpose whatever, and by all public officers, employees, or other persons.

The accounts shall show the receipt, use, and disposition of all public property, and the income, if any, derived therefrom; all sources of public income, and the amounts due and received from each source; all receipts, vouchers, and other documents kept, or required to be kept, necessary to isolate and prove the validity of every transaction; all statements and reports made or required to be made, for the internal administration of the office to which they pertain; and all reports published or required to be published, for the information of the people regarding any and all details of the financial administration of public affairs. [1995 c 301 § 9; 1965 c 8 § 43.09.200. Prior: 1909 c 76 § 2; RRS § 9952.]

Electronic transfer of public funds to be in compliance with: RCW 39.58.750.

School districts budgets to be in compliance with: RCW 28A.505.120.

43.09.205 Local government accounting—Costs of public works—Standard form. The state auditor shall prescribe a standard form with which the accounts and records of costs of all local governments shall be maintained as required under RCW 39.04.070. [1995 c 301 § 10; 1987 c 120 § 4.]

43.09.210 Local government accounting—Separate accounts for each fund or activity—Exemption for agency surplus personal property. Separate accounts shall be kept for every appropriation or fund of a taxing or legislative body showing date and manner of each payment made therefrom, the name, address, and vocation of each person, organization, corporation, or association to whom paid, and for what purpose paid.

Separate accounts shall be kept for each department, public improvement, undertaking, institution, and public service industry under the jurisdiction of every taxing body.

All service rendered by, or property transferred from, one department, public improvement, undertaking, institution, or public service industry to another, shall be paid for at its true and full value by the department, public improvement, undertaking, institution, or public service industry receiving the same, and no department, public improvement, undertaking, institution, or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another.

All unexpended balances of appropriations shall be transferred to the fund from which appropriated, whenever the account with an appropriation is closed.

This section does not apply to agency surplus personal property handled under RCW 43.19.1919(5). [2000 c 183 § 2; 1965 c 8 § 43.09.210. Prior: 1909 c 76 § 3; RRS § 9953.]

43.09.220 Local government accounting—Separate accounts for public service industries. Separate accounts shall be kept for every public service industry of every local government, which shall show the true and entire cost of the ownership and operation thereof, the amount collected annually by general or special taxation for service rendered to the public, and the amount and character of the service rendered therefor, and the amount collected annually from private users for service rendered to them, and the amount and character of the service rendered therefor. [1995 c 301 § 11; 1965 c 8 § 43.09.220. Prior: 1909 c 76 § 4; RRS § 9954.]

43.09.230 Local government accounting—Annual reports—Comparative statistics. The state auditor shall require from every local government financial reports covering the full period of each fiscal year, in accordance with the forms and methods prescribed by the state auditor, which shall be uniform for all accounts of the same class.

Such reports shall be prepared, certified, and filed with the state auditor within one hundred fifty days after the close of each fiscal year.

The reports shall contain accurate statements, in summarized form, of all collections made, or receipts received, by the officers from all sources; all accounts due the public treasury, but not collected; and all expenditures for every purpose, and by what authority authorized; and also: (1) A statement of all costs of ownership and operation, and of all income, of each and every public service industry owned and operated by a local government; (2) a statement of the entire public debt of every local government, to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, and the provisions made for the payment thereof; (3) a classified statement of all receipts and expenditures by any public institution; and (4) a statement of all expenditures for labor relations consultants, with the identification of each consultant, compensation, and the terms and conditions of each agreement or arrangement; together with such other information as may be required by the state auditor.

The reports shall be certified as to their correctness by the state auditor, the state auditor's deputies, or other person legally authorized to make such certification.

Their substance shall be published in an annual volume of comparative statistics at the expense of the state as a public document. [1995 c 301 § 12; 1993 c 18 § 2; 1989 c 168 § 1; 1977 c 75 § 41; 1965 c 8 § 43.09.230. Prior: 1909 c 76 § 5; RRS § 9955.]

Finding—Purpose—1993 c 18: "The legislature finds and declares that the use of outside consultants is an increasing element in public sector labor relations. The public has a right to be kept informed about the role of outside consultants in public sector labor relations. The purpose of this act is to help ensure that public information is available." [1993 c 18 § 1.]

43.09.240 Local government accounting—Public officers and employees—Duty to account and report—Removal from office—Deposit of collections. Every public officer and employee of a local government shall keep all accounts of his or her office in the form prescribed and make all reports required by the state auditor. Any public officer or employee who refuses or willfully neglects to perform such duties shall be subject to removal from office in an appropriate

proceeding for that purpose brought by the attorney general or by any prosecuting attorney.

Every public officer and employee, whose duty it is to collect or receive payments due or for the use of the public shall deposit such moneys collected or received by him or her with the treasurer of the local government once every twenty-four consecutive hours. The treasurer may in his or her discretion grant an exception where such daily transfers would not be administratively practical or feasible as long as the treasurer has received a written request from the department, district, or agency, and where the department, district, or agency certifies that the money is held with proper safekeeping and that the entity carries out proper theft protection to reduce risk of loss of funds. Exceptions granted by the treasurer shall state the frequency with which deposits are required as long as no exception exceeds a time period greater than one deposit per week.

In case a public officer or employee collects or receives funds for the account of a local government of which he or she is an officer or employee, the treasurer shall, by Friday of each week, pay to the proper officer of the local government for the account of which the collection was made or payment received, the full amount collected or received during the current week for the account of the district. [2002 c 168 § 3; 1995 c 301 § 13; 1991 c 245 § 13; 1965 c 8 § 43.09.240. Prior: 1963 c 209 § 2; 1911 c 30 § 1; 1909 c 76 § 6; RRS § 9956; prior: 1890 p 638 § 11; Code 1881 § 2577; 1854 p 411 § 7.]

43.09.245 Local government accounting—Examination of financial affairs. The state auditor has the power to examine all the financial affairs of every local government and its officers and employees. [1995 c 301 § 14.]

43.09.260 Local government accounting—Examination of local governments—Reports—Action by attorney general. (1) The examination of the financial affairs of all local governments shall be made at such reasonable, periodic intervals as the state auditor shall determine. However, an examination of the financial affairs of all local governments shall be made at least once in every three years, and an examination of individual local government health and welfare benefit plans and local government self-insurance programs shall be made at least once every two years.

(2) During the 2009-2011 fiscal biennium, the state auditor shall conduct audits no more often than once every two years of local governments with annual general fund revenues of ten million dollars or less and no findings of impropriety for the three-year period immediately preceding the audit period. This subsection does not prohibit the state auditor from conducting audits: (a) To address suspected fraud or irregular conduct; (b) at the request of the local government governing body; or (c) as required by federal laws or regulations.

(3) The term local governments for purposes of this chapter includes but is not limited to all counties, cities, and other political subdivisions, municipal corporations, and quasi-municipal corporations, however denominated.

(4) The state auditor shall establish a schedule to govern the auditing of local governments which shall include: A

designation of the various classifications of local governments; a designation of the frequency for auditing each type of local government; and a description of events which cause a more frequent audit to be conducted.

(5) On every such examination, inquiry shall be made as to the financial condition and resources of the local government; whether the Constitution and laws of the state, the ordinances and orders of the local government, and the requirements of the state auditor have been properly complied with; and into the methods and accuracy of the accounts and reports.

(6) A report of such examination shall be made and filed in the office of state auditor, and one copy shall be transmitted to the local government. A copy of any report containing findings of noncompliance with state law shall be transmitted to the attorney general. If any such report discloses malfeasance, misfeasance, or nonfeasance in office on the part of any public officer or employee, within thirty days from the receipt of his or her copy of the report, the attorney general shall institute, in the proper county, such legal action as is proper in the premises by civil process and prosecute the same to final determination to carry into effect the findings of the examination.

(7) It shall be unlawful for any local government or the responsible head thereof, to make a settlement or compromise of any claim arising out of such malfeasance, misfeasance, or nonfeasance, or any action commenced therefor, or for any court to enter upon any compromise or settlement of such action, without the written approval and consent of the attorney general and the state auditor. [2009 c 564 § 927; 1995 c 301 § 15; 1991 sp.s. c 30 § 26; 1979 c 71 § 1; 1965 c 8 § 43.09.260. Prior: 1909 c 76 § 8; RRS § 9958.]

Effective date—2009 c 564: See note following RCW 2.68.020.

School district budgeting violations not to affect duties of attorney general under RCW 43.09.260: RCW 28A.505.150.

Additional notes found at www.leg.wa.gov

43.09.265 Local government accounting—Review of tax levies of local governments. The state auditor shall review the tax levies of all local governments in the regular examinations under RCW 43.09.260. [1995 c 301 § 16; 1979 ex.s. c 218 § 7.]

43.09.270 Local government accounting—Expense of audit, what constitutes. The expense of auditing local governments and those expenses directly related to prescribing accounting systems, training, maintenance of working capital including reserves for late and uncollectible accounts and necessary adjustments to billings, and field audit supervision, shall be considered expenses of auditing public accounts within the meaning of RCW 43.09.280 and 43.09.282, and shall be prorated for that purpose equally among all entities directly affected by such service. [1995 c 301 § 17; 1993 c 315 § 1; 1991 sp.s. c 16 § 920; 1982 c 206 § 1; 1965 c 8 § 43.09.270. Prior: 1963 c 209 § 4; 1911 c 30 § 1; 1909 c 76 § 10; RRS § 9960.]

Additional notes found at www.leg.wa.gov

43.09.280 Local government accounting—Expense of examination. The expense of auditing public accounts

shall be borne by each entity subject to such audit for the auditing of all accounts under its jurisdiction and the state auditor shall certify the expense of such audit to the fiscal or warrant-issuing officer of such entity, who shall immediately make payment to the state auditor. If the expense as certified is not paid by any local government within thirty days from the date of certification, the state auditor may certify the expense to the auditor of the county in which the local government is situated, who shall promptly issue his or her warrant on the county treasurer payable out of the current expense fund of the county, which fund, except as to auditing the financial affairs and making inspection and examination of the county, shall be reimbursed by the county auditor or chief financial officer designated in a charter county out of the money due the local government at the next monthly settlement of the collection of taxes and shall be transferred to the current expense fund. [2009 c 337 § 14; 1995 c 301 § 18; 1979 c 71 § 2; 1965 c 8 § 43.09.280. Prior: 1963 c 209 § 5; 1911 c 30 § 1; 1909 c 76 § 11; RRS § 9961.]

43.09.2801 Local government accounting—Expense of audit—Additional charge. (1) From July 1, 1992, to June 30, 1995, the state auditor shall charge an entity subject to an audit an additional ten cents per hour billed under RCW 43.09.270 and 43.09.280, to be deposited in the local government administrative hearings account.

(2) After June 30, 1995, the state auditor shall base the amount to be collected and deposited into the local government administrative hearings account on the funds remaining in the account on June 30, 1995, and the anticipated caseload for the future.

(3) The state auditor may exempt a local government that certifies that it is in compliance with RCW 42.41.050 from a charge added under subsection (1) or (2) of this section. [1995 c 301 § 19; 1992 c 44 § 11.]

Local government administrative hearings account: RCW 42.41.060.

Additional notes found at www.leg.wa.gov

43.09.281 Appeal procedure to be adopted—Inclusion of number and disposition of appeals in annual report. The state auditor shall adopt appropriate rules pursuant to chapter 34.05 RCW, the administrative procedure act, to provide a procedure whereby a *taxing district may appeal charges levied under RCW 43.09.280. Such procedure shall provide for an administrative review process and an external review process which shall be advisory to the state auditor's office. The number of appeals and their disposition shall be included in the auditor's annual report. [1982 c 206 § 3.]

***Reviser's note:** "Taxing district" was redesignated "local government" by 1995 c 301 § 18.

43.09.282 Local government accounting—Municipal revolving account—Records of auditing costs. For the purposes of centralized funding, accounting, and distribution of the costs of the audits performed on local governments by the state auditor, there is hereby created an account entitled the municipal revolving account. The state treasurer shall be custodian of the account. All moneys received by the state auditor or by any officer or employee thereof shall be deposited with the state treasurer and credited to the municipal

revolving account. Only the state auditor or the auditor's designee may authorize expenditures from the account. No appropriation is required for expenditures. The state auditor shall keep such records as are necessary to detail the auditing costs attributable to the various types of local governments. During the 2009-2011 fiscal biennium, the state auditor shall reduce the municipal revolving account charges for financial audits performed on local governments by five percent. [2009 c 564 § 928; 2008 c 328 § 6007; 1995 c 301 § 20; 1982 c 206 § 2; 1965 c 8 § 43.09.282. Prior: 1963 c 209 § 6.]

Effective date—2009 c 564: See note following RCW 2.68.020.

Part headings not law—Severability—Effective date—2008 c 328: See notes following RCW 43.155.050.

Additional notes found at www.leg.wa.gov

43.09.285 Joint operations by municipal corporations or political subdivisions—Deposit and control of funds. Whenever by law, two or more municipal corporations or political subdivisions of the state are permitted by law to engage in a joint operation, the funds of such joint operation shall be deposited in the public treasury of the municipal corporation or political subdivision embracing the largest population or the public treasury of any other as so agreed upon by the parties; and such deposit shall be subject to the same audit and fiscal controls as the public treasury where the funds are so deposited: PROVIDED, That whenever the laws applicable to any particular joint operation specifically state a contrary rule for deposits, the specific rule shall apply in lieu of the provisions of this section: PROVIDED, FURTHER, That nothing contained herein shall be construed as limiting the power or authority of the disbursing officer of such joint operation from making disbursements in accordance with the provisions of any contract or agreement entered into between the parties to the joint operation. [1967 c 41 § 1.]

43.09.2851 Repayment of amounts charged to another fund within same political subdivision to be credited to original fund or appropriation—Expenditure. Except as otherwise provided by law, amounts charged by a county, city, or other municipal or quasi municipal corporation for providing services or furnishing materials to or for another fund within the same county, city, or other municipal or quasi municipal corporation pursuant to RCW 43.09.210 or other law shall be repaid and credited to the fund or appropriation against which the expenditure originally was charged. Amounts representing a return of expenditures from an appropriation shall be considered as returned loans of services or goods, supplies, or other materials furnished and may be expended as part of the original appropriation to which they belong, without further or additional appropriation.

Except as otherwise provided by law, this section shall not apply to the furnishing of materials or services by one fund to another when other funds have been provided specifically for that purpose pursuant to law. [1981 c 39 § 1. Formerly RCW 39.58.160.]

43.09.2853 Municipal corporations authorized to establish line of credit for payment of warrants—Interest.

Any municipal corporation is authorized to establish a line of credit with any *qualified public depository to be drawn upon for cashing its warrants, to delegate to a fiscal officer authority to determine the amount of credit extended, and to pay interest and other finance or service charges. The interest rate may be a fixed rate set periodically or a fluctuating rate determined by agreement of the parties. If any warrant of a municipal corporation is presented and not paid for lack of funds, the interest rate set on unpaid warrants shall apply. Nothing in this section affects the priority for payment of warrants established by law. [1981 c 156 § 37. Formerly RCW 39.58.170.]

***Reviser's note:** The term "qualified public depository" was redefined as "public depository" by 1996 c 256 § 1.

43.09.2855 Local governments—Use of credit cards.

(1) Local governments, including counties, cities, towns, special purpose districts, municipal and quasi-municipal corporations, and political subdivisions, are authorized to use credit cards for official government purchases and acquisitions.

(2) A local government may contract for issuance of the credit cards.

(3) The legislative body shall adopt a system for:

(a) The distribution of the credit cards;

(b) The authorization and control of the use of credit card funds;

(c) The credit limits available on the credit cards;

(d) Payment of the bills; and

(e) Any other rule necessary to implement or administer the system under this section.

(4) As used in this section, "credit card" means a card or device issued under an arrangement pursuant to which the issuer gives to a card holder the privilege of obtaining credit from the issuer.

(5) Any credit card system adopted under this section is subject to examination by the state auditor's office pursuant to chapter 43.09 RCW.

(6) Cash advances on credit cards are prohibited. [1995 c 30 § 2. Formerly RCW 39.58.180.]

Findings—1995 c 30: "The legislature finds that (1) the use of credit cards is a customary and economical business practice to improve cash management, reduce costs, and increase efficiency; and (2) local governments should consider and use credit cards when appropriate." [1995 c 30 § 1.]

AGENCY AUDITS

43.09.290 Post-audit of state agencies—Definitions.

For the purposes of RCW 43.09.290 through 43.09.340 and 43.09.410 through 43.09.418, post-audit means an audit of the books, records, funds, accounts, and financial transactions of a state agency for a complete fiscal period; pre-audit means all other audits and examinations; state agency means elective officers and offices, and every other office, officer, department, board, council, committee, commission, or authority of the state government now existing or hereafter created, supported, wholly or in part, by appropriations from the state treasury or funds under its control, or by the levy, assessment, collection, or receipt of fines, penalties, fees, licenses, sales of commodities, service charges, rentals, grants-in-aid, or other income provided by law, and all state

educational, penal, reformatory, charitable, eleemosynary, or other institutions, supported, wholly or in part, by appropriations from the state treasury or funds under its control. [1995 c 301 § 21; 1981 c 336 § 6; 1965 c 8 § 43.09.290. Prior: 1941 c 196 § 1; Rem. Supp. 1941 § 11018-1.]

Petty cash: RCW 42.26.080.

Post-audit duties, budget and accounting system: RCW 43.88.160.

Additional notes found at www.leg.wa.gov

43.09.310 Audit of statewide combined financial statements—Post-audits of state agencies—Periodic audits—Reports—Filing. (1) Except as provided in subsection (2) of this section, the state auditor shall annually audit the statewide combined financial statements prepared by the office of financial management and make post-audits of state agencies. Post-audits of state agencies shall be made at such periodic intervals as is determined by the state auditor. Audits of combined financial statements shall include determinations as to the validity and accuracy of accounting methods, procedures and standards utilized in their preparation, as well as the accuracy of the financial statements themselves. A report shall be made of each such audit and post-audit upon completion thereof, and one copy shall be transmitted to the governor, one to the director of financial management, one to the state agency audited, one to the joint legislative audit and review committee, one each to the standing committees on ways and means of the house and senate, one to the chief clerk of the house, one to the secretary of the senate, and at least one shall be kept on file in the office of the state auditor. A copy of any report containing findings of noncompliance with state law shall be transmitted to the attorney general.

(2) Audits of the department of labor and industries must be coordinated with the audits required under RCW 51.44.115 to avoid duplication of audits. [2005 c 387 § 2; 1996 c 288 § 35; 1995 c 301 § 22; 1981 c 217 § 1; 1979 c 151 § 92; 1975-'76 2nd ex.s. c 17 § 1. Prior: 1975 1st ex.s. c 293 § 1; 1975 1st ex.s. c 193 § 1; 1971 ex.s. c 170 § 2; 1965 c 8 § 43.09.310; prior: 1947 c 114 § 1; 1941 c 196 § 3; Rem. Supp. 1947 § 11018-3.]

Reports of post-audits: RCW 43.88.160.

Additional notes found at www.leg.wa.gov

43.09.330 Audit disclosing malfeasance or nonfeasance—Action by attorney general. If any audit of a state agency discloses malfeasance, misfeasance, or nonfeasance in office on the part of any public officer or employee, within thirty days from the receipt of his or her copy of the report, the attorney general shall institute and prosecute in the proper county, appropriate legal action to carry into effect the findings of such post-audit. It shall be unlawful for any state agency or the responsible head thereof, to make a settlement or compromise of any claim arising out of such malfeasance, misfeasance, or nonfeasance, or any action commenced therefor, or for any court to enter upon any compromise or settlement of such action without the written approval and consent of the attorney general and the state auditor. [1995 c 301 § 23; 1965 c 8 § 43.09.330. Prior: 1941 c 196 § 5; Rem. Supp. 1941 § 11018-5.]

(2010 Ed.)

43.09.340 Post-audit of books of state auditor. The governor shall, at least every two years, provide for a post-audit of the books, accounts, and records of the state auditor, and the funds under his or her control, to be made either by independent qualified public accountants or the director of financial management, as he or she may determine. The expense of making such audit shall be paid from appropriations made therefor from the general fund. [1995 c 301 § 24; 1979 c 151 § 93; 1965 c 8 § 43.09.340. Prior: 1947 c 114 § 2; 1941 c 196 § 6; Rem. Supp. 1947 § 11018-6.]

43.09.410 Auditing services revolving account—Created—Purpose. An auditing services revolving account is hereby created in the state treasury for the purpose of a centralized funding, accounting, and distribution of the actual costs of the audits provided to state agencies by the state auditor and audits of the state employee whistleblower program under RCW 42.40.110. [1999 c 361 § 9; 1995 c 301 § 25; 1981 c 336 § 1.]

Additional notes found at www.leg.wa.gov

43.09.412 Auditing services revolving account—Transfers and payments into account—Allotments to state auditor. The amounts to be disbursed from the auditing services revolving account shall be paid from funds appropriated to any and all state agencies for auditing services or administrative expenses. State agencies operating in whole or in part from nonappropriated funds shall pay into the auditing services revolving account such funds as will fully reimburse funds appropriated to the state auditor for auditing services provided.

The director of financial management shall allot all such funds to the state auditor for the operation of his or her office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other state agencies headed by elected officers under chapter 43.88 RCW. [1995 c 301 § 26; 1987 c 165 § 1; 1981 c 336 § 2.]

Additional notes found at www.leg.wa.gov

43.09.414 Auditing services revolving account—Disbursements. Disbursements from the auditing services revolving account shall be made pursuant to vouchers executed by the state auditor or his or her designee in accordance with RCW 43.09.412. [1995 c 301 § 27; 1981 c 336 § 3.]

Additional notes found at www.leg.wa.gov

43.09.416 Auditing services revolving account—Allocation of costs to funds, accounts, and agencies—Billing rate. The state auditor shall keep such records as are necessary to facilitate proper allocation of costs to funds and accounts and state agencies served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and accounts and state agencies served. The billing rate shall be established based on costs incurred in the prior biennium and anticipated costs in the new biennium. Those expenses related to training, maintenance of working capital including reserves for late and uncollectible accounts, and necessary adjustments to billings, shall be considered as expenses of auditing public accounts. Working capital shall not exceed five percent of the

auditing services revolving account appropriation. [1995 c 301 § 28; 1987 c 165 § 2; 1981 c 336 § 4.]

Additional notes found at www.leg.wa.gov

43.09.418 Auditing services revolving account—Direct payments from state agencies. In cases where there are unanticipated demands for auditing services or where there are insufficient funds on hand or available for payment through the auditing services revolving account or in other cases of necessity, the state auditor may request payment for auditing services directly from state agencies for whom the services are performed to the extent that revenues or other funds are available. Upon approval by the director of financial management the state agency shall make the requested payment. The payment may be made on either an advance or reimbursable basis as approved by the director of financial management. [1995 c 301 § 29; 1981 c 336 § 5.]

Additional notes found at www.leg.wa.gov

43.09.420 Audit of revolving, local, and other funds and accounts. As part of the routine audits of state agencies, the state auditor shall audit all revolving funds, local funds, and other state funds and state accounts that are not managed by or in the care of the state treasurer and that are under the control of state agencies, including but not limited to state departments, boards, and commissions. In conducting the audits of these funds and accounts, the auditor shall examine revenues and expenditures or assets and liabilities, accounting methods and procedures, and recordkeeping practices. In addition to including the results of these examinations as part of the routine audits of the agencies, the auditor shall report to the legislature on the status of all such funds and accounts that have been examined during the preceding biennium and any recommendations for their improved financial management. Such a report shall be filed with the legislature within five months of the end of each biennium regarding the funds and accounts audited during the biennium. The first such report shall be filed by December 1, 1993, regarding any such funds and accounts audited during the 1991-93 biennium. [1993 c 216 § 1.]

43.09.430 Performance audits—Definitions. For purposes of RCW 43.09.435 through 43.09.460:

(1) "Board" means the citizen advisory board created in RCW 43.09.435.

(2) "Draft work plan" means the work plan for conducting performance audits of state agencies proposed by the board and state auditor after the statewide performance review.

(3) "Final performance audit report" means a written document jointly released by the citizen advisory board and the state auditor that includes the findings and comments from the preliminary performance audit report.

(4) "Final work plan" means the work plan for conducting performance audits of state agencies adopted by the board and state auditor.

(5) "Performance audit" means an objective and systematic assessment of a state agency or any of its programs, functions, or activities by an independent evaluator in order to help public officials improve efficiency, effectiveness, and

accountability. Performance audits include economy and efficiency audits and program audits.

(6) "Preliminary performance audit report" means a written document prepared after the completion of a performance audit to be submitted for comment before the final performance audit report. The preliminary performance audit report must contain the audit findings and any proposed recommendations to improve the efficiency, effectiveness, or accountability of the state agency being audited.

(7) "State agency" or "agency" means a state agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education. "State agency" includes all offices of executive branch state government elected officials. [2005 c 385 § 2.]

Findings—2005 c 385: "The legislature finds that:

(1) Citizens demand and deserve accountability of public programs. Public programs must continuously improve in quality, efficiency, and effectiveness in order to increase public trust;

(2) Washington state government and other entities that receive tax dollars must continuously improve the way they operate and deliver services so citizens receive maximum value for their tax dollars;

(3) An independent citizen advisory board is necessary to ensure that government services, customer satisfaction, program efficiency, and management systems are world class in performance;

(4) Fair, independent, professional performance audits of state agencies are essential to improving the efficiency and effectiveness of government; and

(5) The performance audit activities of the joint legislative audit and review committee should be supplemented by making fuller use of the state auditor's resources and capabilities." [2005 c 385 § 1.]

43.09.435 Performance audits—Citizen advisory board. (1) The citizen advisory board is created to improve efficiency, effectiveness, and accountability in state government.

(2) The board shall consist of ten members as follows:

(a) One member shall be the state auditor, who shall be a nonvoting member;

(b) One member shall be the legislative auditor, who shall be a nonvoting member;

(c) One member shall be the director of the office of financial management, who shall be a nonvoting member;

(d) Four of the members shall be selected by the governor as follows: Each major caucus of the house of representatives and the senate shall submit a list of three names. The lists may not include the names of members of the legislature or employees of the state. The governor shall select a person from each list provided by each caucus; and

(e) The governor shall select three citizen members who are not state employees.

(3) The board shall elect a chair. The legislative auditor, the state auditor, and the director of the office of financial management may not serve as chair.

(4) Appointees shall be individuals who have a basic understanding of state government operations with knowledge and expertise in performance management, quality management, strategic planning, performance assessments, or closely related fields.

(5) Members selected under subsection (2)(d) and (e) of this section shall serve for terms of four years, with the terms expiring on June 30th on the fourth year of the term. However, in the case of the initial members, two members shall serve four-year terms, two members shall serve three-year

terms, and one member shall serve a two-year term, with each of the terms expiring on June 30th of the applicable year. Appointees may be reappointed to serve more than one term.

(6) The office of the state auditor shall provide clerical, technical, and management personnel to the board to serve as the board's staff.

(7) The board shall meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the board.

(8) The members of the board shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2005 c 385 § 3.]

Findings—2005 c 385: See note following RCW 43.09.430.

43.09.440 Performance audits—Collaboration with joint legislative audit and review committee—Criteria—Statewide performance review—Contracting out—Release of audit reports. (1) The board and the state auditor shall collaborate with the joint legislative audit and review committee regarding performance audits of state government.

(a) The board shall establish criteria for performance audits consistent with the criteria and standards followed by the joint legislative audit and review committee. This criteria shall include, at a minimum, the auditing standards of the United States government accountability office, as well as legislative mandates and performance objectives established by state agencies and the legislature. Mandates include, but are not limited to, agency strategies, timelines, program objectives, and mission and goals as required in RCW 43.88.090.

(b) Using the criteria developed in (a) of this subsection, the state auditor shall contract for a statewide performance review to be completed as expeditiously as possible as a preliminary to a draft work plan for conducting performance audits. The board and the state auditor shall develop a schedule and common methodology for conducting these reviews. The purpose of these performance reviews is to identify those agencies, programs, functions, or activities most likely to benefit from performance audits and to identify likely areas warranting early review, taking into account prior performance audits, if any, and prior fiscal audits.

(c) The board and the state auditor shall develop the draft work plan for performance audits based on input from citizens, state employees, including front-line employees, state managers, chairs and ranking members of appropriate legislative committees, the joint legislative audit and review committee, public officials, and others. The draft work plan may include a list of agencies, programs, or systems to be audited on a timeline decided by the board and the state auditor based on a number of factors including risk, importance, and citizen concerns. When putting together the draft work plan, there should be consideration of all audits and reports already required. On average, audits shall be designed to be completed as expeditiously as possible.

(d) Before adopting the final work plan, the board shall consult with the legislative auditor and other appropriate oversight and audit entities to coordinate work plans and avoid duplication of effort in their planned performance

audits of state government agencies. The board shall defer to the joint legislative audit and review committee work plan if a similar audit is included on both work plans for auditing.

(e) The state auditor shall contract out for performance audits. In conducting the audits, agency front-line employees and internal auditors should be involved.

(f) All audits must include consideration of reports prepared by other government oversight entities.

(g) The audits may include:

(i) Identification of programs and services that can be eliminated, reduced, consolidated, or enhanced;

(ii) Identification of funding sources to the state agency, to programs, and to services that can be eliminated, reduced, consolidated, or enhanced;

(iii) Analysis of gaps and overlaps in programs and services and recommendations for improving, dropping, blending, or separating functions to correct gaps or overlaps;

(iv) Analysis and recommendations for pooling information technology systems used within the state agency, and evaluation of information processing and telecommunications policy, organization, and management;

(v) Analysis of the roles and functions of the state agency, its programs, and its services and their compliance with statutory authority and recommendations for eliminating or changing those roles and functions and ensuring compliance with statutory authority;

(vi) Recommendations for eliminating or changing statutes, rules, and policy directives as may be necessary to ensure that the agency carry out reasonably and properly those functions vested in the agency by statute;

(vii) Verification of the reliability and validity of agency performance data, self-assessments, and performance measurement systems as required under RCW 43.88.090;

(viii) Identification of potential cost savings in the state agency, its programs, and its services;

(ix) Identification and recognition of best practices;

(x) Evaluation of planning, budgeting, and program evaluation policies and practices;

(xi) Evaluation of personnel systems operation and management;

(xii) Evaluation of state purchasing operations and management policies and practices; and

(xiii) Evaluation of organizational structure and staffing levels, particularly in terms of the ratio of managers and supervisors to nonmanagement personnel.

(h) The state auditor must solicit comments on preliminary performance audit reports from the audited state agency, the office of the governor, the office of financial management, the board, the chairs and ranking members of appropriate legislative committees, and the joint legislative audit and review committee for comment. Comments must be received within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the state auditor. All comments shall be incorporated into the final performance audit report. The final performance audit report shall include the objectives, scope, and methodology; the audit results, including findings and recommendations; conclusions; and identification of best practices.

(i) The board and the state auditor shall jointly release final performance audit reports to the governor, the citizens of Washington, the joint legislative audit and review commit-

tee, and the appropriate standing legislative committees. Final performance audit reports shall be posted on the internet.

(j) For institutions of higher education, performance audits shall not duplicate, and where applicable, shall make maximum use of existing audit records, accreditation reviews, and performance measures required by the office of financial management, the higher education coordinating board, and nationally or regionally recognized accreditation organizations including accreditation of hospitals licensed under chapter 70.41 RCW and ambulatory care facilities.

(2) The citizen board created under *RCW 44.75.030 shall be responsible for performance audits for transportation related agencies as defined under *RCW 44.75.020. [2005 c 385 § 5.]

***Reviser's note:** RCW 44.75.020 and 44.75.030 were repealed by 2006 c 334 § 51, effective July 1, 2006.

Findings—2005 c 385: See note following RCW 43.09.430.

43.09.445 Performance audits—Local jurisdictions.

If the legislative authority of a local jurisdiction requests a performance audit of programs under its jurisdiction, the state auditor has the discretion to conduct such a review under separate contract and funded by local funds. [2005 c 385 § 6.]

Findings—2005 c 385: See note following RCW 43.09.430.

43.09.450 Performance audits—Audit of performance audit program. By June 30, 2007, and each four years thereafter, the joint legislative audit and review committee shall contract with a private entity for a performance audit of the performance audit program established in RCW 43.09.440 and the board's responsibilities under the performance audit program. [2005 c 385 § 8.]

Findings—2005 c 385: See note following RCW 43.09.430.

43.09.455 Performance audits—Follow-up and corrective action—Progress reports. The audited agency is responsible for follow-up and corrective action on all performance audit findings and recommendations. The audited agency's plan for addressing each audit finding and recommendation shall be included in the final audit report. The plan shall provide the name of the contact person responsible for each action, the action planned, and the anticipated completion date. If the audited agency does not agree with the audit findings and recommendations or believes action is not required, then the action plan shall include an explanation and specific reasons.

For agencies under the authority of the governor, the governor may require periodic progress reports from the audited agency until all resolution has occurred.

For agencies under the authority of an elected official other than the governor, the appropriate elected official may require periodic reports of the action taken by the audited agency until all resolution has occurred.

The board may request status reports on specific audits or findings. [2005 c 385 § 9.]

Findings—2005 c 385: See note following RCW 43.09.430.

43.09.460 Performance audits—Appropriation—Budget request. (1) Each biennium the legislature shall

appropriate such sums as may be necessary, not to exceed an amount equal to two one-hundredths of one percent of the total general fund state appropriation in that biennium's omnibus operating appropriations act for purposes of the performance review, performance audits, and activities of the board authorized by this chapter.

(2) The board and the state auditor shall submit recommended budgets for their responsibilities under RCW 43.09.430 through 43.09.455 to the auditor, who shall then prepare a consolidated budget request, in the form of request legislation, to assist in determining the funding under subsection (1) of this section. [2005 c 385 § 11.]

Findings—2005 c 385: See note following RCW 43.09.430.

43.09.470 Comprehensive performance audits—Scope—Reports. In addition to audits authorized under RCW 43.88.160, the state auditor shall conduct independent, comprehensive performance audits of state government and each of its agencies, accounts, and programs; local governments and each of their agencies, accounts, and programs; state and local education governmental entities and each of their agencies, accounts, and programs; state and local transportation governmental entities and each of their agencies, accounts, and programs; and other governmental entities, agencies, accounts, and programs. The term "government" means an agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education. This includes individual agencies and programs, as well as those programs and activities that cross agency lines. "Government" includes all elective and nonelective offices in the executive branch and includes the judicial and legislative branches. The state auditor shall review and analyze the economy, efficiency, and effectiveness of the policies, management, fiscal affairs, and operations of state and local governments, agencies, programs, and accounts. These performance audits shall be conducted in accordance with the United States general accounting office government auditing standards. The scope for each performance audit shall not be limited and shall include nine specific elements: (1) Identification of cost savings; (2) identification of services that can be reduced or eliminated; (3) identification of programs or services that can be transferred to the private sector; (4) analysis of gaps or overlaps in programs or services and recommendations to correct gaps or overlaps; (5) feasibility of pooling information technology systems within the department; (6) analysis of the roles and functions of the department, and recommendations to change or eliminate departmental roles or functions; (7) recommendations for statutory or regulatory changes that may be necessary for the department to properly carry out its functions; (8) analysis of departmental performance data, performance measures, and self-assessment systems; and (9) identification of best practices. The state auditor may contract out any performance audits. For counties and cities, the audit may be conducted as part of audits otherwise required by state law. Each audit report shall be submitted to the corresponding legislative body or legislative bodies and made available to the public on or before thirty days after the completion of each audit or each follow-up audit. On or before thirty days after the performance audit is made public, the corresponding legislative

body or legislative bodies shall hold at least one public hearing to consider the findings of the audit and shall receive comments from the public. The state auditor is authorized to issue subpoenas to governmental entities for required documents, memos, and budgets to conduct the performance audits. The state auditor may, at any time, conduct a performance audit to determine not only the efficiency, but also the effectiveness, of any government agency, account, or program. No legislative body, officeholder, or employee may impede or restrict the authority or the actions of the state auditor to conduct independent, comprehensive performance audits. To the greatest extent possible, the state auditor shall instruct and advise the appropriate governmental body on a step-by-step remedy to whatever ineffectiveness and inefficiency is discovered in the audited entity. For performance audits of state government and its agencies, programs, and accounts, the legislature must consider the state auditor reports in connection with the legislative appropriations process. An annual report will be submitted by the joint legislative audit and review committee by July 1st of each year detailing the status of the legislative implementation of the state auditor's recommendations. Justification must be provided for recommendations not implemented. Details of other corrective action must be provided as well. For performance audits of local governments and their agencies, programs, and accounts, the corresponding legislative body must consider the state auditor reports in connection with its spending practices. An annual report will be submitted by the legislative body by July 1st of each year detailing the status of the legislative implementation of the state auditor's recommendations. Justification must be provided for recommendations not implemented. Details of other corrective action must be provided as well. The people encourage the state auditor to aggressively pursue the largest, costliest governmental entities first but to pursue all governmental entities in due course. Follow-up performance audits on any state and local government, agency, account, and program may be conducted when determined necessary by the state auditor. Revenues from the performance audits of government account, created in RCW 43.09.475, shall be used for the cost of the audits. [2006 c 1 § 2 (Initiative Measure No. 900, approved November 8, 2005).]

Policies and purposes—2006 c 1 (Initiative Measure No. 900): "It is essential that state and local governments establish credibility with the taxpayers by implementing long-overdue performance audits to ensure accountability and guarantee that tax dollars are spent as cost-effectively as possible. Are politicians spending our current tax revenues as cost-effectively as possible? Voters don't know because politicians have repeatedly blocked our state auditor from conducting independent, comprehensive performance audits on state and local governments, agencies, programs, and accounts. Currently, Washington is the only state in the nation that prohibits the independently elected state auditor from doing the job he or she was hired to do without explicit legislative permission. This handicap is costing the taxpayers billions of dollars in potential savings. Thankfully, this common sense initiative remedies this egregious failure of politicians to enact this reform. It is absurd for politicians to unilaterally impose tax increases or to seek voter approval for tax increases without first learning if we're getting the biggest bang for the buck from our current tax revenues. This measure requires the state auditor to conduct independent, comprehensive performance audits on state and local governments, agencies, programs, and accounts. This act dedicates a portion of the state's existing sales and use tax (1/100th of 1%) to fund these comprehensive performance audits. Similar performance reviews in Texas have saved taxpayers there nine billion dollars out of nineteen billion dollars in identified savings over the past decade. The performance audits required by this common sense initiative will identify solutions to our

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public policy problems, saving the taxpayers billions of dollars." [2006 c 1 § 1 (Initiative Measure No. 900, approved November 8, 2005).]

Construction—2006 c 1 (Initiative Measure No. 900): "The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act." [2006 c 1 § 7 (Initiative Measure No. 900, approved November 8, 2005).]

Severability—2006 c 1 (Initiative Measure No. 900): "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2006 c 1 § 8 (Initiative Measure No. 900, approved November 8, 2005).]

Part headings not law—2006 c 1 (Initiative Measure No. 900): "Part headings used in this act are not part of the law." [2006 c 1 § 9 (Initiative Measure No. 900, approved November 8, 2005).]

43.09.471 Short title—Effective date—2006 c 1 (Initiative Measure No. 900). This act shall be called the performance audits of government act and takes effect December 8, 2005. [2006 c 1 § 10 (Initiative Measure No. 900, approved November 8, 2005).]

Policies and purposes—Construction—Severability—Part headings not law—2006 c 1 (Initiative Measure No. 900): See notes following RCW 43.09.470.

43.09.475 Performance audits of government account. The performance audits of government account is hereby created in the custody of the state treasurer. Revenue identified in RCW 82.08.020(5) and 82.12.0201 shall be deposited in the account. Money in the account shall be used to fund the performance audits and follow-up performance audits under RCW 43.09.470 and shall be expended by the state auditor in accordance with chapter 1, Laws of 2006. Only the state auditor or the state auditor's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. During the 2009-2011 fiscal biennium, the legislature may transfer from the performance audits of government account to the state general fund such amounts as deemed to be appropriate or necessary. [2009 c 564 § 929; 2006 c 1 § 5 (Initiative Measure No. 900, approved November 8, 2005).]

Effective date—2009 c 564: See note following RCW 2.68.020.

Policies and purposes—Construction—Severability—Part headings not law—2006 c 1 (Initiative Measure No. 900): See notes following RCW 43.09.470.

Chapter 43.10 RCW ATTORNEY GENERAL

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Eminent domain
by state, duties: Chapter 8.04 RCW.
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Governor
may require attorney general to aid any prosecuting attorney: RCW 43.06.010.
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Industrial insurance, attorney general as legal advisor of department, board: RCW 51.52.140.
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Installment sales of goods and services, action by attorney general to prevent violations: RCW 63.14.190.
Insurance code, representation of commissioner: RCW 48.02.080.
Irrigation districts, certification of bonds, legality of: RCW 87.25.030.
Juvenile court, orders of support, enforcement by: RCW 13.34.161.
Liability coverage of university personnel and students, approval of claims by attorney general, when: RCW 28B.20.253.
Liquor control board, general counsel for: RCW 66.08.022.
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officers and enlisted persons, attorney general to defend actions against: RCW 38.40.010.
Motor freight carriers, violations, attorney general to assign assistant to enforce compliance: RCW 81.80.330.
Motor vehicle dealers' licenses, attorney general to approve applicant's surety bond accompanying application for: RCW 46.70.070.
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Poisons, enforcement of law relating to: RCW 69.40.025.
Puget Sound ferry and toll bridge system, attorney general's powers and duties relating to: Chapter 47.60 RCW.
Railroad employees' sanitation and shelter requirements, enforcement by: RCW 81.04.405.
Real estate brokers and salespersons' licensing, to act as legal advisor: RCW 18.85.420.
Records, keeping of: State Constitution Art. 3 § 24; RCW 43.10.030.
Records committee, to appoint a member of: RCW 40.14.050.

Removal from office, grounds: State Constitution Art. 4 § 9.

Salary, amount of: State Constitution Art. 28 § 1; RCW 43.03.010.

Schools and school districts, supervision of prosecuting attorney: RCW 36.27.020.

Securities act violations referred to: RCW 21.20.410.

Social and health services department, representation, hospital regulation: RCW 70.41.160.

State board for volunteer firefighters and reserve officers, to advise: RCW 41.24.280.

State board of health, representation, hospital regulation: RCW 70.41.160.

State officers, defends actions against: RCW 4.92.070, 43.10.030.

Steamboat company penalties, recovery action by attorney general: RCW 81.84.050.

Subversive activities act, duties as to: Chapter 9.81 RCW.

Succession: State Constitution Art. 3 § 10.

Support of dependent children

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divorce or separate maintenance actions, attorney general or prosecuting attorney to initiate an action: RCW 74.20.220.

petition for order upon husband to provide support, attorney general may apply for, when: RCW 74.20.230.

Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.

Term papers, theses, dissertations, sale of prohibited, attorney general participation: RCW 28B.10.584.

Tort claims against state, authority to settle, compromise and stipulate for judgment: RCW 4.92.150.

Transfer of highway lands to United States, municipal subdivision or public utility, attorney general to adjudge if in public interest and certify: RCW 47.12.080.

Unemployment compensation, representation of department: RCW 50.12.150.

Unfair business practices act

assurance of discontinuance of practices, acceptance by: RCW 19.86.100.

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Utilities and transportation commission

compliance with law by persons or corporations regulated, duty to enforce: RCW 80.01.100, 80.04.510.

duty to represent: RCW 80.01.100, 80.04.510.

Vehicle wreckers' licensing, surety bonds accompanying application to be approved by: RCW 46.80.070.

Vital statistics, duty to enforce laws of: RCW 70.58.050.

Washington habitual traffic offenders act, attorney general's duties: Chapter 46.65 RCW.

43.10.010 Qualifications—Oath—Bond. No person shall be eligible to be attorney general unless he or she is a qualified practitioner of the supreme court of this state.

Before entering upon the duties of his or her office, any person elected or appointed attorney general shall take, subscribe, and file the oath of office as required by law; take, subscribe, and file with the secretary of state an oath to comply with the provisions of RCW 43.10.115; and execute and file with the secretary of state, a bond to the state, in the sum of five thousand dollars, with sureties to be approved by the governor, conditioned for the faithful performance of his or her duties and the paying over of all moneys, as provided by law. [2009 c 549 § 5046; 1973 c 43 § 1; 1965 c 8 § 43.10.010. Prior: 1929 c 92 § 1, part; RRS § 11030, part; prior: 1921 c 119 § 1; 1888 p 7 § 4.]

Additional notes found at www.leg.wa.gov

43.10.020 Additional bond—Penalty for failure to furnish. If the governor deems any bond filed by the attorney general insufficient, he or she may require an additional bond for any amount not exceeding five thousand dollars.

If any attorney general fails to give such additional bond as required by the governor within twenty days after notice in writing of such requirement, his or her office may be declared vacant by the governor and filled as provided by law. [2009 c 549 § 5047; 1965 c 8 § 43.10.020. Prior: (i) 1929 c 92 § 1, part; RRS § 11030, part. (ii) 1929 c 92 § 2; RRS § 11031; prior: 1921 c 119 § 1; 1888 p 7 §§ 4, 5.]

43.10.030 General powers and duties. The attorney general shall:

(1) Appear for and represent the state before the supreme court or the court of appeals in all cases in which the state is interested;

(2) Institute and prosecute all actions and proceedings for, or for the use of the state, which may be necessary in the execution of the duties of any state officer;

(3) Defend all actions and proceedings against any state officer or employee acting in his or her official capacity, in any of the courts of this state or the United States;

(4) Consult with and advise the several prosecuting attorneys in matters relating to the duties of their office, and when the interests of the state require, he or she shall attend the trial of any person accused of a crime, and assist in the prosecution;

(5) Consult with and advise the governor, members of the legislature, and other state officers, and when requested, give written opinions upon all constitutional or legal questions relating to the duties of such officers;

(6) Prepare proper drafts of contracts and other instruments relating to subjects in which the state is interested;

(7) Give written opinions, when requested by either branch of the legislature, or any committee thereof, upon constitutional or legal questions;

(8) Enforce the proper application of funds appropriated for the public institutions of the state, and prosecute corporations for failure or refusal to make the reports required by law;

(9) Keep in proper books a record of all cases prosecuted or defended by him or her, on behalf of the state or its officers, and of all proceedings had in relation thereto, and deliver the same to his or her successor in office;

(10) Keep books in which he or she shall record all the official opinions given by him or her during his or her term of office, and deliver the same to his or her successor in office;

(11) Pay into the state treasury all moneys received by him or her for the use of the state. [2009 c 549 § 5048; 1975 c 40 § 5; 1971 c 81 § 109; 1965 c 8 § 43.10.030. Prior: (i) 1929 c 92 § 3; RRS § 112. (ii) 1929 c 92 § 4; RRS § 11032; prior: 1891 c 55 § 2; 1888 p 8 § 6.]

43.10.035 Prosecutions for official delinquencies in the assessment, collection and payment of revenue; failure to pay over or deliver public money or property; and against all debtors of the state. Upon receipt of information from the state auditor as provided in *RCW 43.09.050(3) as now or hereafter amended, the attorney general shall direct prosecutions in the name of the state for all official delin-

quencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state. [1977 ex.s. c 144 § 9.]

***Reviser's note:** RCW 43.09.050 was amended by 1992 c 118 § 6, changing subsection (3) to subsection (4).

43.10.040 Representation of boards, commissions and agencies. The attorney general shall also represent the state and all officials, departments, boards, commissions and agencies of the state in the courts, and before all administrative tribunals or bodies of any nature, in all legal or quasi legal matters, hearings, or proceedings, and advise all officials, departments, boards, commissions, or agencies of the state in all matters involving legal or quasi legal questions, except those declared by law to be the duty of the prosecuting attorney of any county. [1965 c 8 § 43.10.040. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part.]

43.10.045 Retention of counsel by legislature—Notice—Representation in absence of notice. The legislature may employ or retain counsel of its own choosing. However, the legislature shall notify the attorney general whenever it makes a decision to use the services of such counsel to represent it or any of its members in a particular judicial or administrative proceeding. With respect to any such proceeding where the legislature has not so notified the attorney general, the attorney general shall represent the legislature until so notified. For purposes of this section, "legislature" means the senate and house of representatives together. The major purposes of this section are to confirm and implement in statute law the constitutional power of the legislative branch to select its own counsel. [1986 c 323 § 1.]

43.10.050 Authority to execute appeal and other bonds. The attorney general may execute, on behalf of the state, any appeal or other bond required to be given by the state in any judicial proceeding to which it is a party in any court, and procure sureties thereon. [1965 c 8 § 43.10.050. Prior: 1929 c 92 § 6; RRS § 11034; prior: 1905 c 99 § 1.]

43.10.060 Appointment and authority of assistants. The attorney general may appoint necessary assistants, who shall hold office at his or her pleasure, and who shall have the power to perform any act which the attorney general is authorized by law to perform. [2009 c 549 § 5049; 1965 c 8 § 43.10.060. Prior: 1929 c 92 § 7, part; RRS § 11034-1, part.]

43.10.065 Employment of attorneys and employees to transact state's legal business. The attorney general may employ or discharge attorneys and employees to transact for the state, its departments, officials, boards, commissions, and agencies, all business of a legal or quasi legal nature, except those declared by law to be the duty of the judge of any court, or the prosecuting attorney of any county. [1965 c 8 § 43.10.065. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part. Formerly RCW 43.10.060, part.]

43.10.067 Employment of attorneys by others restricted. No officer, director, administrative agency, board, or commission of the state, other than the attorney general, shall employ, appoint or retain in employment any attorney for any administrative body, department, commission, agency, or tribunal or any other person to act as attorney in any legal or quasi legal capacity in the exercise of any of the powers or performance of any of the duties specified by law to be performed by the attorney general, except where it is provided by law to be the duty of the judge of any court or the prosecuting attorney of any county to employ or appoint such persons: PROVIDED, That RCW 43.10.040, and 43.10.065 through 43.10.080 shall not apply to the administration of the commission on judicial conduct, the state law library, the law school of the state university, the administration of the state bar act by the Washington State Bar Association, or the representation of an estate administered by the director of the department of revenue or the director's designee pursuant to chapter 11.28 RCW.

The authority granted by chapter 1.08 RCW, RCW 44.28.065, and 47.01.061 shall not be affected hereby. [1997 c 41 § 9. Prior: 1987 c 364 § 1; 1987 c 186 § 7; prior: 1985 c 133 § 2; 1985 c 7 § 108; 1981 c 268 § 1; 1965 c 8 § 43.10.067; prior: (i) 1941 c 50 § 2; Rem. Supp. 1941 § 11034-4. (ii) 1941 c 50 § 4; Rem. Supp. 1941 § 11034-6. Formerly RCW 43.01.080.]

43.10.070 Compensation of assistants, attorneys and employees. The attorney general shall fix the compensation of all assistants, attorneys, and employees, and in the event they are assigned to any department, board, or commission, such department, board, or commission shall pay the compensation as fixed by the attorney general, not however in excess of the amount made available to the department by law for legal services. [1965 c 8 § 43.10.070. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part.]

43.10.080 Employment of experts, technicians. The attorney general may employ such skilled experts, scientists, technicians, or other specially qualified persons as he or she deems necessary to aid him or her in the preparation or trial of actions or proceedings. [2009 c 549 § 5050; 1965 c 8 § 43.10.080. Prior: 1941 c 50 § 3; Rem. Supp. 1941 § 11034-5.]

43.10.090 Criminal investigations—Supervision. Upon the written request of the governor, the attorney general shall investigate violations of the criminal laws within this state.

If, after such investigation, the attorney general believes that the criminal laws are improperly enforced in any county, and that the prosecuting attorney of the county has failed or neglected to institute and prosecute violations of such criminal laws, either generally or with regard to a specific offense or class of offenses, the attorney general shall direct the prosecuting attorney to take such action in connection with any prosecution as the attorney general determines to be necessary and proper.

If any prosecuting attorney, after the receipt of such instructions from the attorney general, fails or neglects to comply therewith within a reasonable time, the attorney gen-

eral may initiate and prosecute such criminal actions as he or she shall determine. In connection therewith, the attorney general shall have the same powers as would otherwise be vested in the prosecuting attorney.

From the time the attorney general has initiated or taken over a criminal prosecution, the prosecuting attorney shall not have power or authority to take any legal steps relating to such prosecution, except as authorized or directed by the attorney general. [2009 c 549 § 5051; 1965 c 8 § 43.10.090. Prior: 1937 c 88 § 1; RRS § 112-1.]

Corporations, governor may require attorney general to investigate: RCW 43.06.010.

Prosecuting attorneys, governor may require attorney general to aid: RCW 43.06.010.

43.10.095 Homicide investigative tracking system—Supervision management and recidivist tracking (SMART) system. (1) There is created, as a component of the homicide investigative tracking system, a supervision management and recidivist tracking system called the SMART system. The office of the attorney general may contract with any state, local, or private agency necessary for implementation of and training for supervision management and recidivist tracking program partnerships for development and operation of a statewide computer linkage between the attorney general's homicide investigative tracking system, local police departments, and the state department of corrections. Dormant information in the supervision management and recidivist tracking system shall be automatically archived after seven years. The department of corrections shall notify the attorney general when each person is no longer under its supervision.

(2) As used in this section, unless the context requires otherwise:

(a) "Dormant" means there have been no inquiries by the department of corrections or law enforcement with regard to an active supervision case or an active criminal investigation in the past seven years.

(b) "Archived" means information which is not in the active database and can only be retrieved for use in an active criminal investigation. [1998 c 223 § 2.]

Finding—1998 c 223: "The legislature finds that increased communications between local law enforcement officers and the state department of corrections' community corrections officers improves public safety through shared monitoring and supervision of offenders living in the community under the jurisdiction of the department of corrections.

Participating local law enforcement agencies and the local offices of the department of corrections have implemented the supervision management and recidivist tracking program, whereby each entity provides mutual assistance in supervising offenders living within the boundaries of local law enforcement agencies. The supervision management and recidivist tracking program has helped local law enforcement solve crimes faster or prevented future criminal activity by reporting offender's sentence violations in a more timely manner to community corrections officers by rapid and comprehensive electronic sharing of information regarding supervised offenders. The expansion of the supervision management and recidivist tracking program will improve public safety throughout the state." [1998 c 223 § 1.]

43.10.097 Homicide investigative tracking system—Purpose limited. The homicide investigative tracking system and the supervision management and recidivist tracking system are tools for the administration of criminal justice and these systems may not be used for any other purpose. [1998 c 223 § 3.]

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Finding—1998 c 223: See note following RCW 43.10.095.

43.10.101 Report to transportation entities—Tort claims. The attorney general shall prepare annually a report to the transportation committees of the legislature, the governor, the department of transportation, and the transportation commission comprising a comprehensive summary of all cases involving tort claims against the department of transportation involving highways which were concluded and closed in the previous calendar year. The report shall include for each case closed:

- (1) A summary of the factual background of the case;
- (2) Identification of the attorneys representing the state and the opposing parties;
- (3) A synopsis of the legal theories asserted and the defenses presented;
- (4) Whether the case was tried, settled, or dismissed, and in whose favor;
- (5) The approximate number of attorney hours expended by the state on the case, together with the corresponding dollar amount billed therefore; and
- (6) Such other matters relating to the case as the attorney general deems relevant or appropriate, especially including any comments or recommendations for changes in statute law or agency practice that might effectively reduce the exposure of the state to such tort claims. [2006 c 334 § 14; 2005 c 319 § 104; 1995 2nd sp.s. c 14 § 527.]

Effective date—2006 c 334: See note following RCW 47.01.051.

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Additional notes found at www.leg.wa.gov

43.10.110 Other powers and duties. The attorney general shall have the power and it shall be his or her duty to perform any other duties that are, or may from time to time be required of him or her by law. [2009 c 549 § 5052; 1965 c 8 § 43.10.110. Prior: 1929 c 92 § 8; RRS § 11034-2.]

43.10.115 Private practice of law—Attorney general—Prohibited. The attorney general shall not practice law for remuneration in his or her private capacity:

- (1) As an attorney in any court of this state during his or her continuance in office; or
- (2) As adviser or advocate for any person who may wish to become his or her client. [2009 c 549 § 5053; 1973 c 43 § 2.]

Additional notes found at www.leg.wa.gov

43.10.120 Private practice of law—Deputies and assistants—Prohibited. No full time deputy or assistant attorney general shall practice law for remuneration in his or her private capacity:

- (1) As an attorney in any court of this state during his or her continuance in office; or
- (2) As adviser or advocate for any person who may wish to become his or her client. [2009 c 549 § 5054; 1973 c 43 § 3.]

Additional notes found at www.leg.wa.gov

43.10.125 Private practice of law—Special assistant attorney generals. Special assistant attorney generals employed on less than a full time basis to transact business of a legal or quasi legal nature for the state, such assistants and attorneys may practice law in their private capacity as attorney. [1973 c 43 § 4.]

Additional notes found at www.leg.wa.gov

43.10.130 Private practice of law—Exceptions. None of the provisions of RCW 43.10.010 and 43.10.115 through 43.10.125 shall be construed as prohibiting the attorney general or any of his or her full time deputies or assistants from:

(1) Performing legal services for himself or herself or his or her immediate family; or

(2) Performing legal services of a charitable nature. [2009 c 549 § 5055; 1973 c 43 § 5.]

Additional notes found at www.leg.wa.gov

43.10.150 Legal services revolving fund—Created—Purpose. A legal services revolving fund is hereby created in the state treasury for the purpose of a centralized funding, accounting, and distribution of the actual costs of the legal services provided to agencies of the state government by the attorney general. [1974 ex.s. c 146 § 1; 1971 ex.s. c 71 § 1.]

Legal services revolving fund—Approval of certain changes required: RCW 43.88.350.

Additional notes found at www.leg.wa.gov

43.10.160 Legal services revolving fund—Transfers and payments into fund—Allotments to attorney general. The amounts to be disbursed from the legal services revolving fund from time to time shall be transferred thereto by the state treasurer from funds appropriated to any and all agencies for legal services or administrative expenses on a quarterly basis. Agencies operating in whole or in part from non-appropriated funds shall pay into the legal services revolving fund such funds as will fully reimburse funds appropriated to the attorney general for any legal services provided activities financed by nonappropriated funds.

The director of financial management shall allot all such funds to the attorney general for the operation of his or her office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other agencies headed by elected officers under chapter 43.88 RCW. [2009 c 549 § 5056; 1979 c 151 § 94; 1974 ex.s. c 146 § 2; 1971 ex.s. c 71 § 2.]

Additional notes found at www.leg.wa.gov

43.10.170 Legal services revolving fund—Disbursements. Disbursements from the legal services revolving fund shall be pursuant to vouchers executed by the attorney general or his or her designee in accordance with the provisions of RCW 43.88.160. [2009 c 549 § 5057; 1971 ex.s. c 71 § 3.]

43.10.180 Legal services revolving fund—Allocation of costs to funds and agencies—Accounting—Billing. (1) The attorney general shall keep such records as are necessary to facilitate proper allocation of costs to funds and agencies served and the director of financial management shall prescribe appropriate accounting procedures to accurately allo-

cate costs to funds and agencies served. Billings shall be adjusted in line with actual costs incurred at intervals not to exceed six months.

(2) During the 2009-2011 fiscal biennium, all expenses for administration of the office of the attorney general shall be allocated to and paid from the legal services revolving fund in accordance with accounting procedures prescribed by the director of financial management. [2009 c 564 § 930; 2007 c 522 § 951; 2005 c 518 § 927; 2003 1st sp.s. c 25 § 917; 1979 c 151 § 95; 1974 ex.s. c 146 § 3; 1971 ex.s. c 71 § 4.]

Effective date—2009 c 564: See note following RCW 2.68.020.

Severability—Effective date—2007 c 522: See notes following RCW 15.64.050.

Severability—Effective date—2005 c 518: See notes following RCW 28A.500.030.

Severability—Effective date—2003 1st sp.s. c 25: See notes following RCW 19.28.351.

Additional notes found at www.leg.wa.gov

43.10.190 Legal services revolving fund—Direct payments from agencies. In cases where there are unanticipated demands for legal services or where there are insufficient funds on hand or available for payment through the legal services revolving fund or in other cases of necessity, the attorney general may request payment for legal services directly from agencies for whom the services are performed to the extent that revenues or other funds are available. Upon approval by the director of financial management the agency shall make the requested payment. The payment may be made on either an advance or reimbursable basis as approved by the director of financial management. [1979 c 151 § 96; 1971 ex.s. c 71 § 5.]

43.10.200 Legal services revolving fund—Recovered court costs, fees and expenses—Deposit in fund—Expenditure. Court costs, attorneys' fees, and other expenses recovered by the attorney general shall be deposited in the legal services revolving fund and shall be considered as returned loans of materials supplied or services rendered. Such amounts may be expended in the same manner and under the same conditions and restrictions as set forth in section 11, chapter 282, Laws of 1969 ex. sess. [1971 ex.s. c 71 § 6.]

43.10.210 Antitrust revolving fund—Legislative finding and purpose. The legislature having found that antitrust laws and the enforcement thereof are necessary for the protection of consumers and businesses, and further that the creation of an antitrust revolving fund provides a reasonable means of funding antitrust actions by the attorney general, and that the existence of such a fund increases the possibility of obtaining funding from other sources, now therefore creates the antitrust revolving fund. [1974 ex.s. c 162 § 1.]

43.10.215 Antitrust revolving fund—Created—Contents. There is hereby created the antitrust revolving fund in the custody of the state treasurer which shall consist of: Funds appropriated to the revolving fund, funds transferred to the revolving fund pursuant to a court order or judgment in an antitrust action; gifts or grants made to the revolving fund; and funds awarded to the state or any agency thereof for the

recovery of costs and attorney fees in an antitrust action: PROVIDED HOWEVER, That to the extent that such costs constitute reimbursement for expenses directly paid from constitutionally dedicated funds, such recoveries shall be transferred to the constitutionally dedicated fund. [1974 ex.s. c 162 § 2.]

43.10.220 Antitrust revolving fund—Expenditures.

The attorney general is authorized to expend from the antitrust revolving fund, created by RCW 43.10.210 through 43.10.220, such funds as are necessary for the payment of costs, expenses and charges incurred in the preparation, institution and maintenance of antitrust actions under the state and federal antitrust acts. During the 2001-03 fiscal biennium, the attorney general may expend from the antitrust revolving fund for the purposes of the consumer protection activities of the office. [2002 c 371 § 907; 1999 c 309 § 916; 1974 ex.s. c 162 § 3.]

Severability—Effective date—2002 c 371: See notes following RCW 9.46.100.

Additional notes found at www.leg.wa.gov

43.10.230 Purpose. The purpose of RCW 43.10.232 is to grant authority to the attorney general concurrent with the county prosecuting attorneys to investigate and prosecute crimes. The purpose of *RCW 43.10.234 is to insure access by the attorney general to the procedural powers of the various prosecuting attorneys in exercising criminal prosecutorial authority granted in RCW 43.10.232 or otherwise granted by the legislature. [1981 c 335 § 1.]

***Reviser's note:** The reference to RCW 43.10.234 appears to be erroneous. RCW 10.01.190 was apparently intended.

43.10.232 Concurrent authority to investigate crimes and initiate and conduct prosecutions—Payment of costs.

(1) The attorney general shall have concurrent authority and power with the prosecuting attorneys to investigate crimes and initiate and conduct prosecutions upon the request of or with the concurrence of any of the following:

- (a) The county prosecuting attorney of the jurisdiction in which the offense has occurred;
- (b) The governor of the state of Washington; or
- (c) A majority of the committee charged with the oversight of the organized crime intelligence unit.

(2) Such request or concurrence shall be communicated in writing to the attorney general.

(3) Prior to any prosecution by the attorney general under this section, the attorney general and the county in which the offense occurred shall reach an agreement regarding the payment of all costs, including expert witness fees, and defense attorneys' fees associated with any such prosecution. [1986 c 257 § 16; 1981 c 335 § 2.]

Additional notes found at www.leg.wa.gov

43.10.234 Determination of prosecuting authority if defendant charged by attorney general and prosecuting attorney. If both a prosecuting attorney and the attorney general file an information or indictment charging a defendant with substantially the same offense(s), the court shall,

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upon motion of either the prosecuting attorney or the attorney general:

(1) Determine whose prosecution of the case will best promote the interests of justice and enter an order designating that person as the prosecuting authority in the case; and

(2) Enter an order dismissing the information or indictment filed by the person who was not designated the prosecuting authority. [1981 c 335 § 3.]

43.10.240 Investigative and criminal prosecution activity—Annual report—Security protection.

The attorney general shall annually report to the chief of the Washington state patrol a summary of the attorney general's investigative and criminal prosecution activity conducted pursuant to this chapter. Except to the extent the summary describes information that is a matter of public record, the information made available to the chief of the Washington state patrol shall be given all necessary security protection in accordance with the terms and provisions of applicable laws and rules and shall not be revealed or divulged publicly or privately. [2009 c 560 § 26; 1985 c 251 § 1.]

Intent—Effective date—Disposition of property and funds—Assignment/delegation of contractual rights or duties—2009 c 560: See notes following RCW 18.06.080.

43.10.250 Appellate review of criminal case. Upon request of a prosecuting attorney, the attorney general may assume responsibility for the appellate review of a criminal case or assist the prosecuting attorney in the appellate review if the attorney general finds that the case involves fundamental issues affecting the public interest and the administration of criminal justice in this state. [1985 c 251 § 2.]

43.10.260 Criminal profiteering—Assistance to local officials.

The attorney general may: (1) Assist local law enforcement officials in the development of cases arising under the criminal profiteering laws with special emphasis on narcotics related cases; (2) assist local prosecutors in the litigation of criminal profiteering or drug asset forfeiture cases, or, at the request of a prosecutor's office, litigate such cases on its behalf; and (3) conduct seminars and training sessions on prosecution of criminal profiteering cases and drug asset forfeiture cases. [1991 c 345 § 2.]

Findings—1991 c 345: "The legislature finds that drug asset forfeiture and criminal profiteering laws allow law enforcement officials and the courts to strip drug dealers and other successful criminals of the wealth they have acquired from their crimes and the assets they have used to facilitate those crimes. These laws are rarely used by prosecutors, however, because of the difficulty in identifying profiteering and the assets that criminals may have as a result of their crimes. It is the intent of the legislature to provide assistance to local law enforcement officials and state agencies to seize the assets of criminals and the proceeds of their profiteering." [1991 c 345 § 1.]

43.10.270 Criminal profiteering—Asset recovery.

All assets recovered pursuant to RCW 43.10.260 shall be distributed in the following manner: (1) For drug asset forfeitures, pursuant to the provisions of RCW 69.50.505; and (2) for criminal profiteering cases, pursuant to the provisions of RCW 9A.82.100. [1991 c 345 § 3.]

Findings—1991 c 345: See note following RCW 43.10.260.

43.10.280 Dependency and termination of parental rights—Legal services to supervising agencies under state contract. The office of the attorney general shall provide, or cause to be provided, legal services in only dependency or termination of parental rights matters to supervising agencies with whom the department of social and health services has entered into performance-based contracts to provide child welfare services as soon as the contracts become effective. [2009 c 520 § 7.]

Chapter 43.12 RCW

COMMISSIONER OF PUBLIC LANDS

Sections

- 43.12.010 Powers and duties—Generally.
- 43.12.021 Commissioner—Deputy—Appointment—Powers—Oath.
- 43.12.031 Auditors and cashiers—Other assistants.
- 43.12.041 Official bonds.
- 43.12.045 Rule-making authority.
- 43.12.055 Enforcement in accordance with RCW 43.05.100 and 43.05.110.
- 43.12.065 Rules pertaining to public use of state lands—Enforcement—Penalty.
- 43.12.075 Duty of attorney general—Commissioner may represent state.

Abstracts of public lands maintained by: RCW 79.02.200.

Administrator of natural resources: RCW 43.30.105.

Board of natural resources secretary: RCW 43.30.225.

City or metropolitan park district parks or playgrounds, member of citizens committee to investigate and determine needs for tidelands and shorelands: RCW 79.125.710.

Duties of, to be prescribed by legislature: State Constitution Art. 3 § 23.

Election: State Constitution Art. 3 § 1.

Eminent domain

against state lands

filing judgment with commissioner of public lands: RCW 8.28.010.

service of process on: RCW 8.28.010.

by corporations, service on: RCW 8.20.020.

Escheats

conveyance of real property to claimant: RCW 11.08.270.

jurisdiction and supervision over real property: RCW 11.08.220.

land acquired by, management and control over: RCW 79.10.030.

Fees: RCW 79.02.240, 79.02.260.

Funds, daily deposit of funds in state treasury: RCW 43.30.325.

Harbor line relocation, platting of additional tidelands and shorelands created by: RCW 79.115.020.

Local and other improvements and assessments against state lands, tidelands and harbor area assessments, disapproval, effect: RCW 79.44.140.

Mistakes, recall of leases, contract or deeds to correct: RCW 79.02.040.

Oath of office: RCW 43.01.020.

Office may be abolished by legislature: State Constitution Art. 3 § 25.

Powers and duties transferred to natural resources department: RCW 43.30.411.

Recall of leases, contracts, or deeds to correct mistakes: RCW 79.02.040.

Reclamation projects of state: RCW 89.16.080.

Reconsideration of official acts: RCW 79.02.040.

Records to be kept at state capitol: State Constitution Art. 3 § 24.

Recreation and conservation funding board, membership: RCW 79A.25.110.

Reports to legislature: RCW 79.10.010.

Salary

amount of: RCW 43.03.010.

regulated by legislature: State Constitution Art. 3 § 23.

School lands, data and information furnished to department of natural resources as to sale or lease of: RCW 79.11.020.

State capitol committee

member: RCW 43.34.010.

secretary of: RCW 43.34.015.

State lands: Title 79 RCW.

State parks, withdrawal of public lands from sale, exchange for highway abutting lands, duties: RCW 79A.05.110.

Succession to governorship: State Constitution Art. 3 § 10.

Survey and map agency, advisory board, appointment: RCW 58.24.020.

Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.

Underground storage of natural gas

lease of public lands for: RCW 80.40.060.

notice of application for sent to: RCW 80.40.040.

United States land offices, appearance before: RCW 79.02.100.

Washington State University real property, annual report as to: RCW 28B.30.310.

Wildlife and recreation lands; funding of maintenance and operation: Chapter 79A.20 RCW.

Withdrawal of state land from lease for game purposes, powers and duties concerning: RCW 77.12.360.

43.12.010 Powers and duties—Generally. The commissioner of public lands shall exercise such powers and perform such duties as are prescribed by law. [1965 c 8 § 43.12.010. Prior: 1921 c 7 § 119; RRS § 10877.]

43.12.021 Commissioner—Deputy—Appointment—Powers—Oath. The commissioner shall have the power to appoint an assistant, who shall be deputy commissioner of public lands with power to perform any act or duty relating to the office of the commissioner, and, in case of vacancy by death or resignation of the commissioner, shall perform the duties of the office until the vacancy is filled, and shall act as chief clerk in the office of the commissioner, and, before performing any duties, shall take, subscribe, and file in the office of the secretary of state the oath of office required by law of state officers. [2003 c 334 § 305; 1927 c 255 § 14; RRS § 7797-14. Prior: 1903 c 33 § 1; RRS § 7815. Formerly RCW 79.01.056, 43.12.020.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.12.031 Auditors and cashiers—Other assistants. The commissioner shall have the power to appoint an auditor and cashier and such number of other assistants, as the commissioner deems necessary for the performance of the duties of the office. [2003 c 334 § 306; 1927 c 255 § 15; RRS § 7797-15. Formerly RCW 79.01.060, 43.12.030.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.12.041 Official bonds. The commissioner and those appointed by the commissioner shall enter into good and sufficient surety company bonds as required by law, in the following sums: Commissioner, fifty thousand dollars; and other appointees in such sum as may be fixed in the manner provided by law. [2003 c 334 § 307; 1927 c 255 § 16; RRS § 7797-16. Prior: 1907 c 119 §§ 1, 2; RRS §§ 7816, 7817. Formerly RCW 79.01.064, 43.12.040.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.12.045 Rule-making authority. For rules adopted after July 23, 1995, the commissioner of public lands may not rely solely on a section of law stating a statute's intent or pur-

pose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 101.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

43.12.055 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the commissioner of public lands or the supervisor of natural resources shall be in accordance with RCW 43.05.100 and 43.05.110. [2003 c 334 § 103; 1995 c 403 § 622.]

Intent—2003 c 334: See note following RCW 79.02.010.

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

43.12.065 Rules pertaining to public use of state lands—Enforcement—Penalty. (1) For the promotion of the public safety and the protection of public property, the department of natural resources may, in accordance with chapter 34.05 RCW, issue, promulgate, adopt, and enforce rules pertaining to use by the public of state-owned lands and property which are administered by the department.

(2)(a) Except as otherwise provided in this subsection, a violation of any rule adopted under this section is a misdemeanor.

(b) Except as provided in (c) of this subsection, the department may specify by rule, when not inconsistent with applicable statutes, that violation of such a rule is an infraction under chapter 7.84 RCW: PROVIDED, That violation of a rule relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction.

(c) Violation of such a rule equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

(3) The commissioner of public lands and such of his or her employees as he or she may designate shall be vested with police powers when enforcing:

(a) The rules of the department adopted under this section; or

(b) The general criminal statutes or ordinances of the state or its political subdivisions where enforcement is necessary for the protection of state-owned lands and property. [2003 c 53 § 229; 1987 c 380 § 14; 1979 ex.s. c 136 § 38; 1969 ex.s. c 160 § 1. Formerly RCW 43.30.310.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

43.12.075 Duty of attorney general—Commissioner may represent state. It shall be the duty of the attorney general, to institute, or defend, any action or proceeding to which the state, or the commissioner or the board, is or may be a party, or in which the interests of the state are involved, in any court of this state, or any other state, or of the United States, or in any department of the United States, or before any board or tribunal, when requested so to do by the com-

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missioner, or the board, or upon the attorney general's own initiative.

The commissioner is authorized to represent the state in any such action or proceeding relating to any public lands of the state. [2003 c 334 § 431; 1959 c 257 § 40; 1927 c 255 § 194; RRS § 7797-194. Prior: 1909 c 223 § 7; 1897 c 89 § 65; 1895 c 178 § 100. Formerly RCW 79.01.736, 79.08.020.]

Intent—2003 c 334: See note following RCW 79.02.010.

Chapter 43.15 RCW

OFFICE OF LIEUTENANT GOVERNOR

Sections

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43.15.020	President of the senate—Committee and board appointments and assignments.
43.15.030	Association of Washington generals—Created.
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43.15.050	Legislative international trade account.
43.15.060	Legislative committee on economic development and international relations—Purpose—Created—Membership.
43.15.065	Legislative committee on economic development and international relations—Subcommittees—Rules of procedure.
43.15.070	Legislative committee on economic development and international relations—Powers—Study and review of economic issues.
43.15.075	Legislative committee on economic development and international relations—Staff support.
43.15.080	Legislative committee on economic development and international relations—Travel expenses.
43.15.085	Legislative committee on economic development and international relations—Expenses.
43.15.090	Legislative committee on economic development and international relations—Cooperation with committees, agencies, and councils.
43.15.900	Severability—1985 c 467.
43.15.901	Effective date—1985 c 467.

43.15.005 Findings. The legislature finds that as the duties and responsibilities of the office of lieutenant governor have continued to incrementally increase, they have been distributed among various noncorresponding chapters in statute. The legislature further finds that by consolidating the duties and responsibilities of the office of lieutenant governor under one chapter, it keeps our statutes consistent among the different statewide elected offices and greater facilitates the understanding of the role of the office of lieutenant governor and its many statutorily defined duties and responsibilities. [2006 c 317 § 1.]

43.15.010 Duties. The lieutenant governor has the following duties:

(1) The lieutenant governor serves as president of the senate.

(2) In addition to the events prescribed under the state Constitution, the lieutenant governor performs the duties of the governor when the governor is out of the state pursuant to RCW 43.06.040 and 43.06.050. When the lieutenant governor is called to perform the duties of the governor, he or she is compensated according to RCW 43.03.020.

(3) When delegated to do so under RCW 41.72.030, the lieutenant governor shall award the law enforcement medal of honor during national law enforcement recognition week. [2006 c 317 § 3.]

43.15.020 President of the senate—Committee and board appointments and assignments. The lieutenant governor serves as president of the senate and is responsible for making appointments to, and serving on, the committees and boards as set forth in this section.

(1) The lieutenant governor serves on the following boards and committees:

- (a) Capitol furnishings preservation committee, RCW 27.48.040;
 - (b) Washington higher education facilities authority, RCW 28B.07.030;
 - (c) Productivity board, also known as the employee involvement and recognition board, RCW 41.60.015;
 - (d) State finance committee, RCW 43.33.010;
 - (e) State capitol committee, RCW 43.34.010;
 - (f) Washington health care facilities authority, RCW 70.37.030;
 - (g) State medal of merit nominating committee, RCW 1.40.020;
 - (h) Medal of valor committee, RCW 1.60.020; and
 - (i) Association of Washington generals, RCW 43.15.030.
- (2) The lieutenant governor, and when serving as president of the senate, appoints members to the following boards and committees:
- (a) Civil legal aid oversight committee, RCW 2.53.010;
 - (b) Office of public defense advisory committee, RCW 2.70.030;
 - (c) Washington state gambling commission, RCW 9.46.040;
 - (d) Sentencing guidelines commission, RCW 9.94A.860;
 - (e) State building code council, RCW 19.27.070;
 - (f) Financial education public-private partnership, RCW 28A.300.450;
 - (g) Joint administrative rules review committee, RCW 34.05.610;
 - (h) Capital projects advisory review board, RCW 39.10.220;
 - (i) Select committee on pension policy, RCW 41.04.276;
 - (j) Legislative ethics board, RCW 42.52.310;
 - (k) Washington citizens' commission on salaries, RCW 43.03.305;
 - (l) Legislative oral history committee, RCW 44.04.325;
 - (m) State council on aging, RCW 43.20A.685;
 - (n) State investment board, RCW 43.33A.020;
 - (o) Capitol campus design advisory committee, RCW 43.34.080;
 - (p) Washington state arts commission, RCW 43.46.015;
 - (q) Information services board, RCW 43.105.032;
 - (r) Council for children and families, RCW 43.121.020;
 - (s) PNWER-Net working subgroup under chapter 43.147 RCW;
 - (t) Community economic revitalization board, RCW 43.160.030;
 - (u) Washington economic development finance authority, RCW 43.163.020;
 - (v) Life sciences discovery fund authority, RCW 43.350.020;
 - (w) Legislative children's oversight committee, RCW 44.04.220;

(x) Joint legislative audit and review committee, RCW 44.28.010;

(y) Joint committee on energy supply and energy conservation, RCW 44.39.015;

(z) Legislative evaluation and accountability program committee, RCW 44.48.010;

(aa) Agency council on coordinated transportation, RCW 47.06B.020;

(bb) Manufactured housing task force, RCW 59.22.090;

(cc) Washington horse racing commission, RCW 67.16.014;

(dd) Correctional industries board of directors, RCW 72.09.080;

(ee) Joint committee on veterans' and military affairs, RCW 73.04.150;

(ff) Joint legislative committee on water supply during drought, RCW 90.86.020;

(gg) Statute law committee, RCW 1.08.001; and

(hh) Joint legislative oversight committee on trade policy, RCW 44.55.020. [2010 1st sp.s. c 7 § 136; 2010 1st sp.s. c 7 § 135; 2010 c 271 § 704; 2009 c 560 § 27; 2008 c 152 § 9; 2006 c 317 § 4.]

Reviser's note: This section was amended by 2010 c 271 § 704 and by 2010 1st sp.s. c 7 § 136, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Intent—Effective date—Disposition of property and funds—Assignment/delegation of contractual rights or duties—2009 c 560: See notes following RCW 18.06.080.

Findings—Intent—2008 c 152: See note following RCW 13.34.136.

43.15.030 Association of Washington generals—Created. (1) The association of Washington generals is organized as a private, nonprofit, nonpartisan, corporation in accordance with chapter 24.03 RCW and this section.

(2) The purpose of the association of Washington generals is to:

(a) Provide the state a means of extending formal recognition for an individual's outstanding services to the state; and

(b) Bring together those individuals to serve the state as ambassadors of trade, tourism, and international goodwill.

(3) The association of Washington generals may conduct activities in support of their mission, including but not limited to:

(a) Establishing selection criteria for selecting Washington generals;

(b) Operating a statewide essay competition;

(c) Training Washington generals as ambassadors of the state of Washington, nationally and internationally; and

(d) Promoting Washington generals as ambassadors of the state of Washington.

(4) The association of Washington generals is governed by a board of directors. The board is composed of the governor, lieutenant governor, and the secretary of state, who serve as ex officio, nonvoting members, and other officers and members as the association of Washington generals designates. The board shall:

(a) Review nominations for and be responsible for the selection of Washington generals; and

(b) Establish the title of honorary Washington general to honor worthy individuals from outside the state of Washington.

(5) The lieutenant governor's office may provide technical and financial assistance for the association of Washington generals.

(6) The legislature may make appropriations in support of the Washington generals subject to the availability of funds. [2005 c 69 § 1. Formerly RCW 43.342.010.]

43.15.040 Use of state flag. The association of Washington generals may use the image of the Washington state flag to promote the mission of the organization as set forth under *RCW 43.342.010. The association retains any revenue generated by the use of the image, when the usage is consistent with the purposes under *RCW 43.342.010. [2005 c 69 § 2. Formerly RCW 43.342.020.]

*Reviser's note: RCW 43.342.010 was recodified as RCW 43.15.030 pursuant to 2006 c 317 § 5.

43.15.050 Legislative international trade account. The legislative international trade account is created in the custody of the state treasurer. All moneys received by the president of the senate and the secretary of state from gifts, grants, and endowments for international trade hosting, international relations, and international missions activities must be deposited in the account. Only private, nonpublic gifts, grants, and endowments may be deposited in the account. A person, as defined in RCW 42.52.010, may not donate, gift, grant, or endow more than five thousand dollars per calendar year to the legislative international trade account. Expenditures from the account may be used only for the purposes of international trade hosting, international relations, and international trade mission activities, excluding travel and lodging, in which the president and members of the senate, members of the house of representatives, and the secretary of state participate in an official capacity. An appropriation is not required for expenditures. All requests by individual legislators for use of funds from this account must be first approved by the secretary of the senate for members of the senate or the chief clerk of the house of representatives for members of the house of representatives. All expenditures from the account shall be authorized by the final signed approval of the chief clerk of the house of representatives, the secretary of the senate, and the president of the senate. [2003 c 265 § 1. Formerly RCW 44.04.270.]

43.15.060 Legislative committee on economic development and international relations—Purpose—Created—Membership. (1) Economic development and in particular international trade, tourism, and investment have become increasingly important to Washington, affecting the state's employment, revenues, and general economic well-being. Additionally, economic trends are rapidly changing and the international marketplace has become increasingly competitive as states and countries seek to improve and safeguard their own economic well-being. The purpose of the legislative committee on economic development and interna-

tional relations is to provide responsive and consistent involvement by the legislature in economic development to maintain a healthy state economy and to provide employment opportunities to Washington residents.

(2) There is created a legislative committee on economic development and international relations which shall consist of six senators and six representatives from the legislature and the lieutenant governor who shall serve as chairperson. The senate members of the committee shall be appointed by the president of the senate and the house members of the committee shall be appointed by the speaker of the house. Not more than three members from each house shall be from the same political party. A list of appointees shall be submitted before the close of each regular legislative session during an odd-numbered year or any successive special session convened by the governor or the legislature prior to the close of such regular session or successive special session(s) for confirmation of senate members, by the senate, and house members, by the house. Vacancies occurring shall be filled by the appointing authority. [2003 c 347 § 1; 1985 c 467 § 17. Formerly RCW 44.52.010.]

43.15.065 Legislative committee on economic development and international relations—Subcommittees—Rules of procedure. The committee shall by majority vote establish subcommittees, and prescribe rules of procedure for itself and its subcommittees which are consistent with this chapter. The committee shall at a minimum establish a subcommittee on international trade and a subcommittee on industrial development. [1985 c 467 § 18. Formerly RCW 44.52.020.]

43.15.070 Legislative committee on economic development and international relations—Powers—Study and review of economic issues. The committee or its subcommittees are authorized to study and review economic development issues with special emphasis on international trade, tourism, investment, and industrial development, and to assist the legislature in developing a comprehensive and consistent economic development policy. The issues under review by the committee shall include, but not be limited to:

(1) Evaluating existing state policies, laws, and programs which promote or affect economic development with special emphasis on those concerning international trade, tourism, and investment and determine their cost-effectiveness and level of cooperation with other public and private agencies.

(2) Monitoring economic trends, and developing for review by the legislature such appropriate state responses as may be deemed effective and appropriate.

(3) Monitoring economic development policies and programs of other states and nations and evaluating their effectiveness.

(4) Determining the economic impact of international trade, tourism, and investment upon the state's economy.

(5) Assessing the need for and effect of federal, regional, and state cooperation in economic development policies and programs.

(6) Developing and evaluating legislative proposals concerning the issues specified in this section. [1985 c 467 § 19. Formerly RCW 44.52.030.]

43.15.075 Legislative committee on economic development and international relations—Staff support. The committee shall receive the necessary staff support from both the senate and house staff resources. [1985 c 467 § 20. Formerly RCW 44.52.040.]

43.15.080 Legislative committee on economic development and international relations—Travel expenses. The members of the committee shall serve without additional compensation, but shall be reimbursed for their travel expenses, in accordance with RCW 44.04.120, incurred while attending sessions of the committee or meetings of any subcommittee of the committee, while engaged on other committee business authorized by the committee, and while going to and coming from committee sessions or committee meetings. [1985 c 467 § 21. Formerly RCW 44.52.050.]

43.15.085 Legislative committee on economic development and international relations—Expenses. All expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the auditor and signed by the chairperson or vice chairperson of the committee and attested by the secretary of the committee, and the authority of the chairperson and secretary to sign vouchers shall continue until their successors are selected after each ensuing session of the legislature. Vouchers may be drawn on funds appropriated generally by the legislature for legislative expenses or upon any special appropriation which may be provided by the legislature for the expenses of the committee or both. [1985 c 467 § 22. Formerly RCW 44.52.060.]

43.15.090 Legislative committee on economic development and international relations—Cooperation with committees, agencies, and councils. The committee shall cooperate, act, and function with legislative committees, executive agencies, and with the councils or committees of other states similar to this committee and with other interstate research organizations. [1985 c 467 § 23. Formerly RCW 44.52.070.]

43.15.900 Severability—1985 c 467. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 467 § 25. Formerly RCW 44.52.900.]

43.15.901 Effective date—1985 c 467. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985. [1985 c 467 § 26. Formerly RCW 44.52.901.]

Chapter 43.17 RCW

ADMINISTRATIVE DEPARTMENTS AND AGENCIES—GENERAL PROVISIONS

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43.17.400	Disposition of state-owned land—Definitions—Notice.

Collection agency use by state: RCW 19.16.500.

Debts owed to state, interest rate: RCW 43.17.240.

Facilitating recovery from Mt. St. Helens eruption—Scope of state agency action: RCW 43.01.210.

43.17.010 Departments created. There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of commerce, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, (15) the department of financial institutions, (16) the department of archaeology and historic preservation, (17) the department of early learning, and (18) the Puget Sound partnership, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide. [2009 c 565 § 25; 2007 c 341 § 46; 2006 c 265 § 111; 2005 c 333 § 10. Prior: 1993 sp.s. c 2 § 16; 1993 c 472 § 17; 1993 c 280 § 18; 1989 1st ex.s. c 9 § 810; 1987 c 506 § 2;

1985 c 466 § 47; 1984 c 125 § 12; 1981 c 136 § 61; 1979 c 10 § 1; prior: 1977 ex.s. c 334 § 5; 1977 ex.s. c 151 § 20; 1977 c 7 § 1; prior: 1975-'76 2nd ex.s. c 115 § 19; 1975-'76 2nd ex.s. c 105 § 24; 1971 c 11 § 1; prior: 1970 ex.s. c 62 § 28; 1970 ex.s. c 18 § 50; 1969 c 32 § 1; prior: 1967 ex.s. c 26 § 12; 1967 c 242 § 12; 1965 c 156 § 20; 1965 c 8 § 43.17.010; prior: 1957 c 215 § 19; 1955 c 285 § 2; 1953 c 174 § 1; prior: (i) 1937 c 111 § 1, part; RRS § 10760-2, part. (ii) 1935 c 176 § 1; 1933 c 3 § 1; 1929 c 115 § 1; 1921 c 7 § 2; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part. (iv) 1947 c 114 § 5; Rem. Supp. 1947 § 10786-10c.]

Severability—Effective date—2007 c 341: See RCW 90.71.906 and 90.71.907.

Part headings not law—Effective date—Severability—2006 c 265: See RCW 43.215.904 through 43.215.906.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Department of

agriculture: Chapter 43.23 RCW.
commerce: Chapter 43.330 RCW.
corrections: Chapter 72.09 RCW.
ecology: Chapter 43.21A RCW.
employment security: Chapter 50.08 RCW.
financial institutions: Chapter 43.320 RCW.
fish and wildlife: Chapters 43.300 and 77.04 RCW.
general administration: Chapter 43.19 RCW.
health: Chapter 43.70 RCW.
information services: Chapter 43.105 RCW.
labor and industries: Chapter 43.22 RCW.
licensing: Chapters 43.24, 46.01 RCW.
natural resources: Chapter 43.30 RCW.
personnel: Chapter 41.06 RCW.
retirement systems: Chapter 41.50 RCW.
revenue: Chapter 82.01 RCW.
services for the blind: Chapter 74.18 RCW.
social and health services: Chapter 43.20A RCW.
transportation: Chapter 47.01 RCW.
veterans affairs: Chapter 43.60A RCW.

Additional notes found at www.leg.wa.gov

43.17.020 Chief executive officers—Appointment.

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of commerce, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, (15) the director of financial institutions, (16) the director of the department of archaeology and historic preservation, (17) the director of early learning, and (18) the executive director of the Puget Sound partnership.

Such officers, except the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055. [2009 c 565 § 26; 2007 c 341 § 47; 2006 c 265 § 112. Prior: 2005 c 333 § 11; 2005 c 319 § 2; 1995 1st sp.s. c 2 § 2 (Referendum Bill No. 45, approved November 7, 1995); prior: 1993 sp.s. c 2 § 17; 1993 c 472 § 18; 1993 c 280 § 19; 1989 1st ex.s. c 9 § 811; 1987 c 506 § 3; 1985 c 466 § 48; 1984 c 125 § 13; 1981 c 136 § 62; 1979 c 10 § 2; prior: 1977 ex.s. c

(2010 Ed.)

334 § 6; 1977 ex.s. c 151 § 21; 1977 c 7 § 2; prior: 1975-'76 2nd ex.s. c 115 § 20; 1975-'76 2nd ex.s. c 105 § 25; 1971 c 11 § 2; prior: 1970 ex.s. c 62 § 29; 1970 ex.s. c 18 § 51; 1969 c 32 § 2; prior: 1967 ex.s. c 26 § 13; 1967 c 242 § 13; 1965 c 156 § 21; 1965 c 8 § 43.17.020; prior: 1957 c 215 § 20; 1955 c 285 § 3; 1953 c 174 § 2; prior: (i) 1935 c 176 § 2; 1933 c 3 § 2; 1929 c 115 § 2; 1921 c 7 § 3; RRS § 10761. (ii) 1937 c 111 § 1, part; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part.]

Severability—Effective date—2007 c 341: See RCW 90.71.906 and 90.71.907.

Part headings not law—Effective date—Severability—2006 c 265: See RCW 43.215.904 through 43.215.906.

Findings—Intent—2005 c 319: "The legislature finds that it is in the interest of the state to restructure the roles and responsibilities of the state's transportation agencies in order to improve efficiency and accountability. The legislature also finds that continued citizen oversight of the state's transportation system remains an important priority. To achieve these purposes, the legislature intends to provide direct accountability of the department of transportation to the governor, in his or her role as chief executive officer of state government, by making the secretary of transportation a cabinet-level official. Additionally, it is essential to clearly delineate between the separate and distinct roles and responsibilities of the executive and legislative branches of government. The role of executive is to oversee the implementation of transportation programs, while the legislature reserves to itself the role of policymaking. Finally, consolidating public outreach and auditing of the state's transportation agencies under a single citizen-governed entity, the transportation commission, will provide the public with information about the performance of the transportation system and an avenue for participation in its oversight." [2005 c 319 § 1.]

Part headings—2005 c 319: "Part headings used in this act are no part of the law." [2005 c 319 § 142.]

Effective dates—2005 c 319: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005, except for section 103 of this act which takes effect July 1, 2006." [2005 c 319 § 145.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Additional notes found at www.leg.wa.gov

43.17.030 Powers and duties—Oath. The directors of the several departments shall exercise such powers and perform such executive and administrative duties as are provided by law.

Each appointive officer before entering upon the duties of his or her office shall take and subscribe the oath of office prescribed by law for elective state officers, and file the same in the office of the secretary of state. [2009 c 549 § 5058; 1965 c 8 § 43.17.030. Prior: 1921 c 7 § 18; RRS § 10776.]

Oaths of elective state officers: RCW 43.01.020.

43.17.040 Chief assistant director—Powers. The director of each department may, from time to time, designate and deputize one of the assistant directors of his or her department to act as the chief assistant director, who shall have charge and general supervision of the department in the absence or disability of the director, and who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director. [2009 c 549 § 5059; 1965 c 8 § 43.17.040. Prior: 1921 c 7 § 118; RRS § 10876.]

43.17.050 Office at capital—Branch offices. Each department shall maintain its principal office at the state capital. The director of each department may, with the approval of the governor, establish and maintain branch offices at other places than the state capital for the conduct of one or more of the functions of his or her department.

The governor, in his or her discretion, may require all administrative departments of the state and the appointive officers thereof, other than those created by this chapter, to maintain their principal offices at the state capital in rooms to be furnished by the director of general administration. [2009 c 549 § 5060; 1965 c 8 § 43.17.050. Prior: (i) 1921 c 7 § 20; RRS § 10778. (ii) 1921 c 7 § 134; RRS § 10892.]

Departments to share occupancy—Capital projects surcharge: RCW 43.01.090.

Housing for state offices, departments, and institutions: Chapter 43.82 RCW.

43.17.060 Departmental rules and regulations. The director of each department may prescribe rules and regulations, not inconsistent with law, for the government of his or her department, the conduct of its subordinate officers and employees, the disposition and performance of its business, and the custody, use, and preservation of the records, papers, books, documents, and property pertaining thereto. [2009 c 549 § 5061; 1965 c 8 § 43.17.060. Prior: 1921 c 7 § 19; RRS § 10777.]

43.17.070 Administrative committees. There shall be administrative committees of the state government, which shall be known as: (1) The state finance committee and (2) the state capitol committee. [1982 c 40 § 8; 1965 c 8 § 43.17.070. Prior: 1929 c 115 § 3; 1921 c 7 § 4; RRS § 10762.]

State capitol committee: Chapter 43.34 RCW.

State finance committee: Chapter 43.33 RCW.

Additional notes found at www.leg.wa.gov

43.17.100 Surety bonds for appointive state officers and employees. Every appointive state officer and employee of the state shall give a surety bond, payable to the state in such sum as shall be deemed necessary by the director of the department of general administration, conditioned for the honesty of the officer or employee and for the accounting of all property of the state that shall come into his or her possession by virtue of his or her office or employment, which bond shall be approved as to form by the attorney general and shall be filed in the office of the secretary of state.

The director of general administration may purchase one or more blanket surety bonds for the coverage required in this section.

Any bond required by this section shall not be considered an official bond and shall not be subject to chapter 42.08 RCW. [2009 c 549 § 5062; 1977 ex.s. c 270 § 7; 1975 c 40 § 6; 1965 c 8 § 43.17.100. Prior: 1921 c 7 § 16; RRS § 10774.]

Official bonds: Chapter 42.08 RCW.

Powers and duties of director of general administration as to official bonds: RCW 43.41.360.

Additional notes found at www.leg.wa.gov

43.17.110 Data, information, interdepartmental assistance. Where power is vested in a department or officer to inspect, examine, secure data or information from, or procure assistance from, another department or officer, such other department or officer shall submit to such inspection or examination, and furnish the data, information, or assistance required. [1965 c 8 § 43.17.110. Prior: 1921 c 7 § 128; RRS § 10886.]

43.17.120 Designation of agency to carry out federal social security disability program. Such state agency as the governor may designate is hereby authorized to enter into an agreement on behalf of the state with the Secretary of Health, Education and Welfare to carry out the provisions of the federal social security act, as amended, relating to the making of determinations of disability under title II of such act. [1965 c 8 § 43.17.120. Prior: 1955 c 200 § 1. Formerly RCW 74.44.010.]

Federal social security for public employees: Chapters 41.33, 41.41, 41.47, and 41.48 RCW.

43.17.130 Designation of agency to carry out federal social security disability program—Appointment of personnel. The state agency entering into such agreement shall appoint such professional personnel and other assistants and employees as may be reasonably necessary to carry out the provisions of RCW 43.17.120 and 43.17.130. [1965 c 8 § 43.17.130. Prior: 1955 c 200 § 2. Formerly RCW 74.44.020.]

43.17.150 Receipt of property or money from United States attorney general—Use, expenditure—Deposit. (1) Each state agency is authorized to receive property or money made available by the attorney general of the United States under section 881(e) of Title 21 of the United States Code and, except as required to the contrary under subsection (2) of this section, to use the property or spend the money for such purposes as are permitted under both federal law and the state law specifying the powers and duties of the agency.

(2) Unless precluded by federal law, all funds received by a state agency under section 881(e) of Title 21 of the United States Code shall be promptly deposited into the state general fund. [2009 c 479 § 27; 1986 c 246 § 1.]

Effective date—2009 c 479: See note following RCW 2.56.030.

43.17.200 Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions. All state agencies including all state departments, boards, councils, commissions, and quasi public corporations shall allocate, as a nondeductible item, out of any moneys appropriated for the original construction of any public building, an amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission for the acquisition of works of art. The works of art may be placed on public lands, integral to or attached to a public building or structure, detached within or outside a public building or structure, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities. In addition to the cost of the works of art, the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration of

the visual arts program, including conservation of the state art collection, by the Washington state arts commission and all costs for installation of the works of art. For the purpose of this section building shall not include highway construction sheds, warehouses or other buildings of a temporary nature. [2005 c 36 § 4; 1983 c 204 § 4; 1974 ex.s. c 176 § 2.]

Acquisition of works of art for public buildings and lands—Visual arts program established: RCW 43.46.090.

Purchase of works of art interagency reimbursement for expenditure by visual arts program: RCW 43.17.205.
procedure: RCW 43.19.455.

State art collection: RCW 43.46.095.

Additional notes found at www.leg.wa.gov

43.17.205 Purchase of works of art—Interagency reimbursement for expenditure by visual arts program.

The funds allocated under RCW 43.17.200, 28A.335.210, and 28B.10.025 shall be subject to interagency reimbursement for expenditure by the visual arts program of the Washington state arts commission when the particular law providing for the appropriation becomes effective. For appropriations which are dependent upon the sale of bonds, the amount or proportionate amount of the moneys under RCW 43.17.200, 28A.335.210, and 28B.10.025 shall be subject to interagency reimbursement for expenditure by the visual arts program of the Washington state arts commission thirty days after the sale of a bond or bonds. [1990 c 33 § 574; 1983 c 204 § 3.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

43.17.210 Purchase of works of art—Procedure. The Washington state arts commission shall determine the amount to be made available for the purchase of art in consultation with the agency, except where another person or agency is specified under RCW 43.19.455, 28A.335.210, or 28B.10.025, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the directors of the state agencies. [2005 c 36 § 5; 1990 c 33 § 575; 1983 c 204 § 5.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

43.17.230 Emergency information telephone services—Accessibility from all phones required—Charges.

(1) The legislature finds that when the state provides emergency information by telephone to citizens that is of a critical nature, such as road or weather hazards, the information should be accessible from all residential, commercial, and coin-operated telephones. Information such as road and weather conditions should be available to all persons traveling within the state whether they own a telephone in this state or not.

(2010 Ed.)

(2) If an agency or department of the state makes emergency information services available by telephone, the agency or department shall ensure that the telephone line is accessible from all coin-operated telephones in this state by both the use of coins and the use of a telephone credit card.

(3) A state agency that provides an emergency information service by telephone may establish charges to recover the cost of those services. However, an agency charging for the service shall not price it at a profit to create excess revenue for the agency. The agency shall do a total cost-benefit analysis of the available methods of providing the service and shall adopt the method that provides the service at the lowest cost to the user and the agency.

(4) "Emergency information services," as used in this section, includes information on road and weather conditions. [1986 c 45 § 1.]

43.17.240 Debts owed to the state—Interest rate.

Interest at the rate of one percent per month, or fraction thereof, shall accrue on debts owed to the state, starting on the date the debts become past due. This section does not apply to: (1) Any instance where such interest rate would conflict with the provisions of a contract or with the provisions of any other law; or (2) debts to be paid by other governmental units. The office of financial management may adopt rules specifying circumstances under which state agencies may waive interest, such as when assessment or collection of interest would not be cost-effective. This section does not affect any authority of the state to charge or collect interest under any other law on a debt owed to the state by a governmental unit. This section applies only to debts which become due on or after July 28, 1991. [1991 c 85 § 2.]

Collection agency use by state: RCW 19.16.500.

43.17.250 Countywide planning policy. (1) Whenever a state agency is considering awarding grants or loans for a county, city, or town planning under RCW 36.70A.040 to finance public facilities, it shall consider whether the county, city, or town requesting the grant or loan has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(2) When reviewing competing requests from counties, cities, or towns planning under RCW 36.70A.040, a state agency considering awarding grants or loans for public facilities shall accord additional preference to those counties, cities, or towns that have adopted a comprehensive plan and development regulations as required by RCW 36.70A.040. For the purposes of the preference accorded in this section, a county, city, or town planning under RCW 36.70A.040 is deemed to have satisfied the requirements for adopting a comprehensive plan and development regulations specified in RCW 36.70A.040 if the county, city, or town:

(a) Adopts or has adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040;

(b) Adopts or has adopted a comprehensive plan and development regulations before submitting a request for a grant or loan if the county, city, or town failed to adopt a comprehensive plan and/or development regulations within the time periods specified in RCW 36.70A.040; or

(c) Demonstrates substantial progress toward adopting a comprehensive plan or development regulations within the time periods specified in RCW 36.70A.040. A county, city, or town that is more than six months out of compliance with the time periods specified in RCW 36.70A.040 shall not be deemed to demonstrate substantial progress for purposes of this section.

(3) The preference specified in subsection (2) of this section applies only to competing requests for grants or loans from counties, cities, or towns planning under RCW 36.70A.040. A request from a county, city, or town planning under RCW 36.70A.040 shall be accorded no additional preference based on subsection (2) of this section over a request from a county, city, or town not planning under RCW 36.70A.040.

(4) Whenever a state agency is considering awarding grants or loans for public facilities to a special district requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040 and shall apply the preference specified in subsection (2) of this section and restricted in subsection (3) of this section. [1999 c 164 § 601; 1991 sp.s. c 32 § 25.]

Reviser's note: 1991 sp.s. c 32 directed that this section be added to chapter 43.01 RCW. The placement appears inappropriate and the section has been codified as part of chapter 43.17 RCW.

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Additional notes found at www.leg.wa.gov

43.17.310 Businesses—Rules coordinator to provide list of rules. The rules coordinator under RCW 34.05.310 shall be knowledgeable regarding the agency's rules that affect businesses. The rules coordinator shall provide a list of agency rules applicable at the time of the request to a specific class or line of business, which are limited to that specific class or line as opposed to generic rules applicable to most businesses, to the *business assistance center when so requested by the *business assistance center for the specific class or line of business. [1992 c 197 § 5.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

43.17.320 Interagency disputes—Alternative dispute resolution—Definitions. For purposes of RCW 43.17.320 through 43.17.340, "state agency" means:

(1) Any agency for which the executive officer is listed in *RCW 42.17.2401(1); and

(2) The office of the secretary of state; the office of the state treasurer; the office of the state auditor; the department of natural resources; the office of the insurance commissioner; and the office of the superintendent of public instruction. [1993 c 279 § 2.]

***Reviser's note:** RCW 42.17.2401 was recodified as RCW 42.17A.705 pursuant to 2010 c 204 § 1102, effective January 1, 2012.

Intent—1993 c 279: "It is the intent of the legislature to reduce the number of time-consuming and costly lawsuits between state agencies by

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establishing alternative dispute resolution processes available to any agency." [1993 c 279 § 1.]

43.17.330 Interagency disputes—Alternative dispute resolution—Methods. Whenever a dispute arises between state agencies, agencies shall employ every effort to resolve the dispute themselves without resorting to litigation. These efforts shall involve alternative dispute resolution methods. If a dispute cannot be resolved by the agencies involved, any one of the disputing agencies may request the governor to assist in the resolution of the dispute. The governor shall employ whatever dispute resolution methods that the governor deems appropriate in resolving the dispute. Such methods may include, but are not limited to, the appointment by the governor of a mediator, acceptable to the disputing agencies, to assist in the resolution of the dispute. The governor may also request assistance from the attorney general to advise the mediator and the disputing agencies. [1993 c 279 § 3.]

Intent—1993 c 279: See note following RCW 43.17.320.

43.17.340 Interagency disputes—Alternative dispute resolution—Exception. RCW 43.17.320 and 43.17.330 shall not apply to any state agency that is a party to a lawsuit, which: (1) Impleads another state agency into the lawsuit when necessary for the administration of justice; or (2) files a notice of appeal, petitions for review, or makes other filings subject to time limits, in order to preserve legal rights and remedies. [1993 c 279 § 4.]

Intent—1993 c 279: See note following RCW 43.17.320.

43.17.350 Health-related state agencies—Professional health services—Fee schedules. For the purpose of accurately describing professional health services purchased by the state, health-related state agencies may develop fee schedules based on billing codes and service descriptions published by the American medical association or the United States federal health care financing administration, or develop agency unique codes and service descriptions. [1995 1st sp.s. c 6 § 20.]

Additional notes found at www.leg.wa.gov

43.17.360 Lease of real property—Term of a lease—Use of proceeds—Retroactive application. (1) The department of social and health services and other state agencies may lease real property and improvements thereon to a consortium of three or more counties in order for the counties to construct or otherwise acquire correctional facilities for juveniles or adults.

(2) A lease governed by subsection (1) of this section shall not charge more than one dollar per year for the land value and facilities value, during the initial term of the lease, but the lease may include provisions for payment of any reasonable operation and maintenance expenses incurred by the state.

The initial term of a lease governed by subsection (1) of this section shall not exceed twenty years, except as provided in subsection (4) of this section. A lease renewed under subsection (1) of this section after the initial term shall charge the fair rental value for the land and improvements other than those improvements paid for by a contracting consortium.

(2010 Ed.)

The renewed lease may also include provisions for payment of any reasonable operation and maintenance expenses incurred by the state. For the purposes of this subsection, fair rental value shall be determined by the commissioner of public lands in consultation with the department and shall not include the value of any improvements paid for by a contracting consortium.

(3) The net proceeds generated from any lease entered or renewed under subsection (1) of this section involving land and facilities on the grounds of eastern state hospital shall be used solely for the benefit of eastern state hospital programs for the long-term care needs of patients with mental disorders. These proceeds shall not supplant or replace funding from traditional sources for the normal operations and maintenance or capital budget projects. It is the intent of this subsection to ensure that eastern state hospital receives the full benefit intended by this section, and that such effect will not be diminished by budget adjustments inconsistent with this intent.

(4) The initial term of a lease under subsection (1) of this section entered into after January 1, 1996, and involving the grounds of Eastern State hospital, shall not exceed fifty years. This subsection applies retroactively, and the department shall modify any existing leases to comply with the terms of this subsection. No other terms of a lease modified by this subsection may be modified unless both parties agree. [1997 c 349 § 1; 1996 c 261 § 2.]

Additional notes found at www.leg.wa.gov

43.17.370 Prerelease copy of report or study to local government. (1) An agency, prior to releasing a final report or study regarding management by a county, city, town, special purpose district, or other unit of local government of a program delegated to the local government by the agency or for which the agency has regulatory responsibility, shall provide copies of a draft of the report or study at least two weeks in advance of the release of the final report or study to the legislative body of the local government. The agency shall, at the request of a local government legislative body, meet with the legislative body before the release of a final report or study regarding the management of such a program.

(2) For purposes of this section, "agency" means an office, department, board, commission, or other unit of state government, other than a unit of state government headed by a separately elected official. [1997 c 409 § 603.]

Additional notes found at www.leg.wa.gov

43.17.380 Quality management, accountability, and performance system—Definitions. As used in RCW 43.17.385 and 43.17.390:

(1) "State agency" or "agency" means a state agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education, and all offices of executive branch state government-elected officials, except agricultural commissions under Title 15 RCW.

(2) "Quality management, accountability, and performance system" means a nationally recognized integrated, interdisciplinary system of measures, tools, and reports used to improve the performance of a work unit or organization. [2005 c 384 § 2.]

(2010 Ed.)

Findings—2005 c 384: "The legislature finds that:

(1) Citizens demand and deserve accountability of public programs and activities. Public programs must continuously improve accountability and performance reporting in order to increase public trust.

(2) Washington state government agencies must continuously improve their management and performance so citizens receive maximum value for their tax dollars.

(3) The application of best practices in performance management has improved results and accountability in many Washington state agencies and other jurisdictions.

(4) All Washington state agencies must develop a performance-based culture that can better demonstrate accountability and achievement." [2005 c 384 § 1.]

43.17.385 Quality management, accountability, and performance system. (1) Each state agency shall, within available funds, develop and implement a quality management, accountability, and performance system to improve the public services it provides.

(2) Each agency shall ensure that managers and staff at all levels, including those who directly deliver services, are engaged in the system and shall provide managers and staff with the training necessary for successful implementation.

(3) Each agency shall, within available funds, ensure that its quality management, accountability, and performance system:

(a) Uses strategic business planning to establish goals, objectives, and activities consistent with the priorities of government, as provided in statute;

(b) Engages stakeholders and customers in establishing service requirements and improving service delivery systems;

(c) Includes clear, relevant, and easy-to-understand measures for each activity;

(d) Gathers, monitors, and analyzes activity data;

(e) Uses the data to evaluate the effectiveness of programs to manage process performance, improve efficiency, and reduce costs;

(f) Establishes performance goals and expectations for employees that reflect the organization's objectives; and provides for regular assessments of employee performance;

(g) Uses activity measures to report progress toward agency objectives to the agency director at least quarterly;

(h) Where performance is not meeting intended objectives, holds regular problem-solving sessions to develop and implement a plan for addressing gaps; and

(i) Allocates resources based on strategies to improve performance.

(4) Each agency shall conduct a yearly assessment of its quality management, accountability, and performance system.

(5) State agencies whose chief executives are appointed by the governor shall report to the governor on agency performance at least quarterly. The reports shall be included on the agencies', the governor's, and the office of financial management's web sites.

(6) The governor shall report annually to citizens on the performance of state agency programs. The governor's report shall include:

(a) Progress made toward the priorities of government as a result of agency activities; and

(b) Improvements in agency quality management systems, fiscal efficiency, process efficiency, asset management,

personnel management, statutory and regulatory compliance, and management of technology systems.

(7) Each state agency shall integrate efforts made under this section with other management, accountability, and performance systems undertaken under executive order or other authority. [2005 c 384 § 3.]

Findings—2005 c 384: See note following RCW 43.17.380.

43.17.390 Quality management, accountability, and performance system—Independent assessment. Starting in 2012, and at least once every three years thereafter, each agency shall apply to the Washington state quality award, or similar organization, for an independent assessment of its quality management, accountability, and performance system. The assessment shall evaluate the effectiveness of all elements of its management, accountability, and performance system, including: Leadership, strategic planning, customer focus, analysis and information, employee performance management, and process improvement. The purpose of the assessment is to recognize best practice and identify improvement opportunities. [2009 c 564 § 931; 2005 c 384 § 4.]

Effective date—2009 c 564: See note following RCW 2.68.020.

Findings—2005 c 384: See note following RCW 43.17.380.

43.17.400 Disposition of state-owned land—Definitions—Notice. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Disposition" means sales, exchanges, or other actions resulting in a transfer of land ownership.

(b) "State agencies" includes:

(i) The department of natural resources established in chapter 43.30 RCW;

(ii) The department of fish and wildlife established in chapter 43.300 RCW;

(iii) The department of transportation established in chapter 47.01 RCW;

(iv) The parks and recreation commission established in chapter 79A.05 RCW; and

(v) The department of general administration established in this chapter.

(2) State agencies proposing disposition of state-owned land must provide written notice of the proposed disposition to the legislative authorities of the counties, cities, and towns in which the land is located at least sixty days before entering into the disposition agreement.

(3) The requirements of this section are in addition and supplemental to other requirements of the laws of this state. [2007 c 62 § 2.]

Finding—Intent—2007 c 62: "The legislature recognizes that state agencies dispose of state-owned lands when these lands cannot be advantageously used by the agency or when dispositions are beneficial to the public's interest. The legislature also recognizes that dispositions of state-owned land can create opportunities for counties, cities, and towns wishing to purchase or otherwise acquire the lands, and citizens wishing to enjoy the lands for recreational or other purposes. However, the legislature finds that absent a specific requirement obligating state agencies to notify affected local governments of proposed land dispositions, occasions for governmental acquisition and public enjoyment of certain lands can be permanently lost.

Therefore, the legislature intends to enact an express and supplemental

requirement obligating state agencies to notify local governments of proposed land dispositions." [2007 c 62 § 1.]

Severability—2007 c 62: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2007 c 62 § 13.]

Chapter 43.19 RCW

DEPARTMENT OF GENERAL ADMINISTRATION

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Archives and records management division: Chapter 40.14 RCW.
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Housing for state offices, departments, and institutions: Chapter 43.82 RCW.
Inventory of state-owned property: RCW 43.19.19201, 43.20A.035, 43.20A.037, 43.41.150, 43.63A.510, 43.82.150, 47.12.064, 72.09.055, and 79.02.400.
Office located at state capital: RCW 43.17.050.
Parking facilities and traffic on capitol grounds: RCW 46.08.150 and 79.24.300 through 79.24.320.
Rules and regulations: RCW 43.17.060.

43.19.010 Director—Authority, appointment, salary.

The director of general administration shall be the executive head of the department of general administration. The director shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. The director shall receive a salary in an amount fixed by the governor in accordance with RCW 43.03.040. [1999 c 229 § 1; 1993 c 472 § 19; 1988 c 25 § 10; 1975 1st ex.s. c 167 § 1; 1965 c 8 § 43.19.010. Prior: 1959 c 301 § 1; 1955 c 285 § 4; 1955 c 195 § 6; 1935 c 176 § 11; prior: 1909 c 38 §§ 1-7; 1907 c 166 §§ 3-5; 1901 c 119 §§ 1-9; RRS § 10786-10.]

Additional notes found at www.leg.wa.gov

43.19.011 Director—Powers and duties. (1) The director of general administration shall supervise and administer the activities of the department of general administration and shall advise the governor and the legislature with respect to matters under the jurisdiction of the department.

(2) In addition to other powers and duties granted to the director, the director shall have the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the purposes of this chapter;

(b) Accept and expend gifts and grants that are related to the purposes of this chapter, whether such grants be of federal or other funds;

(c) Appoint a deputy director and such assistant directors and special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW;

(d) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(e) Delegate powers, duties, and functions as the director deems necessary for efficient administration, but the director shall be responsible for the official acts of the officers and employees of the department; and

(f) Perform other duties as are necessary and consistent with law.

(3) The director may establish additional advisory groups as may be necessary to carry out the purposes of this chapter.

(4) The internal affairs of the department shall be under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director shall have complete charge and supervisory powers over the department. The director may create such administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ such personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law. [1999 c 229 § 2.]

43.19.014 Notification requirements. Actions under this chapter are subject to the notification requirements of RCW 43.17.400. [2007 c 62 § 12.]

Finding—Intent—Severability—2007 c 62: See notes following RCW 43.17.400.

43.19.015 Certain powers and duties of director of public institutions transferred to director of financial institutions. The director of financial institutions shall have the power and duties of the director of public institutions contained in the following chapters of RCW: Chapter 33.04 RCW concerning savings and loan associations; and chapter 39.32 RCW concerning purchase of federal property. [1994 c 92 § 495; 1984 c 29 § 2; 1983 c 3 § 101; 1981 c 115 § 2; 1965 c 8 § 43.19.015. Prior: 1955 c 285 § 18.]

Additional notes found at www.leg.wa.gov

43.19.025 General administration services account. The general administration services account is created in the custody of the state treasurer and shall be used for all activities previously budgeted and accounted for in the following internal service funds: The motor transport account, the general administration management fund, the general administration facilities and services revolving fund, the central stores revolving fund, the surplus property purchase revolving fund, and the energy efficiency services account. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW. [2002 c 332 § 3; 2001 c 292 § 2; 1998 c 105 § 1.]

Intent—Effective date—2002 c 332: See notes following RCW 43.41.280.

Additional notes found at www.leg.wa.gov

43.19.035 Commemorative works account. (1) The commemorative works account is created in the custody of the state treasurer and shall be used by the department of general administration for the ongoing care, maintenance, and repair of commemorative works on the state capitol grounds. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not necessary for expenditures.

(2) For purposes of this section, "state capitol grounds" means buildings and land owned by the state and otherwise designated as state capitol grounds, including the west capitol campus, the east capitol campus, the north capitol campus, the Tumwater campus, the Lacey campus, Sylvester Park, Centennial Park, the Old Capitol Building, and Capitol Lake. [2005 c 16 § 1.]

43.19.123 Powers, duties, and functions pertaining to energy efficiency in public buildings—Transfer from state energy office—References to director or state energy office. (1) All powers, duties, and functions of the state energy office pertaining to energy efficiency in public buildings are transferred to the department of general administration. All references to the director or the state energy office in the Revised Code of Washington shall be construed to mean the director or the department of general administration when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the state energy office pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of general administration. All cabinets, furniture, office equipment, software, database, motor vehicles, and other tangible property employed by the state energy office in carrying out the powers, functions, and duties transferred shall be made available to the department of general administration. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of general administration.

(b) Any appropriations made to the state energy office for carrying out the powers, functions, and duties transferred shall, on July 1, 1996, be transferred and credited to the department of general administration.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) Within funds available, employees of the state energy office whose primary responsibility is performing the powers, functions, and duties pertaining to energy efficiency in public buildings are transferred to the jurisdiction of the department of general administration. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of general administration to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the state energy office pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of general administration. All existing contracts and obligations, excluding personnel contracts and obligations, shall remain in full force and shall be performed by the department of general administration.

(5) The transfer of the powers, duties, functions, and personnel of the state energy office shall not affect the validity of any act performed before July 1, 1996.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification. [1996 c 186 § 401.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

43.19.125 Powers and duties—Division of capitol buildings. (1) The director of general administration, through the division of capitol buildings, shall have custody and control of the capitol buildings and grounds, supervise and direct proper care, heating, lighting and repairing thereof, and designate rooms in the capitol buildings to be occupied by various state officials.

(2) During the 2007-2009 biennium, responsibility for development of the "Wheeler block" on the capitol campus as authorized in section 6013, chapter 520, Laws of 2007 shall be transferred from the department of general administration to the department of information services. The department of general administration and the department of information services shall develop a joint operating agreement for the new facilities on the "Wheeler block" and provide copies of that agreement to the appropriate committees of the legislature by December 30, 2008.

(3) During the 2007-2009 biennium, responsibility for development of the Pritchard building rehabilitation on the capitol campus as authorized in section 1090, chapter 520, Laws of 2007 shall be transferred from the department of general administration to the statute law committee. [2007 c 520 § 6014; 1965 c 8 § 43.19.125. Prior: 1959 c 301 § 2; 1955 c 285 § 9.]

Part headings not law—2007 c 520: "Part headings in this act are not any part of the law." [2007 c 520 § 6055.]

Severability—2007 c 520: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2007 c 520 § 6056.]

Effective dates—2007 c 520: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 15, 2007], except for section 6035 of this act which takes effect July 1, 2007, and section 6037 of this act which takes effect June 30, 2011." [2007 c 520 § 6057.]

Capitol campus design advisory committee: RCW 43.34.080.

East capitol site, acquisition and development: RCW 79.24.500 through 79.24.600.

Housing for state offices: Chapter 43.82 RCW.

Parking facilities and traffic on capitol grounds: RCW 79.24.300 through 79.24.320, 46.08.150.

Public buildings, earthquake standards for construction: Chapter 70.86 RCW.

43.19.180 State purchasing and material control director—Appointment—Personnel. The director of general administration shall appoint and deputize an assistant

director to be known as the state purchasing and material control director, who shall have charge and supervision of the division of purchasing. In this capacity he or she shall ensure that overall state purchasing and material control policy is implemented by state agencies, including educational institutions, within established time limits.

With the approval of the director of general administration, he or she may appoint and employ such assistants and personnel as may be necessary to carry on the work of the division. [2009 c 549 § 5063; 1975-'76 2nd ex.s. c 21 § 1; 1965 c 8 § 43.19.180. Prior: 1955 c 285 § 10; 1935 c 176 § 16; RRS § 10786-15; prior: 1921 c 7 § 31; RRS § 10789.]

Additional notes found at www.leg.wa.gov

43.19.185 State purchasing and material control director—System for the use of credit cards or similar devices to be developed—Rules. (1) The director of general administration through the state purchasing and material control director shall develop a system for state agencies and departments to use credit cards or similar devices to make purchases. The director may contract to administer the credit cards.

(2) The director of general administration through the state purchasing and material control director shall adopt rules for:

- (a) The distribution of the credit cards;
- (b) The authorization and control of the use of the credit cards;
- (c) The credit limits available on the credit cards;
- (d) Instructing users of gasoline credit cards to use self-service islands whenever possible;
- (e) Payments of the bills; and
- (f) Any other rule necessary to implement or administer the program under this section. [1987 c 47 § 1; 1982 1st ex.s. c 45 § 1.]

43.19.190 State purchasing and material control director—Powers and duties. The director of general administration, through the state purchasing and material control director, shall:

(1) Establish and staff such administrative organizational units within the division of purchasing as may be necessary for effective administration of the provisions of RCW 43.19.190 through 43.19.1939;

(2) Purchase all material, supplies, services, and equipment needed for the support, maintenance, and use of all state institutions, colleges, community colleges, technical colleges, college districts, and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state: PROVIDED, That the provisions of RCW 43.19.190 through 43.19.1937 do not apply in any manner to the operation of the state legislature except as requested by the legislature: PROVIDED, That any agency may purchase material, supplies, services, and equipment for which the agency has notified the purchasing and material control director that it is more cost-effective for the agency to make the purchase directly from the vendor: PROVIDED, That primary authority for the purchase of specialized equipment, instructional, and research

material for their own use shall rest with the colleges, community colleges, and universities: PROVIDED FURTHER, That universities operating hospitals and the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations: PROVIDED FURTHER, That primary authority for the purchase of materials, supplies, and equipment for resale to other than public agencies shall rest with the state agency concerned: PROVIDED FURTHER, That authority to purchase services as included herein does not apply to personal services as defined in chapter 39.29 RCW, unless such organization specifically requests assistance from the division of purchasing in obtaining personal services and resources are available within the division to provide such assistance: PROVIDED FURTHER, That the authority for the purchase of insurance and bonds shall rest with the risk manager under *RCW 43.19.1935: PROVIDED FURTHER, That, except for the authority of the risk manager to purchase insurance and bonds, the director is not required to provide purchasing services for institutions of higher education that choose to exercise independent purchasing authority under RCW 28B.10.029: PROVIDED FURTHER, That the authority to purchase interpreter services and interpreter brokerage services on behalf of limited-English speaking or sensory-impaired applicants and recipients of public assistance shall rest with the department of social and health services;

(3) Have authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify restrictions as to dollar amount or to specific types of material, equipment, services, and supplies. Acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with other sections of RCW 43.19.190 through 43.19.1939, or from policies established by the director. Also, delegation of such authorization to a state agency, including an educational institution to which this section applies, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies as established herein;

(4) Contract for the testing of material, supplies, and equipment with public and private agencies as necessary and advisable to protect the interests of the state;

(5) Prescribe the manner of inspecting all deliveries of supplies, materials, and equipment purchased through the division;

(6) Prescribe the manner in which supplies, materials, and equipment purchased through the division shall be delivered, stored, and distributed;

(7) Provide for the maintenance of a catalogue library, manufacturers' and wholesalers' lists, and current market information;

(8) Provide for a commodity classification system and may, in addition, provide for the adoption of standard specifications;

(9) Provide for the maintenance of inventory records of supplies, materials, and other property;

(10) Prepare rules and regulations governing the relationship and procedures between the division of purchasing and state agencies and vendors;

(11) Publish procedures and guidelines for compliance by all state agencies, including those educational institutions to which this section applies, which implement overall state purchasing and material control policies;

(12) Advise state agencies, including educational institutions, regarding compliance with established purchasing and material control policies under existing statutes. [2002 c 200 § 3; 1995 c 269 § 1401; 1994 c 138 § 1; 1993 sp.s. c 10 § 2; 1993 c 379 § 102; 1991 c 238 § 135. Prior: 1987 c 414 § 10; 1987 c 70 § 1; 1980 c 103 § 1; 1979 c 88 § 1; 1977 ex.s. c 270 § 4; 1975-'76 2nd ex.s. c 21 § 2; 1971 c 81 § 110; 1969 c 32 § 3; prior: 1967 ex.s. c 104 § 2; 1967 ex.s. c 8 § 51; 1965 c 8 § 43.19.190; prior: 1959 c 178 § 1; 1957 c 187 § 1; 1955 c 285 § 12; prior: (i) 1935 c 176 § 21; RRS § 10786-20. (ii) 1921 c 7 § 42; RRS § 10800. (iii) 1955 c 285 § 12; 1921 c 7 § 37, part; RRS § 10795, part.]

*Reviser's note: RCW 43.19.1935 was recodified as RCW 43.41.310 pursuant to 2002 c 332 § 25.

Findings—2002 c 200: See note following RCW 39.29.040.

Purpose—1993 sp.s. c 10: "The legislature recognizes the need for state agencies to maximize the buying power of increasingly scarce resources for the purchase of goods and services. The legislature seeks to provide state agencies with the ability to purchase goods and services at the lowest cost." [1993 sp.s. c 10 § 1.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Federal surplus property: Chapter 39.32 RCW.

Purchase of blind made products and services: Chapter 19.06 RCW.

Additional notes found at www.leg.wa.gov

43.19.1901 "Purchase" includes leasing or renting—Electronic data processing equipment excepted. The term "purchase" as used in RCW 43.19.190 through 43.19.200, and as they may hereafter be amended, shall include leasing or renting: PROVIDED, That the purchasing, leasing or renting of electronic data processing equipment shall not be included in the term "purchasing" if and when such transactions are otherwise expressly provided for by law.

The acquisition of job services and all other services for the family independence program under *chapter 74.21 RCW shall not be included in the term "purchasing" under this chapter. [1987 c 434 § 23; 1983 c 3 § 102; 1967 ex.s. c 104 § 1.]

*Reviser's note: Chapter 74.21 RCW expired June 30, 1993, pursuant to 1988 c 43 § 5.

43.19.1905 Statewide policy for purchasing and material control—Working group—Definitions. (1) The director of general administration shall establish overall state policy for compliance by all state agencies, including educational institutions, regarding the following purchasing and material control functions:

(a) Development of a state commodity coding system, including common stock numbers for items maintained in stores for reissue;

(b) Determination where consolidations, closures, or additions of stores operated by state agencies and educational institutions should be initiated;

(c) Institution of standard criteria for determination of when and where an item in the state supply system should be stocked;

(d) Establishment of stock levels to be maintained in state stores, and formulation of standards for replenishment of stock;

(e) Formulation of an overall distribution and redistribution system for stock items which establishes sources of supply support for all agencies, including interagency supply support;

(f) Determination of what function data processing equipment, including remote terminals, shall perform in statewide purchasing and material control for improvement of service and promotion of economy;

(g) Standardization of records and forms used statewide for supply system activities involving purchasing, receiving, inspecting, storing, requisitioning, and issuing functions, including a standard notification form for state agencies to report cost-effective direct purchases, which shall at least identify the price of the goods as available through the division of purchasing, the price of the goods as available from the alternative source, the total savings, and the signature of the notifying agency's director or the director's designee;

(h) Screening of supplies, material, and equipment excess to the requirements of one agency for overall state need before sale as surplus;

(i) Establishment of warehouse operation and storage standards to achieve uniform, effective, and economical stores operations;

(j) Establishment of time limit standards for the issuing of material in store and for processing requisitions requiring purchase;

(k) Formulation of criteria for determining when centralized rather than decentralized purchasing shall be used to obtain maximum benefit of volume buying of identical or similar items, including procurement from federal supply sources;

(l) Development of criteria for use of leased, rather than state owned, warehouse space based on relative cost and accessibility;

(m) Institution of standard criteria for purchase and placement of state furnished materials, carpeting, furniture, fixtures, and nonfixed equipment, in newly constructed or renovated state buildings;

(n) Determination of how transportation costs incurred by the state for materials, supplies, services, and equipment can be reduced by improved freight and traffic coordination and control;

(o) Establishment of a formal certification program for state employees who are authorized to perform purchasing functions as agents for the state under the provisions of chapter 43.19 RCW;

(p) Development of performance measures for the reduction of total overall expense for material, supplies, equipment, and services used each biennium by the state;

(q) Establishment of a standard system for all state organizations to record and report dollar savings and cost avoidance which are attributable to the establishment and imple-

mentation of improved purchasing and material control procedures;

(r) Development of procedures for mutual and voluntary cooperation between state agencies, including educational institutions, and political subdivisions for exchange of purchasing and material control services;

(s) Resolution of all other purchasing and material matters which require the establishment of overall statewide policy for effective and economical supply management;

(t) Development of guidelines and criteria for the purchase of vehicles, high gas mileage vehicles, alternate vehicle fuels and systems, equipment, and materials that reduce overall energy-related costs and energy use by the state, including investigations into all opportunities to aggregate the purchasing of clean technologies by state and local governments, and including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002);

(u) Development of goals for state use of recycled or environmentally preferable products through specifications for products and services, processes for requests for proposals and requests for qualifications, contractor selection, and contract negotiations;

(v) Development of procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments;

(w) Development of food procurement procedures and materials that encourage and facilitate the purchase of Washington grown food by state agencies and institutions to the maximum extent practicable and consistent with international trade agreement commitments; and

(x) Development of policies requiring all food contracts to include a plan to maximize to the extent practicable and consistent with international trade agreement commitments the availability of Washington grown food purchased through the contract.

(2) The department of general administration shall convene a working group including representatives of the office of financial management, the department of information services, and the state printer. The purpose of the working group is to work collaboratively to develop common policies and procedures that encourage and facilitate state government purchases from Washington small businesses, as required in subsection (1)(v) of this section, and in RCW 39.29.065, 43.78.110, and 43.105.041(1)(j). By December 1, 2009, these central services agencies shall jointly provide a written progress report to the governor and legislature on actions taken and planned, barriers identified, and solutions recommended to reach this goal.

(3) The definitions in this subsection apply throughout this section and RCW 43.19.1908.

(a) "Common vendor registration and bid notification system" has the definition in RCW 39.29.006.

(b) "Small business" has the definition in RCW 39.29.006.

(c) "Washington grown" has the definition in RCW 15.64.060. [2009 c 486 § 10; 2008 c 215 § 4. Prior: 2002 c 299 § 5; 2002 c 285 § 1; 1995 c 269 § 1402; 1993 sp.s. c 10 § 3; 1987 c 504 § 16; 1980 c 172 § 7; 1975-'76 2nd ex.s. c 21 § 5.]

Intent—2009 c 486: See note following RCW 39.29.006.

Conflict with federal requirements—2009 c 486: See note following RCW 28B.30.530.

Findings—Intent—Short title—Captions not law—Conflict with federal requirements—2008 c 215: See notes following RCW 15.64.060.

Purpose—1993 sp.s. c 10: See note following RCW 43.19.190.

Energy conservation—Legislative finding—Declaration—Purpose: RCW 43.19.668 and 43.19.669.

Additional notes found at www.leg.wa.gov

43.19.19052 Initial purchasing and material control policy—Legislative intent—Agency cooperation. Initial policy determinations for the functions described in RCW 43.19.1905 shall be developed and published within the 1975-77 biennium by the director for guidance and compliance by all state agencies, including educational institutions, involved in purchasing and material control. Modifications to these initial supply management policies established during the 1975-77 biennium shall be instituted by the director in future biennia as required to maintain an efficient and up-to-date state supply management system.

It is the intention of the legislature that measurable improvements in the effectiveness and economy of supply management in state government shall be achieved during the 1975-77 biennium, and each biennium thereafter. All agencies, departments, offices, divisions, boards, and commissions and educational, correctional, and other types of institutions are required to cooperate with and support the development and implementation of improved efficiency and economy in purchasing and material control. To effectuate this legislative intention, the director, through the state purchasing and material control director, shall have the authority to direct and require the submittal of data from all state organizations concerning purchasing and material control matters. [1998 c 245 § 54; 1995 c 269 § 1403; 1986 c 158 § 9; 1979 c 151 § 98; 1975-'76 2nd ex.s. c 21 § 6.]

Additional notes found at www.leg.wa.gov

43.19.19054 Exemptions from statewide policy for purchasing and material control. The provisions of RCW 43.19.1905 shall not apply to materials, supplies, and equipment purchased for resale to other than public agencies by state agencies, including educational institutions. In addition, RCW 43.19.1905 shall not apply to liquor purchased by the state for resale under the provisions of Title 66 RCW. [1975-'76 2nd ex.s. c 21 § 7.]

Additional notes found at www.leg.wa.gov

43.19.1906 Competitive bids—Procedure—Exceptions. Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed, electronic, or web-based bid procedure, subject to RCW 43.19.1911, shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by

RCW 43.19.190 through 43.19.1939. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 or under RCW 28B.10.029. However, formal sealed, electronic, or web-based competitive bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Purchases not exceeding thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management: PROVIDED, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the thirty-five thousand dollar bid limitation, or subsequent bid limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, to a lower dollar amount for purchases by individual state agencies if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. The agency shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. A record of competition for all such purchases from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit purposes. Purchases up to three thousand dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management division under RCW 43.41.310;

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is effective only when the state purchasing and material control director, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients;

(6) Purchases by universities for hospital operation or biomedical teaching or research purposes and by the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, made by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations;

(7) Purchases for resale by institutions of higher education to other than public agencies when such purchases are for the express purpose of supporting instructional programs and may best be executed through direct negotiation with one or more suppliers in order to meet the special needs of the institution;

(8) Purchases by institutions of higher education not exceeding thirty-five thousand dollars: PROVIDED, That for purchases between three thousand dollars and thirty-five thousand dollars quotations shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. For purchases between three thousand dollars and thirty-five thousand dollars, each institution of higher education shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. A record of competition for all such purchases made from three thousand to thirty-five thousand dollars shall be documented for audit purposes;

(9) Off-contract purchases of Washington grown food when such food is not available from Washington sources through an existing contract. However, Washington grown food purchased under this subsection must be of an equivalent or better quality than similar food available through the contract and be able to be paid from the agency's existing budget. This requirement also applies to purchases and contracts for purchases executed by state agencies, including institutions of higher education, under delegated authority granted in accordance with RCW 43.19.190 or under RCW 28B.10.029; and

(10) Negotiation of a contract by the department of transportation, valid until June 30, 2001, with registered tow truck operators to provide roving service patrols in one or more Washington state patrol tow zones whereby those registered tow truck operators wishing to participate would cooperatively, with the department of transportation, develop a demonstration project upon terms and conditions negotiated by the parties.

Beginning on July 1, 1995, and on July 1st of each succeeding odd-numbered year, the dollar limits specified in this section shall be adjusted as follows: The office of financial management shall calculate such limits by adjusting the previous biennium's limits by the appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest one hundred dollars. However, the three thousand dollar figure in subsections (2) and (8) of this section may not be adjusted to exceed five thousand dollars.

As used in this section, "Washington grown" has the definition in RCW 15.64.060. [2008 c 215 § 5; 2006 c 363 § 1;

(2010 Ed.)

2002 c 332 § 4. Prior: 1999 sp.s. c 1 § 606; 1999 c 195 § 1; 1999 c 106 § 1; 1995 c 269 § 1404; 1994 c 300 § 1; 1993 c 379 § 103; 1992 c 85 § 1; prior: 1987 c 81 § 1; 1987 c 70 § 2; 1985 c 342 § 1; 1984 c 102 § 3; 1983 c 141 § 1; 1980 c 103 § 2; 1979 ex.s. c 14 § 1; 1977 ex.s. c 270 § 5; 1975-'76 2nd ex.s. c 21 § 8; 1965 c 8 § 43.19.1906; prior: 1959 c 178 § 4.]

Findings—Intent—Short title—Captions not law—Conflict with federal requirements—2008 c 215: See notes following RCW 15.64.060.

Intent—Effective date—2002 c 332: See notes following RCW 43.41.280.

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Findings—1984 c 102: See note following RCW 43.19.200.

Additional notes found at www.leg.wa.gov

43.19.1908 Bids—Solicitation—Qualified bidders.

Competitive bidding required by RCW 43.19.190 through 43.19.1939 shall be solicited by public notice, by posting of the contract opportunity on the state's common vendor registration and bid notification system, and through the sending of notices by mail, electronic transmission, or other means to bidders on the appropriate list of bidders who shall have qualified by application to the division of purchasing. Bids may be solicited by the purchasing division from any source thought to be of advantage to the state. All bids shall be in written or electronic form and conform to rules of the division of purchasing. [2009 c 486 § 11; 2006 c 363 § 2; 1994 c 300 § 2; 1965 c 8 § 43.19.1908. Prior: 1959 c 178 § 5.]

Intent—2009 c 486: See note following RCW 39.29.006.

Conflict with federal requirements—2009 c 486: See note following RCW 28B.30.530.

43.19.1911 Competitive bids—Notice of modification or cancellation—Cancellation requirements—Lowest responsible bidder—Preferential purchase—Life cycle costing.

(1) Preservation of the integrity of the competitive bid system dictates that after competitive bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid pursuant to subsections (7) and (9) of this section, unless there is a compelling reason to reject all bids and cancel the solicitation.

(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the purchasing agency, division, or department head, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a solicitation.

(3) After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.

(4) A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the purchasing agency, division, or department head determines in writing that:

(a) Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;

(b) Specifications, terms, conditions, or requirements have been revised;

(c) The supplies or services being contracted for are no longer required;

(d) The solicitation did not provide for consideration of all factors of cost to the agency;

(e) Bids received indicate that the needs of the agency can be satisfied by a less expensive article differing from that for which the bids were invited;

(f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the agency cannot determine the reasonableness of the bid price;

(g) No responsive bid has been received from a responsible bidder; or

(h) The bid process was not fair or equitable.

(5) The agency, division, or department head may not delegate his or her authority under this section.

(6) After the opening of bids, an agency may not reject all bids and enter into direct negotiations to complete the planned acquisition. However, the agency can enter into negotiations exclusively with the lowest responsible bidder in order to determine if the lowest responsible bid may be improved. Until December 31, 2009, for purchases requiring a formal bid process the agency shall also enter into negotiations with and may consider for award the lowest responsible bidder that is a vendor in good standing, as defined in RCW 43.19.525. An agency shall not use this negotiation opportunity to permit a bidder to change a nonresponsive bid into a responsive bid.

(7) In determining the lowest responsible bidder, the agency shall consider any preferences provided by law to Washington products and vendors and to RCW 43.19.704, and further, may take into consideration the quality of the articles proposed to be supplied, their conformity with specifications, the purposes for which required, and the times of delivery.

(8) Each bid with the name of the bidder shall be entered of record and each record, with the successful bid indicated, shall, after letting of the contract, be open to public inspection. Bid prices shall not be disclosed during electronic or web-based bidding before the letting of the contract.

(9) In determining "lowest responsible bidder", in addition to price, the following elements shall be given consideration:

(a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws relating to the contract or services;

(f) Such other information as may be secured having a bearing on the decision to award the contract: PROVIDED, That in considering bids for purchase, manufacture, or lease, and in determining the "lowest responsible bidder," when-

ever there is reason to believe that applying the "life cycle costing" technique to bid evaluation would result in lowest total cost to the state, first consideration shall be given by state purchasing activities to the bid with the lowest life cycle cost which complies with specifications. "Life cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner. Nothing in this section shall prohibit any state agency, department, board, commission, committee, or other state-level entity from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused. [2006 c 363 § 3; 2005 c 204 § 5; 2003 c 136 § 6; 1996 c 69 § 2; 1989 c 431 § 60; 1983 c 183 § 4; 1980 c 172 § 8; 1965 c 8 § 43.19.1911. Prior: 1959 c 178 § 6.]

Intent—1996 c 69: "It is the intent of the legislature to preserve the integrity of the competitive bidding system for state contracts. This dictates that, after competitive bids have been opened, the agency must award the contract to the responsible bidder who submitted the lowest responsive bid and that only in limited compelling circumstances may the agency reject all bids and cancel the solicitation. Further, after opening the competitive bids, the agency may not reject all bids and enter into direct negotiations with the bidders to complete the acquisition." [1996 c 69 § 1.]

Energy conservation—Legislative finding—Declaration—Purpose: RCW 43.19.668 and 43.19.669.

Additional notes found at www.leg.wa.gov

43.19.1913 Rejection of bid for previous unsatisfactory performance. The division of purchasing may reject the bid of any bidder who has failed to perform satisfactorily a previous contract with the state. [1965 c 8 § 43.19.1913. Prior: 1959 c 178 § 7.]

43.19.1914 Low bidder claiming error—Prohibition on later bid for same project. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same purchase or project if a second or subsequent call for bids is made for the project. [1996 c 18 § 7.]

43.19.1915 Bidder's bond—Annual bid bond. When any bid has been accepted, the division of purchasing may require of the successful bidder a bond payable to the state in such amount with such surety or sureties as determined by the division of purchasing, conditioned that he or she will fully, faithfully and accurately execute the terms of the contract into which he or she has entered. The bond shall be filed in the office of the division of purchasing. Bidders who regularly do business with the state shall be permitted to file with the division of purchasing an annual bid bond in an amount established by the division and such annual bid bond shall be acceptable as surety in lieu of furnishing surety with individual bids. [2009 c 549 § 5064; 1965 c 8 § 43.19.1915. Prior: 1959 c 178 § 8.]

43.19.1917 Records of equipment owned by state—Inspection—"State equipment" defined. All state agencies, including educational institutions, shall maintain a per-

petual record of ownership of state owned equipment, which shall be available for the inspection and check of those officers who are charged by law with the responsibility for auditing the records and accounts of the state organizations owning the equipment, or to such other special investigators and others as the governor may direct. In addition, these records shall be made available to members of the legislature, the legislative committees, and legislative staff on request.

All state agencies, including educational institutions, shall account to the office of financial management upon request for state equipment owned by, assigned to, or otherwise possessed by them and maintain such records as the office of financial management deems necessary for proper accountability therefor. The office of financial management shall publish a procedural directive for compliance by all state agencies, including educational institutions, which establishes a standard method of maintaining records for state owned equipment, including the use of standard state forms. This published directive also shall include instructions for reporting to the division of purchasing all state equipment which is excess to the needs of state organizations owning such equipment. The term "state equipment" means all items of machines, tools, furniture, or furnishings other than expendable supplies and materials as defined by the office of financial management. [1979 c 88 § 3; 1975-'76 2nd ex.s. c 21 § 9; 1969 ex.s. c 53 § 2; 1965 c 8 § 43.19.1917. Prior: 1959 c 178 § 9.]

Additional notes found at www.leg.wa.gov

43.19.1919 Surplus personal property—Sale, exchange—Exceptions and limitations. The division of purchasing shall sell or exchange personal property belonging to the state for which the agency, office, department, or educational institution having custody thereof has no further use, at public or private sale, and cause the moneys realized from the sale of any such property to be paid into the fund from which such property was purchased or, if such fund no longer exists, into the state general fund. This requirement is subject to the following exceptions and limitations:

(1) This section does not apply to property under RCW 27.53.045, 28A.335.180, or 43.19.1920;

(2) Sales of capital assets may be made by the division of purchasing and a credit established in central stores for future purchases of capital items as provided for in RCW 43.19.190 through 43.19.1939;

(3) Personal property, excess to a state agency, including educational institutions, shall not be sold or disposed of prior to reasonable efforts by the division of purchasing to determine if other state agencies have a requirement for such personal property. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known. Surplus items may be disposed of without prior notification to state agencies if it is determined by the director of general administration to be in the best interest of the state. The division of purchasing shall maintain a record of disposed surplus property, including date and method of disposal, identity of any recipient, and approximate value of the property;

(4) This section does not apply to personal property acquired by a state organization under federal grants and con-

tracts if in conflict with special title provisions contained in such grants or contracts;

(5) A state agency having a surplus personal property asset with a fair market value of less than five hundred dollars may transfer the asset to another state agency without charging fair market value. A state agency conducting this action must maintain adequate records to comply with agency inventory procedures and state audit requirements. [2000 c 183 § 1; 1997 c 264 § 2; (1995 2nd sp.s. c 14 § 513 expired June 30, 1997); 1991 c 216 § 2; 1989 c 144 § 1; 1988 c 124 § 8; 1975-'76 2nd ex.s. c 21 § 11; 1965 c 8 § 43.19.1919. Prior: 1959 c 178 § 10.]

Findings—1991 c 216: "The legislature finds that (1) there are an increasing number of persons who are unable to meet their basic needs relating to shelter, clothing, and nourishment; (2) there are many nonprofit organizations and units of local government that provide shelter and other assistance to these persons but that these organizations are finding it difficult to meet the increasing demand for such assistance; and (3) the numerous agencies and institutions of state government generate a significant quantity of surplus, tangible personal property that would be of great assistance to homeless persons throughout the state. Therefore, the legislature finds that it is in the best interest of the state to provide for the donation of state-owned, surplus, tangible property to assist the homeless in meeting their basic needs." [1991 c 216 § 1.]

Severability—Intent—Application—1988 c 124: See RCW 27.53.901 and notes following RCW 27.53.030.

Additional notes found at www.leg.wa.gov

43.19.19190 Surplus property—Exemption for original or historic state capitol furnishings. Original or historic furnishings from the state capitol group under RCW 27.48.040 do not constitute surplus property under this chapter. [1999 c 343 § 3.]

Findings—Purpose—1999 c 343: See note following RCW 27.48.040.

43.19.19191 Surplus computers and computer-related equipment—Donation to school districts or educational service districts. (1) In addition to disposing of property under RCW 28A.335.180, 39.33.010, 43.19.1919, and 43.19.1920, state-owned, surplus computers and computer-related equipment may be donated to any school district or educational service district under the guidelines and distribution standards established pursuant to subsection (2) of this section.

(2) By September 1, 1999, the department and office of the superintendent of public instruction shall jointly develop guidelines and distribution standards for the donation of state-owned, surplus computers and computer-related equipment to school districts and educational service districts. The guidelines and distribution standards shall include considerations for quality, school-district needs, and accountability, and shall give priority to meeting the computer-related needs of children with disabilities, including those disabilities necessitating the portability of laptop computers. [1999 c 186 § 1.]

43.19.1920 Surplus personal property—Donation to emergency shelters. The division of purchasing may donate state-owned, surplus, tangible personal property to shelters that are: Participants in the department of community, trade, and economic development's emergency shelter assistance program; and operated by nonprofit organizations or units of

local government providing emergency or transitional housing for homeless persons. A donation may be made only if all of the following conditions have been met:

(1) The division of purchasing has made reasonable efforts to determine if any state agency has a requirement for such personal property and no such agency has been identified. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known;

(2) The agency owning the property has authorized the division of purchasing to donate the property in accordance with this section;

(3) The nature and quantity of the property in question is directly germane to the needs of the homeless persons served by the shelter and the purpose for which the shelter exists and the shelter agrees to use the property for such needs and purposes; and

(4) The director of general administration has determined that the donation of such property is in the best interest of the state. [1995 c 399 § 63; 1991 c 216 § 3.]

Findings—1991 c 216: See note following RCW 43.19.1919.

Emergency shelter assistance program: Chapter 365-120 WAC.

43.19.19201 Affordable housing—Inventory of suitable property. (1) The department of general administration shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department of general administration shall provide a copy of the inventory to the *department of community, trade, and economic development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department of general administration shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1995 c 399 § 64; 1993 c 461 § 7.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—1993 c 461: See note following RCW 43.63A.510.

43.19.1921 Central stores warehouse facilities—Central maintenance, repair—Sales, exchanges, between state agencies. The director of general administration, through the division of purchasing, shall:

(1) Establish and maintain warehouses hereinafter referred to as "central stores" for the centralized storage and distribution of such supplies, equipment, and other items of common use in order to effect economies in the purchase of supplies and equipment for state agencies. To provide central stores warehouse facilities the division of purchasing may, by arrangement with the state agencies, utilize any surplus available state owned space, and may acquire other needed ware-

house facilities by lease or purchase of the necessary premises;

(2) Provide for the central salvage, maintenance, repair, and servicing of equipment, furniture, or furnishings used by state agencies, and also by means of such a service provide an equipment pool for effecting sales and exchanges of surplus and unused property by and between state agencies. Funds derived from the sale and exchange of property shall be placed to the account of the appropriate state agency on the central stores accounts but such funds may not be expended through central stores without prior approval of the office of financial management. [1979 c 151 § 100; 1965 c 8 § 43.19.1921. Prior: 1959 c 178 § 11.]

43.19.1923 General administration services account—Use. The general administration services account shall be used for the purchase of supplies and equipment handled or rented through central stores, and the payment of salaries, wages, and other costs incidental to the acquisition, operation, and maintenance of the central stores, and other activities connected therewith, which shall include utilities services. The account shall be credited with all receipts from the rental, sale, or distribution of supplies, equipment, and services rendered to the various state agencies. Central stores, utilities services, and other activities within the general administration services account shall be treated as separate operating entities for financial and accounting control. Financial records involving the general administration services account shall be designed to provide data for achieving maximum effectiveness and economy of each individual activity within the account. [2001 c 292 § 3; 1998 c 105 § 6; 1991 sp.s. c 16 § 921; 1987 c 504 § 17; 1975-'76 2nd ex.s. c 21 § 12; 1967 ex.s. c 104 § 5; 1965 c 8 § 43.19.1923. Prior: 1959 c 178 § 12.]

Additional notes found at www.leg.wa.gov

43.19.1925 Combined purchases of commonly used items—Advance payments by state agencies—Costs of operating central stores. To supply such funds as may be necessary for making combined purchases of items or services of common use by central stores, state agencies shall, upon request of the division of purchasing, from time to time, make advance payments into the general administration services account from funds regularly appropriated to them for the procurement of supplies, equipment, and services: PROVIDED, That advance payment for services shall be on a quarterly basis: PROVIDED FURTHER, That any person, firm or corporation other than central stores rendering services for which advance payments are made shall deposit cash or furnish surety bond coverage to the state in an amount as shall be fixed by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. Funds so advanced to central stores shall be used only for the combined procurement, storage, and delivery of such stocks of supplies, equipment, and services as are requisitioned by the agency and shall be offset and repaid to the respective state agencies by an equivalent value in merchan-

dise supplied and charged out from time to time from central stores. Costs of operation of central stores may be recovered by charging as part of the value of materials, supplies, or services an amount sufficient to cover the costs of operating central stores. [1998 c 105 § 7; 1975 c 40 § 8; 1973 c 104 § 2; 1965 c 8 § 43.19.1925. Prior: 1959 c 178 § 13.]

Powers and duties of director of general administration as to official bonds:
RCW 43.41.360.

Additional notes found at www.leg.wa.gov

43.19.1932 Correctional industries goods and services—Sales and purchases. The department of corrections shall be exempt from the following provisions of this chapter in respect to goods or services purchased or sold pursuant to the operation of correctional industries: RCW 43.19.180, 43.19.190, 43.19.1901, 43.19.1905, 43.19.1906, 43.19.1908, 43.19.1911, 43.19.1913, 43.19.1915, 43.19.1917, 43.19.1919, 43.19.1921, 43.19.1925, and 43.19.200. [1989 c 185 § 2; 1981 c 136 § 14.]

Additional notes found at www.leg.wa.gov

43.19.1937 Acceptance of benefits, gifts, etc., prohibited—Penalties. No state employee whose duties performed for the state include:

- (1) Advising on or drawing specifications for supplies, equipment, commodities, or services;
- (2) Suggesting or determining vendors to be placed upon a bid list;
- (3) Drawing requisitions for supplies, equipment, commodities, or services;
- (4) Evaluating specifications or bids and suggesting or determining awards; or
- (5) Accepting the receipt of supplies, equipment, and commodities or approving the performance of services or contracts;

shall accept or receive, directly or indirectly, a personal financial benefit, or accept any gift, token, membership, or service, as a result of a purchase entered into by the state, from any person, firm, or corporation engaged in the sale, lease, or rental of property, material, supplies, equipment, commodities, or services to the state of Washington.

Violation of this section shall be considered a malfeasance and may cause loss of position, and the violator shall be liable to the state upon his or her official bond for all damages sustained by the state. Contracts involved may be canceled at the option of the state. Penalties provided in this section are not exclusive, and shall not bar action under any other statute penalizing the same act or omission. [2009 c 549 § 5065; 1995 c 269 § 1405; 1975-'76 2nd ex.s. c 21 § 13; 1965 c 8 § 43.19.1937. Prior: 1959 c 178 § 19.]

Public officers

code of ethics: Chapters 42.23 and 42.52 RCW.

misconduct: Chapter 42.20 RCW.

Additional notes found at www.leg.wa.gov

43.19.1939 Unlawful to offer, give, accept, benefits as inducement for or to refrain from bidding—Penalty. (1) When any competitive bid or bids are to be or have been solicited, requested, or advertised for by the state under the provisions of RCW 43.19.190 through 43.19.1939, it shall be unlawful for any person acting for himself, herself, or as

agent of another, to offer, give, or promise to give, any money, check, draft, property, or other thing of value, to another for the purpose of inducing such other person to refrain from submitting any bids upon such purchase or to enter into any agreement, understanding or arrangement whereby full and unrestricted competition for the securing of such public work will be suppressed, prevented, or eliminated; and it shall be unlawful for any person to solicit, accept or receive any money, check, draft, property, or other thing of value upon a promise or understanding, express or implied, that he or she individually or as an agent or officer of another will refrain from bidding upon such contract, or that he or she will on behalf of himself, herself, or such others submit or permit another to submit for him or her any bid upon such purchase in such sum as to eliminate full and unrestricted competition thereon.

(2) Any person violating this section is guilty of a misdemeanor. [2003 c 53 § 226; 1965 c 8 § 43.19.1939. Prior: 1959 c 178 § 20.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Competitive bidding on public works, suppression or collusion, penalty:
RCW 9.18.120 through 9.18.150.

43.19.200 Duty of others in relation to purchases—Emergency purchases—Written notifications. (1) The governing authorities of the state's educational institutions, the elective state officers, the supreme court, the court of appeals, the administrative and other departments of the state government, and all appointive officers of the state, shall prepare estimates of the supplies required for the proper conduct and maintenance of their respective institutions, offices, and departments, covering periods to be fixed by the director, and forward them to the director in accordance with his or her directions. No such authorities, officers, or departments, or any officer or employee thereof, may purchase any article for the use of their institutions, offices, or departments, except in case of emergency purchases as provided in subsection (2) of this section.

(2) The authorities, officers, and departments enumerated in subsection (1) of this section may make emergency purchases in response to unforeseen circumstances beyond the control of the agency which present a real, immediate, and extreme threat to the proper performance of essential functions or which may reasonably be expected to result in excessive loss or damage to property, bodily injury, or loss of life. When an emergency purchase is made, the agency head shall submit written notification of the purchase, within three days of the purchase, to the director of general administration. This notification shall contain a description of the purchase, description of the emergency and the circumstances leading up to the emergency, and an explanation of why the circumstances required an emergency purchase.

(3) Purchases made for the state's educational institutions, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of the state government, and the offices of all appointive officers of the state, shall be paid for out of the moneys appropriated for supplies, material, and service of the respective institutions, offices, and departments.

(4) The director of general administration shall submit, on an annual basis, the written notifications required by subsection (2) of this section to the director of financial management. [2009 c 549 § 5066; 1986 c 158 § 10; 1984 c 102 § 2; 1971 c 81 § 111; 1965 c 8 § 43.19.200. Prior: 1955 c 285 § 13; prior: 1921 c 7 § 37, part; RRS § 10795, part.]

Findings—1984 c 102: "The legislature finds that the emergency purchasing provisions of state law are being more liberally construed than the legislature originally intended. Therefore, the legislature finds that it is necessary to clarify the law as it pertains to emergency purchases and to provide a mechanism for legislative oversight." [1984 c 102 § 1.]

43.19.205 Chapter not applicable to certain transfers of property. This chapter does not apply to transfers of property under *sections 1 and 2 of this act. [2006 c 35 § 5.]

***Reviser's note:** The reference to "sections 1 and 2 of this act" appears to be erroneous. Reference to "sections 2 and 3 of this act" codified as RCW 43.99C.070 and 43.83D.120 was apparently intended.

Findings—2006 c 35: See note following RCW 43.99C.070.

43.19.450 Supervisor of engineering and architecture—Qualifications—Appointment—Powers and duties—Delegation of authority. The director of general administration shall appoint and deputize an assistant director to be known as the supervisor of engineering and architecture who shall have charge and supervision of the division of engineering and architecture. With the approval of the director, the supervisor may appoint and employ such assistants and personnel as may be necessary to carry out the work of the division.

No person shall be eligible for appointment as supervisor of engineering and architecture unless he or she is licensed to practice the profession of engineering or the profession of architecture in the state of Washington and for the last five years prior to his or her appointment has been licensed to practice the profession of engineering or the profession of architecture.

As used in this section, "state facilities" includes all state buildings, related structures, and appurtenances constructed for any elected state officials, institutions, departments, boards, commissions, colleges, community colleges, except the state universities, The Evergreen State College and regional universities. "State facilities" does not include facilities owned by or used for operational purposes and constructed for the department of transportation, department of fish and wildlife, department of natural resources, or state parks and recreation commission.

The director of general administration, through the division of engineering and architecture shall:

(1) Prepare cost estimates and technical information to accompany the capital budget and prepare or contract for plans and specifications for new construction and major repairs and alterations to state facilities.

(2) Contract for professional architectural, engineering, and related services for the design of new state facilities and major repair or alterations to existing state facilities.

(3) Provide contract administration for new construction and the repair and alteration of existing state facilities.

(4) In accordance with the public works laws, contract on behalf of the state for the new construction and major repair or alteration of state facilities.

The director may delegate any and all of the functions under subsections (1) through (4) of this section to any agency upon such terms and conditions as considered advisable.

The director may delegate the authority granted to the department under *RCW 39.04.150 to any agency upon such terms as considered advisable. [1994 c 264 § 15; 1988 c 36 § 14; 1982 c 98 § 3; 1981 c 136 § 63; 1979 c 141 § 45; 1965 c 8 § 43.19.450. Prior: 1959 c 301 § 4.]

***Reviser's note:** RCW 39.04.150 was repealed by 2000 c 138 § 301.

Additional notes found at www.leg.wa.gov

43.19.455 Purchase of works of art—Procedure. Except as provided under RCW 43.17.210, the Washington state arts commission shall determine the amount to be made available for the purchase of art under RCW 43.17.200 in consultation with the director of general administration, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the director of general administration. [2005 c 36 § 6; 1990 c 33 § 576; 1983 c 204 § 6; 1974 ex.s. c 176 § 3.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Acquisition of works of art for public buildings and lands—Visual arts program established: RCW 43.46.090.

Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions: RCW 43.17.200.

State art collection: RCW 43.46.095.

Additional notes found at www.leg.wa.gov

43.19.500 General administration services account—Use. The general administration services account shall be used by the department of general administration for the payment of certain costs, expenses, and charges, as specified in this section, incurred by it in the operation and administration of the department in the rendering of services, the furnishing or supplying of equipment, supplies and materials, and for providing or allocating facilities, including the operation, maintenance, rehabilitation, or furnishings thereof to other agencies, offices, departments, activities, and other entities enumerated in RCW 43.01.090 and including the rendering of services in acquiring real estate under RCW 43.82.010 and the operation and maintenance of public and historic facilities at the state capitol, as defined in RCW 79.24.710. The department shall treat the rendering of services in acquiring real estate and the operation and maintenance of state capitol public and historic facilities as separate operating entities within the account for financial accounting and control.

The schedule of services, facilities, equipment, supplies, materials, maintenance, rehabilitation, furnishings, operations, and administration to be so financed and recovered shall be determined jointly by the director of general administration and the director of financial management, in equitable amounts which, together with any other income or appropriation, will provide the department of general administration with funds to meet its anticipated expenditures during any allotment period.

The director of general administration may adopt rules governing the provisions of RCW 43.01.090 and this section and the relationships and procedures between the department of general administration and such other entities. [2005 c 330 § 6; 1998 c 105 § 9; 1994 c 219 § 17; 1982 c 41 § 2; 1979 c 151 § 101; 1971 ex.s. c 159 § 2.]

Findings—Purpose—1994 c 219: See note following RCW 43.01.090.

Finding—1994 c 219: See note following RCW 43.88.030.

Agricultural commodity commissions exempt: RCW 15.04.200.

General administration services account—Approval of certain changes required: RCW 43.88.350.

Additional notes found at www.leg.wa.gov

43.19.501 Thurston county capital facilities account.

The Thurston county capital facilities account is created in the state treasury. The account is subject to the appropriation and allotment procedures under chapter 43.88 RCW. Moneys in the account may be expended for capital projects in facilities owned and managed by the department of general administration in Thurston county. For the 2007-2009 biennium, moneys in the account may be used for predesign identified in section 1037, chapter 328, Laws of 2008.

During the 2009-2011 fiscal biennium, the legislature may transfer from the Thurston county capital facilities account to the state general fund such amounts as reflect the excess fund balance of the account. [2009 c 564 § 932; 2008 c 328 § 6016; 1994 c 219 § 18.]

Effective date—2009 c 564: See note following RCW 2.68.020.

Part headings not law—Severability—Effective date—2008 c 328: See notes following RCW 43.155.050.

Findings—Purpose—1994 c 219: See note following RCW 43.01.090.

Finding—1994 c 219: See note following RCW 43.88.030.

43.19.520 Purchase of products and services from entities serving or providing opportunities for disadvantaged or disabled persons—Intent. It is the intent of the legislature to encourage state agencies and departments to purchase products and/or services manufactured or provided by:

(1) Community rehabilitation programs of the department of social and health services which operate facilities serving disadvantaged persons and persons with disabilities and have achieved or consistently make progress towards the goal of enhancing opportunities for disadvantaged persons and persons with disabilities to maximize their opportunities for employment and career advancement, and increase the number employed and their wages; and

(2) Until December 31, 2009, businesses owned and operated by persons with disabilities that have achieved or consistently make progress towards the goal of enhancing opportunities for disadvantaged persons and persons with disabilities to maximize their opportunities for employment and career advancement, and increase the number employed and their wages. [2005 c 204 § 1; 2003 c 136 § 1; 1974 ex.s. c 40 § 1.]

43.19.525 Purchases from entities serving or providing opportunities for disadvantaged or disabled persons—Definitions. The definitions in this section apply

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throughout RCW 43.19.520 through 43.19.530 unless the context clearly requires otherwise.

(1) "Businesses owned and operated by persons with disabilities" means any for-profit business certified under chapter 39.19 RCW as being owned and controlled by persons who have been either:

(a) Determined by the department of social and health services to have a developmental disability, as defined in RCW 71A.10.020;

(b) Determined by an agency established under Title I of the federal vocational rehabilitation act to be or have been eligible for vocational rehabilitation services;

(c) Determined by the federal social security administration to be or have been eligible for either social security disability insurance or supplemental security income; or

(d) Determined by the United States department of veterans affairs to be or have been eligible for vocational rehabilitation services due to service-connected disabilities, under 38 U.S.C. Sec. 3100 et seq.

(2) "Community rehabilitation programs of the department of social and health services" means any entity that:

(a) Is registered as a nonprofit corporation with the secretary of state; and

(b) Is recognized by the department of social and health services, division of vocational rehabilitation as eligible to do business as a community rehabilitation program.

(3) "Vendor in good standing" means a business owned and operated by persons with disabilities or a community rehabilitation program, that has been determined under *RCW 43.19.531 and 50.40.065 to meet the following criteria:

(a) Has not been in material breach of any quality or performance provision of any contract for the purchase of goods or services during the past thirty-six months; and

(b) Has achieved, or continues to work towards, the goal of enhancing opportunities for disadvantaged persons and persons with disabilities to maximize their opportunities for employment and career advancement, and increase the number employed and their wages, as determined by the governor's committee on disability issues and employment. [2003 c 136 § 2; 1974 ex.s. c 40 § 2.]

*Reviser's note: RCW 43.19.531 and 50.40.065 expired December 31, 2009.

43.19.530 Purchases from entities serving or providing opportunities for disadvantaged or disabled persons—Authorized—Fair market price. The state agencies and departments are hereby authorized to purchase products and/or services manufactured or provided by:

(1) Community rehabilitation programs of the department of social and health services; and

(2) Until December 31, 2009, businesses owned and operated by persons with disabilities.

Such purchases shall be at the fair market price of such products and services as determined by the division of purchasing of the department of general administration. To determine the fair market price the division shall use the last comparable bid on the products and/or services or in the alternative the last price paid for the products and/or services. The increased cost of labor, materials, and other documented costs since the last comparable bid or the last price paid are

additional cost factors which shall be considered in determining fair market price. Upon the establishment of the fair market price as provided for in this section the division is hereby empowered to negotiate directly for the purchase of products or services with officials in charge of the community rehabilitation programs of the department of social and health services and, until December 31, 2007, businesses owned and operated by persons with disabilities. [2005 c 204 § 2; 2003 c 136 § 3; 1977 ex.s. c 10 § 2; 1974 ex.s. c 40 § 3.]

43.19.533 Purchases from entities serving or providing opportunities for disadvantaged or disabled persons—Existing contracts not impaired—Solicitation of vendors in good standing. (1) Nothing in chapter 136, Laws of 2003 requires any state agency to take any action that interferes with or impairs an existing contract between any state agency and any other party, including but not limited to any other state agency.

(2) Until December 31, 2009, except as provided under RCW 43.19.1906(2) for purchases up to three thousand dollars, RCW 43.19.534, and subsection (1) of this section, a state agency shall not purchase any product or service identified in the notice most recently disseminated by the department of general administration, as provided under *RCW 43.19.531(2)(b), from other than a vendor in good standing until the state agency has included in the solicitation process at least one vendor in good standing supplying the goods or service needed by the agency, unless no vendor in good standing supplying the goods or service needed by the agency is available. [2005 c 204 § 4; 2003 c 136 § 5.]

*Reviser's note: RCW 43.19.531 expired December 31, 2009.

43.19.534 Purchase of articles or products from inmate work programs—Replacement of goods and services obtained from outside the state—Rules. (1) State agencies, the legislature, and departments shall purchase for their use all goods and services required by the legislature, agencies, or departments that are produced or provided in whole or in part from class II inmate work programs operated by the department of corrections through state contract. These goods and services shall not be purchased from any other source unless, upon application by the department or agency: (a) The department of general administration finds that the articles or products do not meet the reasonable requirements of the agency or department, (b) are not of equal or better quality, or (c) the price of the product or service is higher than that produced by the private sector. However, the criteria contained in (a), (b), and (c) of this section for purchasing goods and services from sources other than correctional industries do not apply to goods and services produced by correctional industries that primarily replace goods manufactured or services obtained from outside the state. The department of corrections and department of general administration shall adopt administrative rules that implement this section.

(2) During the 2009-2011 fiscal biennium, and in conformance with section 223(11), chapter 470, Laws of 2009, this section does not apply to the purchase of uniforms by the Washington state ferries. [2009 c 470 § 717; 1993 sp.s. c 20 § 1; 1986 c 94 § 2.]

Effective date—2009 c 470: See note following RCW 46.68.170.

Additional notes found at www.leg.wa.gov

43.19.535 Purchase of goods and services from inmate work programs. Any person, firm, or organization which makes any bid to provide any goods or any services to any state agency shall be granted a preference over other bidders if (1) the goods or services have been or will be produced or provided in whole or in part by an inmate work program of the department of corrections and (2) an amount equal to at least fifteen percent of the total bid amount has been paid or will be paid by the person, firm, or organization to inmates as wages. The preference provided under this section shall be equal to ten percent of the total bid amount. [1981 c 136 § 15.]

Additional notes found at www.leg.wa.gov

43.19.536 Contracts subject to requirements established under office of minority and women's business enterprises. (1) All contracts entered into and purchases made, including leasing or renting, under this chapter on or after September 1, 1983, are subject to the requirements established under chapter 39.19 RCW.

(2) All procurement contracts entered into under this chapter on or after June 10, 2010, are subject to the requirements established under RCW 43.60A.200. [2010 c 5 § 6; 1983 c 120 § 13.]

Purpose—Construction—2010 c 5: See notes following RCW 43.60A.010.

Additional notes found at www.leg.wa.gov

43.19.538 Purchase of products containing recycled material—Preference—Specifications and rules—Review. (1) The director of general administration, through the state purchasing director, shall develop specifications and adopt rules for the purchase of products which will provide for preferential purchase of products containing recycled material by:

(a) The use of a weighting factor determined by the amount of recycled material in a product, where appropriate and known in advance to potential bidders, to determine the lowest responsible bidder. The actual dollars bid shall be the contracted amount. If the department determines, according to criteria established by rule that the use of this weighting factor does not encourage the use of more recycled material, the department shall consider and award bids without regard to the weighting factor. In making this determination, the department shall consider but not be limited to such factors as adequate competition, economics or environmental constraints, quality, and availability.

(b) Requiring a written statement of the percentage range of recycled content from the bidder providing products containing recycled [material]. The range may be stated in five percent increments.

(2) The director shall develop a directory of businesses that supply products containing significant quantities of recycled materials. This directory may be combined with and made accessible through the database of recycled content products to be developed under RCW 43.19A.060.

(3) The director shall encourage all parties using the state purchasing office to purchase products containing recycled materials.

(4) The rules, specifications, and bid evaluation shall be consistent with recycled content standards adopted under RCW 43.19A.020. [1991 c 297 § 5; 1988 c 175 § 2; 1987 c 505 § 26; 1982 c 61 § 2.]

Recycled product procurement: Chapter 43.19A RCW.

State purchasing and material control director: RCW 43.19.180.

Additional notes found at www.leg.wa.gov

43.19.539 Purchase of electronic products meeting environmental performance standards—Surplus electronic products—Use of registered transporters, processors—Legal secondary markets. (1) The department of general administration shall establish purchasing and procurement policies that establish a preference for electronic products that meet environmental performance standards relating to the reduction or elimination of hazardous materials.

(2) The department of general administration shall ensure that their surplus electronic products, other than those sold individually to private citizens, are managed only by registered transporters and by processors meeting the requirements of RCW 70.95N.250 and *section 26 of this act.

(3) The department of general administration shall ensure that their surplus electronic products are directed to legal secondary materials markets by requiring a chain of custody record that documents to whom the products were initially delivered through to the end use manufacturer. [2006 c 183 § 36.]

*Reviser's note: Section 26 of this act was vetoed by the governor.

Construction—Severability—Effective date—2006 c 183: See RCW 70.95N.900 through 70.95N.902.

43.19.560 Motor vehicle transportation service—Definitions. As used in RCW 43.19.565 through 43.19.635, 43.41.130 and 43.41.140, the following definitions shall apply:

(1) "Passenger motor vehicle" means any sedan, station wagon, bus, or light truck which is designed for carrying ten passengers or less and is used primarily for the transportation of persons;

(2) "State agency" shall include any state office, agency, commission, department, or institution financed in whole or in part from funds appropriated by the legislature. It shall also include the Washington state school director's association and the state printer, but it shall not include (a) the state supreme court or any agency of the judicial branch or (b) the legislature or any of its statutory, standing, special, or interim committees, other than at the option of the judicial or legislative agency or committee concerned;

(3) "Employee commuting" shall mean travel by a state officer or employee to or from his or her official residence or other domicile to or from his or her official duty station or other place of work;

(4) "Motor vehicle transportation services" shall include but not be limited to the furnishing of motor vehicles for the transportation of persons or property, with or without drivers, and may also include furnishing of maintenance, storage, and

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other support services to state agencies for the conduct of official state business. [1983 c 187 § 3; 1975 1st ex.s. c 167 § 2.]

Power to appoint or employ personnel does not include power to provide state owned or leased vehicle: RCW 43.01.150.

Additional notes found at www.leg.wa.gov

43.19.565 Motor vehicle transportation service—Powers and duties. The department of general administration shall establish a motor vehicle transportation service which is hereby empowered to:

(1) Provide suitable motor vehicle transportation services to any state agency on either a temporary or permanent basis upon requisition from a state agency and upon such demonstration of need as the department may require;

(2) Provide motor pools for the use of state agencies located in the Olympia area and such additional motor pools at other locations in the state as may be necessary to provide economic, efficient, and effective motor vehicle transportation services to state agencies. Such additional motor pools may be under either the direct control of the department or under the supervision of another state agency by agreement with the department;

(3) Establish an equitable schedule of rental and mileage charges to agencies for motor vehicle transportation services furnished which shall be designed to provide funds to cover replacement of vehicles, the purchase of additional vehicles, and to recover the actual total costs of motor pool operations including but not limited to vehicle operation expense, depreciation expense, overhead, and nonrecoverable collision or other damage to vehicles; and

(4) Establish guidelines, procedures, and standards for fleet operations that other state agencies and institutions of higher education may adopt. The guidelines, procedures, and standards shall be consistent with and carry out the objectives of any general policies adopted by the office of financial management under RCW 43.41.130. [2005 c 214 § 1; 1998 c 111 § 3; 1975 1st ex.s. c 167 § 3.]

Additional notes found at www.leg.wa.gov

43.19.570 Motor vehicle transportation service—Responsibilities—Agreements with other agencies—Alternative fuels and clean technologies. (1) The department shall direct and be responsible for the acquisition, operation, maintenance, storage, repair, and replacement of state motor vehicles under its control. The department shall utilize state facilities available for the maintenance, repair, and storage of such motor vehicles, and may provide directly or by contract for the maintenance, repair, and servicing of all motor vehicles, and other property related thereto and under its control.

(2) The department may arrange, by agreement with agencies, for the utilization by one of the storage, repair, or maintenance facilities of another, with such provision for charges and credits as may be agreed upon. The department may acquire and maintain storage, repair, and maintenance facilities for the motor vehicles under its control from such funds as may be appropriated by the legislature.

(3)(a) The legislature finds that a clean environment is important and that global warming effects may be offset by

decreasing the emissions of harmful compounds from motor vehicles. The legislature further finds that the state is in a position to set an example of large scale use of alternative fuels in motor vehicles and other clean technologies.

(b) The department shall consider the use of state vehicles to conduct field tests on alternative fuels in areas where air pollution constraints may be eased by these optional fuels. These fuels should include but are not limited to gas-powered and electric-powered vehicles.

(c) For planned purchases of vehicles using alternative fuels, the department and other state agencies shall explore opportunities to purchase these vehicles together with the federal government, agencies of other states, other Washington state agencies, local governments, or private organizations for less cost. All state agencies must investigate and determine whether or not they can make clean technologies more cost-effective by combining their purchasing power before completing a planned vehicle purchase. [2002 c 285 § 2; 1989 c 113 § 1; 1982 c 163 § 11; 1975 1st ex.s. c 167 § 4.]

Additional notes found at www.leg.wa.gov

43.19.575 Passenger motor vehicles owned or operated by state agencies—Duty of the office of financial management to establish policies as to acquisition, operation, authorized use, etc. See RCW 43.41.130.

43.19.585 Motor vehicle transportation service—Supervisor of motor transport—Powers and duties. The director of general administration shall appoint a supervisor of motor transport, who shall have general charge and supervision of state motor pools and motor vehicle transportation services under departmental administration and control. The appointment of all personnel, except the supervisor, shall be made pursuant to chapter 41.06 RCW, the state civil service law, as now or hereafter amended.

With the approval of the director, the supervisor shall (1) appoint and employ such assistants and personnel as may be necessary, (2) acquire by purchase or otherwise a sufficient number of motor vehicles to fulfill state agency needs for motor vehicle transportation service, (3) provide for necessary storage, upkeep, and repair, and (4) provide for servicing motor pool vehicles with fuel, lubricants, and other operating requirements. [1975 1st ex.s. c 167 § 7.]

Additional notes found at www.leg.wa.gov

43.19.590 Motor vehicle transportation service—Transfer of employees—Retention of employment rights. All employees of any state agency who are employed exclusively or principally in performing the powers, duties, and functions transferred pursuant to RCW 43.19.595 through 43.19.610 to the department of general administration shall, upon such transfer to employment with the department of general administration, continue to be governed by the provisions of chapter 41.06 RCW, the state civil service law, as now or hereafter amended, and shall automatically retain their permanent or probationary status together with all rights, privileges, and immunities attaching thereto. [1975 1st ex.s. c 167 § 8.]

Additional notes found at www.leg.wa.gov

43.19.595 Motor vehicle transportation service—Transfer of motor vehicles, property, etc., from motor pool to department. All passenger motor vehicles, property, facilities, equipment, credits, funds, and all other assets and obligations of the automobile pool and pertaining to passenger motor vehicles currently operated by the department of highways and funded by that portion of the highway equipment fund known as "District No. 8 (Motor Pool)" shall be transferred to the department of general administration on July 1, 1975. The director of general administration may accept such property prior thereto if he or she deems it expedient to accomplish an orderly transition. [2009 c 549 § 5067; 1975 1st ex.s. c 167 § 9.]

Additional notes found at www.leg.wa.gov

43.19.600 Motor vehicle transportation service—Transfer of passenger motor vehicles to department from other agencies—Studies. (1) On or after July 1, 1975, any passenger motor vehicles currently owned or hereafter acquired by any state agency, except vehicles acquired from federal granted funds and over which the federal government retains jurisdiction and control, may be purchased by or transferred to the department of general administration with the consent of the state agency concerned. The director of general administration may accept vehicles subject to the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 prior to July 1, 1975, if he or she deems it expedient to accomplish an orderly transition.

(2) The department, in cooperation with the office of financial management, shall study and ascertain current and prospective needs of state agencies for passenger motor vehicles and shall recommend transfer to a state motor pool or other appropriate disposition of any vehicle found not to be required by a state agency.

(3) The department shall direct the transfer of passenger motor vehicles from a state agency to a state motor pool or other disposition as appropriate, based on a study under subsection (2) of this section, or after a public hearing held by the department, if a finding is made based on testimony and data therein submitted that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition of passenger motor vehicles. Any dispute over the accuracy of testimony and data submitted as to the benefits in state governmental economy, efficiency, and effectiveness to be gained by such transfer shall be resolved by the governor or the governor's designee. [2009 c 549 § 5068; 1982 c 163 § 12; 1979 c 151 § 102; 1975 1st ex.s. c 167 § 10.]

Additional notes found at www.leg.wa.gov

43.19.610 General administration services account—Sources—Disbursements. All moneys, funds, proceeds, and receipts as provided in RCW 43.19.615 and as may otherwise be provided by law shall be paid into the general administration services account. Disbursements therefrom shall be made in accordance with the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 as authorized by the director or a duly authorized representative and as may be provided by law. [1998 c 105 § 12; 1991 sp.s.

c 13 § 35; 1986 c 312 § 902. Prior: 1985 c 405 § 507; 1985 c 57 § 28; 1975 1st ex.s. c 167 § 12.]

Additional notes found at www.leg.wa.gov

43.19.615 Motor vehicle transportation service—Deposits—Disbursements. The director of general administration shall deposit in the general administration services account all receipts, including the initial transfer of automobile pool capital from the highway equipment fund and any other funds transferred, rentals or other fees and charges for transportation services furnished, proceeds from the sale of surplus or replaced property under the control of the supervisor of motor transport and other income, and from which shall be paid operating costs, including salaries and wages, administrative expense, overhead, the cost of replacement vehicles, additional passenger vehicles, and any other expenses. [2005 c 214 § 2; 1998 c 105 § 13; 1975 1st ex.s. c 167 § 13.]

Additional notes found at www.leg.wa.gov

43.19.620 Motor vehicle transportation service—Rules and regulations. The director of general administration, through the supervisor of motor transport, shall adopt, promulgate, and enforce such regulations as may be deemed necessary to accomplish the purpose of RCW 43.19.560 through 43.19.630, 43.41.130, and 43.41.140. Such regulations, in addition to other matters, shall provide authority for any agency director or his or her delegate to approve the use on official state business of personally owned or commercially owned rental passenger motor vehicles. Before such an authorization is made, it must first be reasonably determined that state owned passenger vehicles or other suitable transportation is not available at the time or location required or that the use of such other transportation would not be conducive to the economical, efficient, and effective conduct of business.

Such regulations shall be consistent with and shall carry out the objectives of the general policies and guidelines adopted by the office of financial management pursuant to RCW 43.41.130. [2009 c 549 § 5069; 1989 c 57 § 7; 1979 c 151 § 103; 1975 1st ex.s. c 167 § 14.]

Additional notes found at www.leg.wa.gov

43.19.625 Employee commuting in state owned or leased vehicle—Policies and regulations. See RCW 43.41.140.

43.19.630 Motor vehicle transportation service—Use of personal motor vehicle. RCW 43.19.560 through 43.19.620, 43.41.130, and 43.41.140 shall not be construed to prohibit a state officer or employee from using his or her personal motor vehicle on state business and being reimbursed therefor, where permitted under state travel policies, rules, and regulations promulgated by the office of financial management, and where such use is in the interest of economic, efficient, and effective management and performance of official state business. [2009 c 549 § 5070; 1989 c 57 § 8; 1979 c 151 § 104; 1975 1st ex.s. c 167 § 16.]

Additional notes found at www.leg.wa.gov

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43.19.635 Motor vehicle transportation service—Unauthorized use of state vehicles—Procedure—Disciplinary action. (1) The governor, acting through the department of general administration and any other appropriate agency or agencies as he or she may direct, is empowered to utilize all reasonable means for detecting the unauthorized use of state owned motor vehicles, including the execution of agreements with the state patrol for compliance enforcement. Whenever such illegal use is discovered which involves a state employee, the employing agency shall proceed as provided by law to establish the amount, extent, and dollar value of any such use, including an opportunity for notice and hearing for the employee involved. When such illegal use is so established, the agency shall assess its full cost of any mileage illegally used and shall recover such amounts by deductions from salary or allowances due to be paid to the offending official or employee by other means. Recovery of costs by the state under this subsection shall not preclude disciplinary or other action by the appropriate appointing authority or employing agency under subsection (2) of this section.

(2) Any wilful and knowing violation of any provision of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 shall subject the state official or employee committing such violation to disciplinary action by the appropriate appointing or employing agency. Such disciplinary action may include, but shall not be limited to, suspension without pay, or termination of employment in the case of repeated violations.

(3) Any casual or inadvertent violation of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 may subject the state official or employee committing such violation to disciplinary action by the appropriate appointing authority or employing agency. Such disciplinary action may include, but need not be limited to, suspension without pay. [2009 c 549 § 5071; 1975 1st ex.s. c 167 § 17.]

Additional notes found at www.leg.wa.gov

43.19.637 Clean-fuel vehicles—Purchasing requirements. (1) At least thirty percent of all new vehicles purchased through a state contract shall be clean-fuel vehicles.

(2) The percentage of clean-fuel vehicles purchased through a state contract shall increase at the rate of five percent each year.

(3) In meeting the procurement requirement established in this section, preference shall be given to vehicles designed to operate exclusively on clean fuels. In the event that vehicles designed to operate exclusively on clean fuels are not available or would not meet the operational requirements for which a vehicle is to be procured, conventionally powered vehicles may be converted to clean fuel or dual fuel use to meet the requirements of this section.

(4) Fuel purchased through a state contract shall be a clean fuel when the fuel is purchased for the operation of a clean-fuel vehicle.

(5)(a) Weight classes are established by the following motor vehicle types:

(i) Passenger cars;

(ii) Light duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of less than eight thousand five hundred pounds;

(iii) Heavy duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of eight thousand five hundred pounds or more.

(b) This subsection does not place an obligation upon the state or its political subdivisions to purchase vehicles in any number or weight class other than to meet the percent procurement requirement.

(6) The provisions for purchasing clean-fuel vehicles under subsections (1) and (2) of this section are intended as minimum levels. The department should seek to increase the purchasing levels of clean-fuel vehicles above the minimum. The department must also investigate all opportunities to aggregate their purchasing with local governments to determine whether or not they can lower their costs and make it cost-efficient to increase the percentage of clean-fuel or high gas mileage vehicles in both the state and local fleets.

(7) For the purposes of this section, "clean fuels" and "clean-fuel vehicles" shall be those fuels and vehicles meeting the specifications provided for in RCW 70.120.210. [2002 c 285 § 3; 1991 c 199 § 213.]

Finding—1991 c 199: See note following RCW 70.94.011.

Additional notes found at www.leg.wa.gov

43.19.642 Biodiesel fuel blends—Use by agencies—Biannual report. (1) Effective June 1, 2006, for agencies complying with the ultra-low sulfur diesel mandate of the United States environmental protection agency for on-highway diesel fuel, agencies shall use biodiesel as an additive to ultra-low sulfur diesel for lubricity, provided that the use of a lubricity additive is warranted and that the use of biodiesel is comparable in performance and cost with other available lubricity additives. The amount of biodiesel added to the ultra-low sulfur diesel fuel shall be not less than two percent.

(2) Effective June 1, 2009, state agencies are required to use a minimum of twenty percent biodiesel as compared to total volume of all diesel purchases made by the agencies for the operation of the agencies' diesel-powered vessels, vehicles, and construction equipment.

(3) All state agencies using biodiesel fuel shall, beginning on July 1, 2006, file biannual reports with the department of general administration documenting the use of the fuel and a description of how any problems encountered were resolved.

(4) For the 2009-2011 fiscal biennium, all fuel purchased by the Washington state ferries at Harbor Island for the operation of the Washington state ferries diesel powered vessels must be a minimum of five percent biodiesel blend so long as the per gallon price of diesel containing a five percent biodiesel blend level does not exceed the per gallon price of diesel by more than five percent. If the per gallon price of diesel containing a five percent biodiesel blend level exceeds the per gallon price of diesel by more than five percent, the requirements of this section do not apply to vessel fuel purchases by the Washington state ferries.

(5) By December 1, 2009, the department of general administration shall:

(a) Report to the legislature on the average true price differential for biodiesel by blend and location; and

(b) Examine alternative fuel procurement methods that work to address potential market barriers for in-state biodie-

sel producers and report these findings to the legislature. [2010 c 247 § 701; 2009 c 470 § 716; 2007 c 348 § 201; 2006 c 338 § 10; 2003 c 17 § 2.]

Effective date—2010 c 247: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 30, 2010]." [2010 c 247 § 802.]

Effective date—2009 c 470: See note following RCW 46.68.170.

Findings—Part headings not law—2007 c 348: See RCW 43.325.005 and 43.325.903.

Findings—Intent—2006 c 338: See note following RCW 19.112.110.

Effective date—Severability—2006 c 338: See RCW 19.112.903 and 19.112.904.

Findings—2003 c 17: "The legislature recognizes that:

(1) Biodiesel is less polluting than petroleum diesel;
(2) Using biodiesel in neat form or blended with petroleum diesel significantly reduces air toxics and cancer-causing compounds as well as the soot associated with petroleum diesel exhaust;

(3) Biodiesel degrades much faster than petroleum diesel;

(4) Biodiesel is less toxic than petroleum fuels;

(5) The United States environmental protection agency's new emission standards for petroleum diesel that take effect June 1, 2006, will require the addition of a lubricant to ultra-low sulfur diesel to counteract premature wear of injection pumps;

(6) Biodiesel provides the needed lubricity to ultra-low sulfur diesel;

(7) Biodiesel use in state-owned diesel-powered vehicles provides a means for the state to comply with the alternative fuel vehicle purchase requirements of the energy policy act of 1992, P.L. 102-486; and

(8) The state is in a position to set an example of large scale use of biodiesel in diesel-powered vehicles and equipment." [2003 c 17 § 1.]

43.19.643 Biodiesel fuel blends—Definitions. The definitions in this section apply throughout RCW 43.19.642 unless the context clearly requires otherwise.

(1) "Biodiesel" means a mono alkyl ester of long chain fatty acids derived from vegetable oils or animal fats for use in compression-ignition engines and that meets the requirements of the American society of testing and materials specification D 6751 in effect as of January 1, 2003.

(2) "Ultra-low sulfur diesel" means petroleum diesel in which the sulfur content is not more than thirty parts per million. [2003 c 17 § 3.]

Findings—2003 c 17: See note following RCW 43.19.642.

43.19.646 Coordinating the purchase and delivery of biodiesel—Reports. (1) The department of general administration must assist state agencies seeking to meet the biodiesel fuel requirements in RCW 43.19.642 by coordinating the purchase and delivery of biodiesel if requested by any state agency. The department may use long-term contracts of up to ten years, when purchasing from in-state suppliers who use predominantly in-state feedstock, to secure a sufficient and stable supply of biodiesel for use by state agencies.

(2) The department shall compile and analyze the reports submitted under *RCW 43.19.642(4) and report in an electronic format its findings and recommendations to the governor and committees of the legislature with responsibility for energy issues, within sixty days from the end of each reporting period. The governor shall consider these reports in determining whether to temporarily suspend minimum renewable fuel content requirements as authorized under RCW 19.112.160. [2006 c 338 § 12.]

***Reviser's note:** RCW 43.19.642 was amended by 2007 c 348 § 201, changing subsection (4) to subsection (3).

Findings—Intent—2006 c 338: See note following RCW 19.112.110.

Effective date—Severability—2006 c 338: See RCW 19.112.903 and 19.112.904.

43.19.647 Purchase of biofuels and biofuel blends—

Contracting authority. (1) In order to allow the motor vehicle fuel needs of state and local government to be satisfied by Washington-produced biofuels as provided in this chapter, the department of general administration as well as local governments may contract in advance and execute contracts with public or private producers, suppliers, or other parties, for the purchase of appropriate biofuels, as that term is defined in RCW 43.325.010, and biofuel blends. Contract provisions may address items including, but not limited to, fuel standards, price, and delivery date.

(2) The department of general administration may combine the needs of local government agencies, including ports, special districts, school districts, and municipal corporations, for the purposes of executing contracts for biofuels and to secure a sufficient and stable supply of alternative fuels. [2007 c 348 § 203.]

Findings—Part headings not law—2007 c 348: See RCW 43.325.005 and 43.325.903.

43.19.648 Publicly owned vehicles, vessels, and construction equipment—Fuel usage—Tires.

(1) Effective June 1, 2015, all state agencies and local government subdivisions of the state, to the extent determined practicable by the rules adopted by the *department of community, trade, and economic development pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel.

(2) In order to phase in this transition for the state, all state agencies, to the extent determined practicable by the *department of community, trade, and economic development by rules adopted pursuant to RCW 43.325.080, are required to achieve forty percent fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel by June 1, 2013. The department of general administration, in consultation with the *department of community, trade, and economic development, shall report to the governor and the legislature by December 1, 2013, on what percentage of the state's fuel usage is from electricity or biofuel.

(3) Except for cars owned or operated by the Washington state patrol, when tires on vehicles in the state's motor vehicle fleet are replaced, they must be replaced with tires that have the same or better rolling resistance as the original tires.

(4) By December 31, 2015, the state must, to the extent practicable, install electrical outlets capable of charging electric vehicles in each of the state's fleet parking and maintenance facilities.

(5) The department of transportation's obligations under subsection (2) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection (2) of this section.

(6) The department of transportation's obligations under subsection (4) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection (4) of this section unless the department receives

federal or private funds for the specific purpose identified in subsection (4) of this section.

(7) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540. [2009 c 459 § 7; 2007 c 348 § 202.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—Purpose—2009 c 459: See note following RCW 47.80.090.

Findings—Part headings not law—2007 c 348: See RCW 43.325.005 and 43.325.903.

Regional transportation planning organizations—Electric vehicle infrastructure: RCW 47.80.090.

43.19.651 Fuel cells and renewable or alternative energy sources.

(1) When planning for the capital construction or renovation of a state facility, state agencies shall consider the utilization of fuel cells and renewable or alternative energy sources as a primary source of power for applications that require an uninterruptible power source.

(2) When planning the purchase of back-up or emergency power systems and remote power systems, state agencies shall consider the utilization of fuel cells and renewable or alternative energy sources instead of batteries or internal combustion engines.

(3) The director of general administration shall develop criteria by which state agencies can identify, evaluate, and develop potential fuel cell applications at state facilities.

(4) For the purposes of this section, "fuel cell" means an electrochemical reaction that generates electric energy by combining atoms of hydrogen and oxygen in the presence of a catalyst. [2003 c 340 § 1.]

43.19.663 Clean technologies—Purchase. (1) The department of general administration, in cooperation with public agencies, shall investigate opportunities to aggregate the purchase of clean technologies with other public agencies to determine whether or not combined purchasing can reduce the unit cost of clean technologies.

(2) State agencies that are retail electric customers shall investigate opportunities to aggregate the purchase of electricity produced from generation resources that are fueled by wind or solar energy for their facilities located within a single utility's service area, to determine whether or not combined purchasing can reduce the unit cost of those resources.

(3) No public agency is required under this section to purchase clean technologies at prohibitive costs.

(4)(a) "Electric utility" shall have the same meaning as provided under RCW 19.29A.010.

(b) "Clean technology" includes, but may not be limited to, alternative fueled hybrid-electric and fuel cell vehicles, and distributive power generation.

(c) "Distributive power generation" means the generation of electricity from an integrated or stand-alone power plant that generates electricity from wind energy, solar energy, or fuel cells.

(d) "Retail electric customer" shall have the same meaning as provided under RCW 19.29A.010.

(e) "Facility" means any building owned or leased by a public agency. [2002 c 285 § 4.]

Reviser's note: 2002 c 285 directed that this section be added to chapter 39.35B RCW. This section has been codified in chapter 43.19 RCW, which relates more directly to the purchasing authority of the department of general administration.

43.19.668 Energy conservation—Legislative finding—Declaration. The legislature finds and declares that the buildings, facilities, equipment, and vehicles owned or leased by state government consume significant amounts of energy and that energy conservation actions, including energy management systems, to provide for efficient energy use in these buildings, facilities, equipment, and vehicles will reduce the costs of state government. In order for the operations of state government to provide the citizens of this state an example of energy use efficiency, the legislature further finds and declares that state government should undertake an aggressive program designed to reduce energy use in state buildings, facilities, equipment, and vehicles within a reasonable period of time. The use of appropriate tree plantings for energy conservation is encouraged as part of this program. [2001 c 214 § 23; 1993 c 204 § 6; 1980 c 172 § 1.]

Severability—Effective date—2001 c 214: See notes following RCW 80.50.010.

Findings—2001 c 214: See note following RCW 39.35.010.

Findings—1993 c 204: See note following RCW 35.92.390.

43.19.669 Energy conservation—Purpose. It is the purpose of RCW 43.19.670 through 43.19.685 to require energy audits in state-owned buildings, to require energy audits as a lease condition in all new, renewed, and renegotiated leases of buildings by the state, to undertake such modifications and installations as are necessary to maximize the efficient use of energy in these buildings, including but not limited to energy management systems, and to establish a policy for the purchase of state vehicles, equipment, and materials which results in efficient energy use by the state.

For a building that is leased by the state, energy audits and implementation of cost-effective energy conservation measures are required only for that portion of the building that is leased by the state when the state leases less than one hundred percent of the building. When implementing cost-effective energy conservation measures in buildings leased by the state, those measures must generate savings sufficient to finance the building modifications and installations over a loan period not greater than ten years and allow repayment during the term of the lease. [2001 c 214 § 24; 1980 c 172 § 2.]

Severability—Effective date—2001 c 214: See notes following RCW 80.50.010.

Findings—2001 c 214: See note following RCW 39.35.010.

43.19.670 Energy conservation—Definitions. As used in RCW 43.19.670 through 43.19.685, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Energy audit" means a determination of the energy consumption characteristics of a facility which consists of the following elements:

(a) An energy consumption survey which identifies the type, amount, and rate of energy consumption of the facility and its major energy systems. This survey shall be made by the agency responsible for the facility.

(b) A walk-through survey which determines appropriate energy conservation maintenance and operating procedures and indicates the need, if any, for the acquisition and installation of energy conservation measures and energy management systems. This survey shall be made by the agency responsible for the facility if it has technically qualified personnel available. The director of general administration shall provide technically qualified personnel to the responsible agency if necessary.

(c) An investment grade audit, which is an intensive engineering analysis of energy conservation and management measures for the facility, net energy savings, and a cost-effectiveness determination. This element is required only for those facilities designated in the schedule adopted under RCW 43.19.680(2).

(2) "Cost-effective energy conservation measures" means energy conservation measures that the investment grade audit concludes will generate savings sufficient to finance project loans of not more than ten years.

(3) "Energy conservation measure" means an installation or modification of an installation in a facility which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including:

(a) Insulation of the facility structure and systems within the facility;

(b) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

(c) Automatic energy control systems;

(d) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(e) Solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(f) Solar water heating systems;

(g) Furnace or utility plant and distribution system modifications including replacement burners, furnaces, and boilers which substantially increase the energy efficiency of the heating system; devices for modifying flue openings which will increase the energy efficiency of the heating system; electrical or mechanical furnace ignitions systems which replace standing gas pilot lights; and utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources;

(h) Caulking and weatherstripping;

(i) Replacement or modification of lighting fixtures which increase the energy efficiency of the lighting system;

(j) Energy recovery systems;

(k) Energy management systems; and

(1) Such other measures as the director finds will save a substantial amount of energy.

(4) "Energy conservation maintenance and operating procedure" means modification or modifications in the maintenance and operations of a facility, and any installations within the facility, which are designed to reduce energy consumption in the facility and which require no significant expenditure of funds.

(5) "Energy management system" has the definition contained in RCW 39.35.030.

(6) "Energy savings performance contracting" means the process authorized by chapter 39.35C RCW by which a company contracts with a state agency to conduct no-cost energy audits, guarantee savings from energy efficiency, provide financing for energy efficiency improvements, install or implement energy efficiency improvements, and agree to be paid for its investment solely from savings resulting from the energy efficiency improvements installed or implemented.

(7) "Energy service company" means a company or contractor providing energy savings performance contracting services.

(8) "Facility" means a building, a group of buildings served by a central energy distribution system, or components of a central energy distribution system.

(9) "Implementation plan" means the annual tasks and budget required to complete all acquisitions and installations necessary to satisfy the recommendations of the energy audit. [2001 c 214 § 25; 1982 c 48 § 1; 1980 c 172 § 3.]

Severability—Effective date—2001 c 214: See notes following RCW 80.50.010.

Findings—2001 c 214: See note following RCW 39.35.010.

43.19.675 Energy audits of state-owned facilities required—Completion dates. For each state-owned facility, the director of general administration, or the agency responsible for the facility if other than the department of general administration, shall conduct an energy audit of that facility. This energy audit may be conducted by contract or by other arrangement, including appropriate agency staff. Performance-based contracting shall be the preferred method for implementing and completing energy audits. For each state-owned facility, the energy consumption surveys shall be completed no later than October 1, 2001, and the walk-through surveys shall be completed no later than July 1, 2002. [2001 c 214 § 26; 1982 c 48 § 2; 1980 c 172 § 4.]

Severability—Effective date—2001 c 214: See notes following RCW 80.50.010.

Findings—2001 c 214: See note following RCW 39.35.010.

Energy audits of school district buildings: RCW 28A.320.330.

43.19.680 Implementation of energy conservation and maintenance procedures after walk-through survey—Investment grade audit—Reports—Contracts with energy service companies, staffing. (1) Upon completion of each walk-through survey required by RCW 43.19.675, the director of general administration or the agency responsible for the facility if other than the department of general administration shall implement energy conservation maintenance and operation procedures that may be identified for any state-owned facility. These procedures shall be implemented

as soon as possible but not later than twelve months after the walk-through survey.

(2) If a walk-through survey has identified potentially cost-effective energy conservation measures, the agency responsible for the facility shall undertake an investment grade audit of the facility. Investment grade audits shall be completed no later than December 1, 2002. Installation of cost-effective energy conservation measures recommended in the investment grade audit shall be completed no later than June 30, 2004.

(3) For each biennium until all measures are installed, the director of general administration shall report to the governor and legislature installation progress, [and] measures planned for installation during the ensuing biennium. This report shall be submitted by December 31, 2004, or at the end of the following year whichever immediately precedes the capital budget adoption, and every two years thereafter until all measures are installed.

(4) Agencies may contract with energy service companies as authorized by chapter 39.35C RCW for energy audits and implementation of cost-effective energy conservation measures. The department shall provide technically qualified personnel to the responsible agency upon request. The department shall recover a fee for this service. [2001 c 214 § 27; 1996 c 186 § 506; 1986 c 325 § 2; 1983 c 313 § 1; 1982 c 48 § 3; 1980 c 172 § 5.]

Severability—Effective date—2001 c 214: See notes following RCW 80.50.010.

Findings—2001 c 214: See note following RCW 39.35.010.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Findings—1986 c 325: See note following RCW 43.41.170.

Budgeting process—Guidelines to ensure agencies implementing energy conservation retain cost savings: RCW 43.41.170.

43.19.682 Energy conservation to be included in landscape objectives. The director of the department of general administration shall seek to further energy conservation objectives among other landscape objectives in planting and maintaining trees upon grounds administered by the department. [1993 c 204 § 9.]

Findings—1993 c 204: See note following RCW 35.92.390.

43.19.685 Lease covenants, conditions, and terms to be developed—Applicability. The director of general administration shall develop lease covenants, conditions, and terms which:

(1) Obligate the lessor to conduct or have conducted a walk-through survey of the leased premises;

(2) Obligate the lessor to implement identified energy conservation maintenance and operating procedures upon completion of the walk-through survey; and

(3) Obligate the lessor to undertake technical assistance studies and subsequent acquisition and installation of energy conservation measures if the director of general administration, in accordance with rules adopted by the department, determines that these studies and measures will both conserve energy and can be accomplished with a state funding contribution limited to the savings which would result in utility expenses during the term of the lease.

These lease covenants, conditions, and terms shall be incorporated into all specified new, renewed, and renegotiated leases executed on or after January 1, 1983. This section applies to all leases under which state occupancy is at least half of the facility space and includes an area greater than three thousand square feet. [1982 c 48 § 4; 1980 c 172 § 6.]

43.19.691 Municipalities—Energy audits and efficiency. (1) Municipalities may conduct energy audits and implement cost-effective energy conservation measures among multiple government entities.

(2) All municipalities shall report to the department if they implemented or did not implement, during the previous biennium, cost-effective energy conservation measures aggregated among multiple government entities. The reports must be submitted to the department by September 1, 2007, and by September 1, 2009. In collecting the reports, the department shall cooperate with the appropriate associations that represent municipalities.

(3) The department shall prepare a report summarizing the reports submitted by municipalities under subsection (2) of this section and shall report to the committee by December 31, 2007, and by December 31, 2009.

(4) For the purposes of this section, the following definitions apply:

(a) "Committee" means the joint committee on energy supply and energy conservation in chapter 44.39 RCW.

(b) "Cost-effective energy conservation measures" has the meaning provided in RCW 43.19.670.

(c) "Department" means the department of general administration.

(d) "Energy audit" has the meaning provided in RCW 43.19.670.

(e) "Municipality" has the meaning provided in RCW 39.04.010. [2005 c 299 § 5.]

Intent—2005 c 299: See note following RCW 44.39.010.

43.19.695 Bonds to finance conservation measures. Financing to implement conservation measures, including fees charged by the department, may be carried out with bonds issued by the Washington economic development finance authority under chapter 43.163 RCW. [2005 c 299 § 6.]

Intent—2005 c 299: See note following RCW 44.39.010.

43.19.700 In-state preference clauses—Finding—Intent. The legislature finds that in-state preference clauses used by other states in procuring goods and services have a discriminatory effect against Washington vendors with resulting harm to this state's revenues and the welfare of this state's citizens. Chapter 183, Laws of 1983 is intended to promote fairness in state government procurement by requiring that, when appropriate, Washington exercise reciprocity with those states having in-state preferences, and it shall be liberally construed to that effect. [1983 c 183 § 1.]

43.19.702 List of statutes and regulations of each state on state purchasing which grant preference to in-state vendors. The director of general administration shall compile a list of the statutes and regulations, relating to state

purchasing, of each state, which statutes and regulations the director believes grant a preference to vendors located within the state or goods manufactured within the state. At least once every twelve months the director shall update the list. [1983 c 183 § 2.]

43.19.704 Rules for reciprocity in bidding. The director of general administration shall adopt and apply rules designed to provide for some reciprocity in bidding between Washington and those states having statutes or regulations on the list under RCW 43.19.702. The director of general administration shall have broad discretionary power in developing these rules and the rules shall provide for reciprocity only to the extent and in those instances where the director considers it appropriate. For the purpose of determining the lowest responsible bidder pursuant to RCW 43.19.1911, such rules shall (1) require the director to impose a reciprocity increase on bids when appropriate under the rules and (2) establish methods for determining the amount of the increase. In no instance shall such increase, if any, be paid to a vendor whose bid is accepted. [1983 c 183 § 3.]

43.19.708 Certified vendor-owned businesses—Identification in vendor registry. The department of general administration shall identify in the department's vendor registry all vendors that are veteran-owned businesses as certified by the department of veterans affairs under RCW 43.60A.195. [2010 c 5 § 5.]

Purpose—Construction—2010 c 5: See notes following RCW 43.60A.010.

43.19.710 Consolidated mail service—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 43.19.715.

(1) "Consolidated mail service" means incoming, outgoing, and internal mail processing.

(2) "Department" means the department of general administration.

(3) "Director" means the director of the department of general administration.

(4) "Agency" means:

(a) The office of the governor; and

(b) Any office, department, board, commission, or other separate unit or division, however designated, of the state government, together with all personnel thereof: Upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature; and that has as its chief executive officer a person or combination of persons such as a commission, board, or council, by law empowered to operate it, responsible either to: (i) No other public officer or (ii) the governor.

(5) "Incoming mail" means mail, packages, or similar items received by an agency, through the United States postal service, private carrier services, or other courier services.

(6) "Outgoing mail" means mail, packages, or similar items processed for agencies to be sent through the United States postal service, private carrier services, or other courier services.

(7) "Internal mail" means interagency mail, packages, or similar items that are delivered or to be delivered to a state agency, the legislature, the supreme court, or the court of appeals, and their officers and employees. [1993 c 219 § 2.]

Intent—1993 c 219: "It is the intent of the legislature to consolidate mail functions for state government in a manner that will provide timely, effective, efficient, and less-costly mail service for state government." [1993 c 219 § 1.]

Additional notes found at www.leg.wa.gov

43.19.715 Consolidated mail service—Area served.

The director shall establish a consolidated mail service to handle all incoming, outgoing, and internal mail in the 98504 zip code area or successor zip code areas for agencies in the Olympia, Tumwater, and Lacey area. The director may include additional geographic areas within the consolidated mail service, based upon his or her determination. The department shall also provide mail services to legislative and judicial agencies in the Olympia, Tumwater, and Lacey area upon request.

The director may bill state agencies and other entities periodically for mail services rendered. [1993 c 219 § 3.]

Intent—Effective date—1993 c 219: See notes following RCW 43.19.710.

43.19.720 Consolidated mail service—Review needs of state agencies.

The department, in cooperation with the office of financial management, shall review current and prospective needs of state agencies for any equipment to process mail throughout state government. If after such consultation, the department should find that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition, then the property shall be transferred or otherwise disposed.

After making such finding, the department shall direct the transfer of existing state property, facilities, and equipment pertaining to the consolidated mail service or United States postal service. Any dispute concerning the benefits in state governmental economy, efficiency, and effectiveness shall be resolved by the office of financial management. [1993 c 219 § 5.]

Intent—Effective date—1993 c 219: See notes following RCW 43.19.710.

Chapter 43.19A RCW

RECYCLED PRODUCT PROCUREMENT

Sections

- 43.19A.005 Purpose.
- 43.19A.010 Definitions.
- 43.19A.020 Recycled product purchasing—Federal product standards.
- 43.19A.022 Recycled content paper for printers and copiers—Purchasing priority.
- 43.19A.030 Local government duties.
- 43.19A.040 Local government adoption of preferential purchase policy optional.
- 43.19A.050 Strategy for state agency procurement.
- 43.19A.060 Database of products and vendors.
- 43.19A.070 Education program—Product substitution list—Model procurement guidelines.
- 43.19A.080 Bid notification to state recycled content requirements.
- 43.19A.110 Local road projects—Compost products.
- 43.19A.900 Captions not law—1991 c 297.

Recycled material products purchase: RCW 43.19.538.

43.19A.005 Purpose. It is the purpose of this chapter to:

- (1) Substantially increase the procurement of recycled content products by all local and state governmental agencies and public schools, and provide a model to encourage a comparable commitment by Washington state citizens and businesses in their purchasing practices;
- (2) Target government procurement policies and goals toward those recycled products for which there are significant market development needs or that may substantially contribute to solutions to the state’s waste management problem;
- (3) Provide standards for recycled products for use in procurement programs by all governmental agencies;
- (4) Provide the authority for all governmental agencies to adopt preferential purchasing policies for recycled products;
- (5) Direct state agencies to develop strategies to increase recycled product purchases, and to provide specific goals for procurement of recycled paper products and organic recovered materials; and
- (6) Provide guidance and direction for local governments and other public agencies to develop plans for increasing the procurement of recycled content products. [1991 c 297 § 1.]

43.19A.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Compost products" means mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials.
- (2) "Department" means the department of general administration.
- (3) "Director" means the director of the department of general administration.
- (4) "Local government" means a city, town, county, special purpose district, school district, or other municipal corporation.
- (5) "Lubricating oil" means petroleum-based oils for reducing friction in engine parts and other mechanical parts.
- (6) "Mixed waste paper" means assorted low-value grades of paper that have not been separated into individual grades of paper at the point of collection.
- (7) "Municipal sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.
- (8) "Biosolids" means municipal sewage sludge or septic tank septage sludge that meets the requirements of chapter 70.95J RCW.
- (9) "Paper and paper products" means all items manufactured from paper or paperboard.
- (10) "Postconsumer waste" means a material or product that has served its intended use and has been discarded for disposal or recovery by a final consumer.
- (11) "Procurement officer" means the person that has the primary responsibility for procurement of materials or products.

(12) "State agency" means all units of state government, including divisions of the governor's office, the legislature, the judiciary, state agencies and departments, correctional institutions, vocational technical institutions, and universities and colleges.

(13) "Recycled content product" or "recycled product" means a product containing recycled materials.

(14) "Recycled materials" means waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from postconsumer waste, manufacturing waste, industrial scrap, agricultural wastes, and other items, all of which can be used in the manufacture of new or recycled products.

(15) "Re-refined oils" means used lubricating oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process. Re-refining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals, or other physical treatments other than those used in reclaiming.

(16) "USEPA product standards" means the product standards of the United States environmental protection agency for recycled content published in the code of federal regulations. [1992 c 174 § 12; 1991 c 297 § 2.]

43.19A.020 Recycled product purchasing—Federal product standards. (1) The federal product standards, adopted under 42 U.S.C. Sec. 6962(e) as it exists on July 1, 2001, are adopted as the minimum standards for the state of Washington. These standards shall be implemented for at least the products listed in this subsection, unless the director finds that a different standard would significantly increase recycled product availability or competition.

- (a) Organic recovered materials;
- (b) Latex paint products;
- (c) Products for lower value uses containing recycled plastics;
- (d) Retread and remanufactured tires;
- (e) Lubricating oils;
- (f) Automotive batteries;
- (g) Building products and materials;
- (h) Panelboard; and
- (i) Compost products.

(2) By July 1, 2001, the director shall adopt product standards for strawboard manufactured using as an ingredient straw that is produced as a by-product in the production of cereal grain or turf or grass seed and product standards for products made from strawboard.

(3) The standards required by this section shall be applied to recycled product purchasing by the department, other state agencies, and state postsecondary educational institutions. The standards may be adopted or applied by any other local government in product procurement. The standards shall provide for exceptions under appropriate circumstances to allow purchases of recycled products that do not meet the minimum content requirements of the standards. [2009 c 356 § 3; 2001 c 77 § 1; 1996 c 198 § 1; 1995 c 269 § 1406; 1991 c 297 § 3.]

Effective date—2001 c 77: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 77 § 2.]

Additional notes found at www.leg.wa.gov

43.19A.022 Recycled content paper for printers and copiers—Purchasing priority. (1) By December 31, 2009, all state agencies shall purchase one hundred percent recycled content white cut sheet bond paper used in office printers and copiers. State agencies are encouraged to give priority to purchasing from companies that produce paper in facilities that generate energy from a renewable energy source.

(2) State agencies that utilize office printers and copiers that, after reasonable attempts, cannot be calibrated to utilize such paper referenced in subsection (1) of this section, must for those models of equipment:

(a) Purchase paper at the highest recycled content that can be utilized efficiently by the copier or printer;

(b) At the time of lease renewal or at the end of the life-cycle, either lease or purchase a model that will efficiently utilize one hundred percent recycled content white cut sheet bond paper;

(3) Printed projects that require the use of high volume production inserters or high-speed digital devices, such as those used by the state printer, department of information services, and the department of general administration, are not required to meet the one hundred percent recycled content white cut sheet bond paper standard, but must utilize the highest recycled content that can be utilized efficiently by such equipment and not impede the business of agencies.

(4) The state printer, department of general administration, and department of information services shall work together to identify for use by agencies one hundred percent recycled paper products that process efficiently through high-speed production equipment and do not impede the business of agencies. [2009 c 356 § 2.]

43.19A.030 Local government duties. (1) By January 1, 1993, each local government shall review its existing procurement policies and specifications to determine whether recycled products are intentionally or unintentionally excluded. The policies and specifications shall be revised to include such products unless a recycled content product does not meet an established performance standard of the agency.

(2) By fiscal year 1994, each local government shall adopt a minimum purchasing goal for recycled content as a percentage of the total dollar value of supplies purchased. To assist in achieving this goal each local government shall adopt a strategy by January 1, 1993, and shall submit a description of the strategy to the department. All public agencies shall respond to requests for information from the department for the purpose of its reporting requirements under this section.

(3) Each local government shall designate a procurement officer who shall serve as the primary contact with the department for compliance with the requirements of this chapter.

(4) This section shall apply only to local governments with expenditures for supplies exceeding five hundred thousand dollars for fiscal year 1989. Expenditures for capital goods and for electricity, water, or gas for resale shall not be

considered a supply expenditure. [1998 c 245 § 57; 1991 c 297 § 4.]

43.19A.040 Local government adoption of preferential purchase policy optional. (1) Each local government shall consider the adoption of policies, rules, or ordinances to provide for the preferential purchase of recycled content products. Any local government may adopt the preferential purchasing policy of the department of general administration, or portions of such policy, or another policy that provides a preference for recycled content products.

(2) The department of general administration shall prepare one or more model recycled content preferential purchase policies suitable for adoption by local governments. The model policy shall be widely distributed and provided through the technical assistance and workshops under RCW 43.19A.070.

(3) A local government that is not subject to the purchasing authority of the department of general administration, and that adopts the preferential purchase policy or rules of the department, shall not be limited by the percentage price preference included in such policy or rules. [1991 c 297 § 6.]

43.19A.050 Strategy for state agency procurement. The department shall prepare a strategy to increase purchases of recycled-content products by the department and all state agencies, including higher education institutions. The strategy shall include purchases from public works contracts. The strategy shall address the purchase of plastic products, retread and remanufactured tires, motor vehicle lubricants, latex paint, and lead acid batteries having recycled content. In addition, the strategy shall incorporate actions to achieve the following purchase level goals of compost products:

Compost products as a percentage of the total dollar amount on an annual basis:

- (1) At least forty percent by 1996;
- (2) At least sixty percent by 1997;
- (3) At least eighty percent by 1998. [2009 c 356 § 4; 1996 c 198 § 2; 1991 c 297 § 7.]

43.19A.060 Database of products and vendors. (1) The department shall develop a database of available products with recycled-content products, and vendors supplying such products. The database shall incorporate information regarding product consistency with the content standards adopted under RCW 43.19A.020. The database shall incorporate information developed through state and local government procurement of recycled-content products.

(2) By December 1, 1992, the department shall report to the appropriate standing committees of the legislature on the cost of making the database accessible to all state and local governments and to the private sector.

(3) The department shall compile information on purchases made by the department or pursuant to the department's purchasing authority, and information provided by local governments, regarding:

- (a) The percentage of recycled content and, if known, the amount of postconsumer waste in the products purchased;
- (b) Price;

(c) Agency experience with the performance of recycled products and the supplier under the terms of the purchase; and

(d) Any other information deemed appropriate by the department. [1991 c 297 § 8.]

43.19A.070 Education program—Product substitution list—Model procurement guidelines. (1) The department shall implement an education program to encourage maximum procurement of recycled products by state and local government entities. The program shall include at least the following:

(a) Technical assistance to all state and local governments and their designated procurement officers on the requirements of this chapter, including preparation of model purchase contracts, the preparation of procurement plans, and the availability of recycled products;

(b) Two or more workshops annually in which all state and local government entities are invited;

(c) Information on intergovernmental agreements to facilitate procurement of recycled products.

(2) The director shall, in consultation with the department of ecology, make available to the public, local jurisdictions, and the private sector, a comprehensive list of substitutes for extremely hazardous, hazardous, toxic, and nonrecyclable products, and disposable products intended for a single use. The department and all state agencies exercising the purchasing authorities of the department shall include the substitute products on bid notifications, except where the department allows an exception based upon product availability, price, suitability for intended use, or similar reasons.

(3) The department shall prepare model procurement guidelines for use by local governments. [1991 c 297 § 9.]

43.19A.080 Bid notification to state recycled content requirements. A notification regarding a state or local government's intent to procure products with recycled content must be prominently displayed in the procurement solicitation or invitation to bid including:

(1) A description of the postconsumer waste content or recycled content requirements; and

(2) A description of the agency's recycled content preference program. [1991 c 297 § 11.]

43.19A.110 Local road projects—Compost products.

(1) Each county and city required to prepare a strategy under RCW 43.19A.030 shall adopt specifications for compost products to be used in road projects. The specifications developed by the department of transportation under RCW 47.28.220 may be adopted by the city or county in lieu of developing specifications.

(2) After July 1, 1992, any contract awarded in whole or in part for applying soils, soil covers, or soil amendments to road rights-of-way shall specify that compost materials be purchased in accordance with the following schedule:

(a) For the period July 1, 1992, through June 30, 1994, at least twenty-five percent of the total dollar amount of purchases by the city or county;

(b) On and after July 1, 1994, at least fifty percent of the annual total dollar amount of purchases by the city or county.

(3) The city or county may depart from the schedule in subsection (2) of this section where it determines that no suitable product is available at a reasonable price. [1991 c 297 § 17.]

43.19A.900 Captions not law—1991 c 297. Captions as used in this act constitute no part of the law. [1991 c 297 § 21.]

Chapter 43.20 RCW

STATE BOARD OF HEALTH

Sections

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43.20.050	Powers and duties of state board of health—State public health report—Delegation of authority—Enforcement of rules.
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43.20.260	Review of water system plan, requirements—Municipal water suppliers, retail service.
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43.20.285	Health impact reviews—Obtaining and allocating federal or private funding to implement chapter.
43.20.290	Obtaining and allocating federal or private funding.

Contagious diseases

abatement: RCW 70.05.070.

report of local officers and physicians: RCW 70.05.110.

Control of pet animals infected with diseases communicable to humans, state board of health duties: Chapter 16.70 RCW.

Death certificates: RCW 70.58.150 through 70.58.190.

Drinking water quality consumer complaints: RCW 80.04.110.

Food and beverage service workers' permits, prescribed by: RCW 69.06.010.

Health, department of: Chapter 43.70 RCW.

Hospitals

disclosure of information: RCW 70.41.150.

enforcement of board rules: RCW 70.41.040.

inspection: RCW 70.41.120.

Immunization program, state board of health participation: RCW 28A.210.060 through 28A.210.170.

Physicians, regulation of professional services: RCW 70.41.180.

Sexually transmitted diseases: Chapter 70.24 RCW.

Social and health services, department created: RCW 43.17.010, 43.20A.030.

43.20.025 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Commissions" means the Washington state commission on African-American affairs established in chapter 43.113 RCW, the Washington state commission on Asian Pacific American affairs established in chapter 43.117 RCW, the Washington state commission on Hispanic affairs established in chapter 43.115 RCW, and the governor's office of Indian affairs.

(2) "Consumer representative" means any person who is not an elected official, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services.

(3) "Council" means the governor's interagency coordinating council on health disparities, convened according to this chapter.

(4) "Department" means the department of health.

(5) "Health disparities" means the difference in incidence, prevalence, mortality, or burden of disease and other adverse health conditions, including lack of access to proven health care services that exists between specific population groups in Washington state.

(6) "Health impact review" means a review of a legislative or budgetary proposal completed according to the terms of this chapter that determines the extent to which the proposal improves or exacerbates health disparities.

(7) "Secretary" means the secretary of health, or the secretary's designee.

(8) "Local health board" means a health board created pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(9) "Local health officer" means the legally qualified physician appointed as a health officer pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(10) "Social determinants of health" means those elements of social structure most closely shown to affect health and illness, including at a minimum, early learning, education, socioeconomic standing, safe housing, gender, incidence of violence, convenient and affordable access to safe opportunities for physical activity, healthy diet, and appropriate health care services.

(11) "State board" means the state board of health created under chapter 43.20 RCW. [2006 c 239 § 2; 1989 1st ex.s. c 9 § 208; 1984 c 243 § 1.]

Additional notes found at www.leg.wa.gov

43.20.030 State board of health—Members—Chair—Staff support—Executive director, confidential secretary—Compensation and travel expenses of members. The state board of health shall be composed of ten members. These shall be the secretary or the secretary's designee and nine other persons to be appointed by the governor, including four persons experienced in matters of health and sanitation, one of whom is a health official from a federally recognized tribe; an elected city official who is a member of a local health board; an elected county official who is a member of a local health board; a local health officer; and two persons representing the consumers of health care. Before

appointing the city official, the governor shall consider any recommendations submitted by the association of Washington cities. Before appointing the county official, the governor shall consider any recommendations submitted by the Washington state association of counties. Before appointing the local health officer, the governor shall consider any recommendations submitted by the Washington state association of local public health officials. Before appointing one of the two consumer representatives, the governor shall consider any recommendations submitted by the state council on aging. The chair shall be selected by the governor from among the nine appointed members. The department of health shall provide necessary technical staff support to the board. The board may employ an executive director and a confidential secretary, each of whom shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2009 c 549 § 5072; 2006 c 238 § 1. Prior: 1984 c 287 § 75; 1984 c 243 § 2; (1993 c 492 § 255 repealed by 1995 c 43 § 16); 1970 ex.s. c 18 § 11; 1965 c 8 § 43.20.030; prior: 1921 c 7 § 56, part; RRS § 10814, part.]

Short title—2006 c 238: "This act shall be known as the Sue Crystal memorial act." [2006 c 238 § 2.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.20.035 State board of health—Cooperation with environmental agencies. See RCW 43.70.310.

43.20.050 Powers and duties of state board of health—State public health report—Delegation of authority—Enforcement of rules. (1) The state board of health shall provide a forum for the development of public health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and professional involvement in all public health policy formulation and other matters related to the powers and duties of the department. It is further empowered to hold hearings and explore ways to improve the health status of the citizenry.

(a) At least every five years, the state board shall convene regional forums to gather citizen input on public health issues.

(b) Every two years, in coordination with the development of the state biennial budget, the state board shall prepare the state public health report that outlines the health priorities of the ensuing biennium. The report shall:

- (i) Consider the citizen input gathered at the forums;
- (ii) Be developed with the assistance of local health departments;
- (iii) Be based on the best available information collected and reviewed according to RCW 43.70.050;
- (iv) Be developed with the input of state health care agencies. At least the following directors of state agencies shall provide timely recommendations to the state board on suggested health priorities for the ensuing biennium: The secretary of social and health services, the health care authority administrator, the insurance commissioner, the superintendent of public instruction, the director of labor and industries, the director of ecology, and the director of agriculture;

(v) Be used by state health care agency administrators in preparing proposed agency budgets and executive request legislation;

(vi) Be submitted by the state board to the governor by January 1st of each even-numbered year for adoption by the governor. The governor, no later than March 1st of that year, shall approve, modify, or disapprove the state public health report.

(c) In fulfilling its responsibilities under this subsection, the state board may create ad hoc committees or other such committees of limited duration as necessary.

(2) In order to protect public health, the state board of health shall:

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tendent of public instruction, the director of labor and industries, the director of ecology, and the director of agriculture;

(v) Be used by state health care agency administrators in preparing proposed agency budgets and executive request legislation;

(vi) Be submitted by the state board to the governor by January 1st of each even-numbered year for adoption by the governor. The governor, no later than March 1st of that year, shall approve, modify, or disapprove the state public health report.

(c) In fulfilling its responsibilities under this subsection, the state board may create ad hoc committees or other such committees of limited duration as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules for group A public water systems, as defined in RCW 70.119A.020, necessary to assure safe and reliable public drinking water and to protect the public health. Such rules shall establish requirements regarding:

(i) The design and construction of public water system facilities, including proper sizing of pipes and storage for the number and type of customers;

(ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;

(iii) Public water system management and reporting requirements;

(iv) Public water system planning and emergency response requirements;

(v) Public water system operation and maintenance requirements;

(vi) Water quality, reliability, and management of existing but inadequate public water systems; and

(vii) Quality standards for the source or supply, or both source and supply, of water for bottled water plants;

(b) Adopt rules as necessary for group B public water systems, as defined in RCW 70.119A.020. The rules shall, at a minimum, establish requirements regarding the initial design and construction of a public water system. The state board of health rules may waive some or all requirements for group B public water systems with fewer than five connections;

(c) Adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, solid and liquid, including but not limited to sewage, garbage, refuse, and other environmental contaminants; adopt standards and procedures governing the design, construction, and operation of sewage, garbage, refuse and other solid waste collection, treatment, and disposal facilities;

(d) Adopt rules controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, cleanliness and space in all types of public facilities including but not limited to food service establishments, schools, institutions, recreational facilities and transient accommodations and in places of work;

(e) Adopt rules for the imposition and use of isolation and quarantine;

(f) Adopt rules for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules governing the receipt and conveyance of remains of deceased persons, and such other sanitary mat-

ters as admit of and may best be controlled by universal rule; and

(g) Adopt rules for accessing existing databases for the purposes of performing health related research.

(3) The state board shall adopt rules for the design, construction, installation, operation, and maintenance of those on-site sewage systems with design flows of less than three thousand five hundred gallons per day.

(4) The state board may delegate any of its rule-adopting authority to the secretary and rescind such delegated authority.

(5) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he or she shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

(6) The state board may advise the secretary on health policy issues pertaining to the department of health and the state. [2009 c 495 § 1; 2007 c 343 § 11; 1993 c 492 § 489; 1992 c 34 § 4. Prior: 1989 1st ex.s. c 9 § 210; 1989 c 207 § 1; 1985 c 213 § 1; 1979 c 141 § 49; 1967 ex.s. c 102 § 9; 1965 c 8 § 43.20.050; prior: (i) 1901 c 116 § 1; 1891 c 98 § 2; RRS § 6001. (ii) 1921 c 7 § 58; RRS § 10816.]

Effective date—2009 c 495: "Except for section 9 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 14, 2009]." [2009 c 495 § 17.]

Captions and part headings not law—2007 c 343: See RCW 70.118B.900.

Findings—1993 c 492: "The legislature finds that our health and financial security are jeopardized by our ever increasing demand for health care and by current health insurance and health system practices. Current health system practices encourage public demand for unneeded, ineffective, and sometimes dangerous health treatments. These practices often result in unaffordable cost increases that far exceed ordinary inflation for essential care. Current total health care expenditure rates should be sufficient to provide access to essential health care interventions to all within a reformed, efficient system.

The legislature finds that too many of our state's residents are without health insurance, that each year many individuals and families are forced into poverty because of serious illness, and that many must leave gainful employment to be eligible for publicly funded medical services. Additionally, thousands of citizens are at risk of losing adequate health insurance, have had insurance canceled recently, or cannot afford to renew existing coverage.

The legislature finds that businesses find it difficult to pay for health insurance and remain competitive in a global economy, and that individuals, the poor, and small businesses bear an inequitable health insurance burden.

The legislature finds that persons of color have significantly higher rates of mortality and poor health outcomes, and substantially lower numbers and percentages of persons covered by health insurance than the general population. It is intended that chapter 492, Laws of 1993 make provisions to address the special health care needs of these racial and ethnic populations in order to improve their health status.

The legislature finds that uncontrolled demand and expenditures for health care are eroding the ability of families, businesses, communities, and governments to invest in other enterprises that promote health, maintain independence, and ensure continued economic welfare. Housing, nutrition, education, and the environment are all diminished as we invest ever increasing shares of wealth in health care treatments.

The legislature finds that while immediate steps must be taken, a long-term plan of reform is also needed." [1993 c 492 § 101.]

Intent—1993 c 492: "(1) The legislature intends that state government policy stabilize health services costs, assure access to essential services for all residents, actively address the health care needs of persons of color, improve the public's health, and reduce unwarranted health services costs to preserve the viability of nonhealth care businesses.

(2) The legislature intends that:

(a) Total health services costs be stabilized and kept within rates of increase similar to the rates of personal income growth within a publicly regulated, private marketplace that preserves personal choice;

(b) State residents be enrolled in the certified health plan of their choice that meets state standards regarding affordability, accessibility, cost-effectiveness, and clinical efficaciousness;

(c) State residents be able to choose health services from the full range of health care providers, as defined in RCW 43.72.010(12), in a manner consistent with good health services management, quality assurance, and cost effectiveness;

(d) Individuals and businesses have the option to purchase any health services they may choose in addition to those included in the uniform benefits package or supplemental benefits;

(e) All state residents, businesses, employees, and government participate in payment for health services, with total costs to individuals on a sliding scale based on income to encourage efficient and appropriate utilization of services;

(f) These goals be accomplished within a reformed system using private service providers and facilities in a way that allows consumers to choose among competing plans operating within budget limits and other regulations that promote the public good; and

(g) A policy of coordinating the delivery, purchase, and provision of health services among the federal, state, local, and tribal governments be encouraged and accomplished by chapter 492, Laws of 1993.

(3) Accordingly, the legislature intends that chapter 492, Laws of 1993 provide both early implementation measures and a process for overall reform of the health services system." [1993 c 492 § 102.]

Rules and regulations—Visual and auditory screening of pupils: RCW 28A.210.020.

Additional notes found at www.leg.wa.gov

43.20.100 Biennial report. The state board of health shall report to the governor by July 1st of each even-numbered year including therein suggestions for public health priorities for the following biennium and such legislative action as it deems necessary. [2009 c 518 § 23; 1977 c 75 § 44; 1965 c 8 § 43.20.100. Prior: 1891 c 98 § 11; RRS § 6007.]

43.20.110 Federal act on maternal and infancy hygiene accepted. The provisions of the act of congress entitled "An Act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921, are hereby accepted by the state of Washington. [1965 c 8 § 43.20.110. Prior: 1923 c 127 § 1; RRS § 10814-1.]

43.20.140 Services to crippled children—Rules and regulations. The director of the state board of health shall be empowered to promulgate such rules and regulations as shall be necessary to effectuate and carry out the purposes of RCW 43.20A.635. [1979 c 141 § 58; 1965 c 8 § 43.20.140. Prior: 1941 c 129 § 2; Rem. Supp. 1941 § 9992-107b. Formerly RCW 74.12.220.]

43.20.145 Food service rules—Consideration of federal food code. The state board shall consider the most recent version of the United States food and drug administration's food code for the purpose of adopting rules for food service. [2003 c 65 § 2.]

Intent—2003 c 65: "The United States food and drug administration's food code incorporates the most recent food science and technology. The

code is regularly updated in consultation with the states, the scientific community, and the food service industry. The food and drug administration's food code provides consistency for food service regulations, and it serves as a model for many states' food service rules. It is the legislature's intent that the state board of health use the United States food and drug administration's food code as guidance when developing food service rules for this state." [2003 c 65 § 1.]

43.20.175 Violations—Injunctions and legal proceedings authorized. See RCW 43.70.190.

43.20.185 Enforcement of health laws and state or local rules and regulations upon request of local health officer. See RCW 43.70.200.

43.20.195 Reports of violations by secretary—Duty of attorney general, prosecuting attorney or city attorney to institute proceedings—Notice to alleged violator. See RCW 43.20A.660.

43.20.200 Grant-in-aid payments for local health departments. The state board of health is hereby authorized to provide grant-in-aid payments with state funds to assist in the cost of general operation of local health departments in accordance with standards established by the board. [1967 ex.s. c 102 § 11.]

Additional notes found at www.leg.wa.gov

43.20.215 Right of person to rely on prayer to alleviate ailments not abridged. See RCW 43.70.210.

43.20.220 Cooperation with federal government—Construction of Title 70 RCW. See RCW 70.01.010.

43.20.230 Water resource planning—Procedures, criteria, technical assistance. Consistent with the water resource planning process of the department of ecology, the department of health shall:

(1) Develop procedures and guidelines relating to water use efficiency, as defined in *section 4(3), chapter 348, Laws of 1989, to be included in the development and approval of cost-efficient water system plans required under RCW 43.20.050;

(2) Develop criteria, with input from technical experts, with the objective of encouraging the cost-effective reuse of greywater and other water recycling practices, consistent with protection of public health and water quality;

(3) Provide advice and technical assistance upon request in the development of water use efficiency plans; and

(4) Provide advice and technical assistance on request for development of model conservation rate structures for public water systems. Subsections (1), (2), and (3) of this section are subject to the availability of funding. [1993 sp.s. c 4 § 9; 1989 c 348 § 12.]

*Reviser's note: 1989 c 348 § 4 was vetoed.

Findings—Grazing lands—1993 sp.s. c 4: See RCW 79.13.600.

Additional notes found at www.leg.wa.gov

43.20.235 Water conservation—Water delivery rate structures. Water purveyors required to develop a water system plan pursuant to RCW 43.20.230 shall evaluate the

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feasibility of adopting and implementing water delivery rate structures that encourage water conservation. This information shall be included in water system plans submitted to the department of health for approval after July 1, 1993. The department shall evaluate the following:

(1) Rate structures currently used by public water systems in Washington; and

(2) Economic and institutional constraints to implementing conservation rate structures. [1998 c 245 § 58; 1993 sp.s. c 4 § 10.]

Findings—Grazing lands—1993 sp.s. c 4: See RCW 79.13.600.

43.20.240 Public water systems—Complaint process.

(1) The department shall have primary responsibility among state agencies to receive complaints from persons aggrieved by the failure of a public water system. If the remedy to the complaint is not within the jurisdiction of the department, the department shall refer the complaint to the state or local agency that has the appropriate jurisdiction. The department shall take such steps as are necessary to inform other state agencies of their primary responsibility for such complaints and the implementing procedures.

(2) Each county shall designate a contact person to the department for the purpose of receiving and following up on complaint referrals that are within county jurisdiction. In the absence of any such designation, the county health officer shall be responsible for performing this function.

(3) The department and each county shall establish procedures for providing a reasonable response to complaints received from persons aggrieved by the failure of a public water system.

(4) The department and each county shall use all reasonable efforts to assist customers of public water systems in obtaining a dependable supply of water at all times. The availability of resources and the public health significance of the complaint shall be considered when determining what constitutes a reasonable effort.

(5) The department shall, in consultation with local governments, water utilities, water-sewer districts, public utility districts, and other interested parties, develop a booklet or other single document that will provide to members of the public the following information:

(a) A summary of state and local law regarding the obligations of public water systems in providing drinking water supplies to their customers;

(b) A summary of the activities, including planning, rate setting, and compliance, that are to be performed by both local and state agencies;

(c) The rights of customers of public water systems, including identification of agencies or offices to which they may address the most common complaints regarding the failures or inadequacies of public water systems.

This booklet or document shall be available to members of the public no later than January 1, 1991. [2009 c 495 § 2; 1999 c 153 § 56; 1990 c 132 § 3.]

Effective date—2009 c 495: See note following RCW 43.20.050.

Legislative findings—1990 c 132: "The legislature finds the best interests of the citizens of the state are served if:

(1) Customers served by public water systems are assured of an adequate quantity and quality of water supply at reasonable rates;

(2) There is improved coordination between state agencies engaged in

water system planning and public health regulation and local governments responsible for land use planning and public health and safety; and

(3) Existing procedures and processes for water system planning are strengthened and fully implemented by state agencies, local government, and public water systems." [1990 c 132 § 1.]

Additional notes found at www.leg.wa.gov

43.20.250 Review of water system plan—Time limitations—Notice of rejection of plan or extension of timeline. For any new or revised water system plan submitted for review under this chapter, the department shall review and either approve, conditionally approve, reject, or request amendments within ninety days of the receipt of the submission of the plan. The department may extend this ninety-day time limitation for new submittals by up to an additional ninety days if insufficient time exists to adequately review the general comprehensive plan. For rejections of plans or extensions of the timeline, the department shall provide in writing, to the person or entity submitting the plan, the reason for such action. In addition, the person or entity submitting the plan and the department may mutually agree to an extension of the deadlines contained in this section. [2002 c 161 § 1.]

43.20.260 Review of water system plan, requirements—Municipal water suppliers, retail service. In approving the water system plan of a public water system, the department shall ensure that water service to be provided by the system under the plan for any new industrial, commercial, or residential use is consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the service area. A municipal water supplier, as defined in RCW 90.03.015, has a duty to provide retail water service within its retail service area if: (1) Its service can be available in a timely and reasonable manner; (2) the municipal water supplier has sufficient water rights to provide the service; (3) the municipal water supplier has sufficient capacity to serve the water in a safe and reliable manner as determined by the department of health; and (4) it is consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the service area and, for water service by the water utility of a city or town, with the utility service extension ordinances of the city or town. [2003 1st sp.s. c 5 § 8.]

Severability—2003 1st sp.s. c 5: See note following RCW 90.03.015.

43.20.270 Governor's interagency coordinating council on health disparities—Action plan—Statewide policy. The legislature finds that women and people of color experience significant disparities from men and the general population in education, employment, healthful living conditions, access to health care, and other social determinants of health. The legislature finds that these circumstances coupled with lower, slower, and less culturally appropriate and gender appropriate access to needed medical care result in higher rates of morbidity and mortality for women and per-

sons of color than observed in the general population. Health disparities are defined by the national institute of health as the differences in incidence, prevalence, mortality, and burden of disease and other adverse health conditions that exist among specific population groups in the United States.

It is the intent of the Washington state legislature to create the healthiest state in the nation by striving to eliminate health disparities in people of color and between men and women. In meeting the intent of chapter 239, Laws of 2006, the legislature creates the governor's interagency coordinating council on health disparities. This council shall create an action plan and statewide policy to include health impact reviews that measure and address other social determinants of health that lead to disparities as well as the contributing factors of health that can have broad impacts on improving status, health literacy, physical activity, and nutrition. [2006 c 239 § 1.]

43.20.275 Council created—Membership—Duties—Advisory committees. (1) In collaboration with staff whom the office of financial management may assign, and within funds made expressly available to the state board for these purposes, the state board shall assist the governor by convening and providing assistance to the council. The council shall include one representative from each of the following groups: Each of the commissions, the state board, the department, the department of social and health services, the *department of community, trade, and economic development, the health care authority, the department of agriculture, the department of ecology, the office of the superintendent of public instruction, the department of early learning, the workforce training and education coordinating board, and two members of the public who will represent the interests of health care consumers. The council is a class one group under RCW 43.03.220. The two public members shall be paid per diem and travel expenses in accordance with RCW 43.03.050 and 43.03.060. The council shall reflect diversity in race, ethnicity, and gender. The governor or the governor's designee shall chair the council.

(2) The council shall promote and facilitate communication, coordination, and collaboration among relevant state agencies and communities of color, and the private sector and public sector, to address health disparities. The council shall conduct public hearings, inquiries, studies, or other forms of information gathering to understand how the actions of state government ameliorate or contribute to health disparities. All state agencies must cooperate with the council's efforts.

(3) The council with assistance from the state board, shall assess through public hearings, review of existing data, and other means, and recommend initiatives for improving the availability of culturally appropriate health literature and interpretive services within public and private health-related agencies.

(4) In order to assist with its work, the council shall establish advisory committees to assist in plan development for specific issues and shall include members of other state agencies and local communities.

(5) The advisory committee shall reflect diversity in race, ethnicity, and gender. [2006 c 239 § 3.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.20.280 Action plan for eliminating health disparities—Council meetings—Reports to the legislature. The council shall consider in its deliberations and by 2012, create an action plan for eliminating health disparities. The action plan must address, but is not limited to, the following diseases, conditions, and health indicators: Diabetes, asthma, infant mortality, HIV/AIDS, heart disease, strokes, breast cancer, cervical cancer, prostate cancer, chronic kidney disease, sudden infant death syndrome (SIDS), mental health, women's health issues, smoking cessation, oral disease, and immunization rates of children and senior citizens. The council shall prioritize the diseases, conditions, and health indicators according to prevalence and severity of the health disparity. The council shall address these priorities on an incremental basis by adding no more than five of the diseases, conditions, and health indicators to each update or revised version of the action plan. The action plan shall be updated biannually. The council shall meet as often as necessary but not less than two times per calendar year. The council shall report its progress with the action plan to the governor and the legislature no later than January 15, 2008. A second report shall be presented no later than January 15, 2010, and a third report from the council shall be presented to the governor and the legislature no later than January 15, 2012. Thereafter, the governor and legislature shall require progress updates from the council every four years in odd-numbered years. The action plan shall recognize the need for flexibility. [2006 c 239 § 4.]

43.20.285 Health impact reviews—Obtaining and allocating federal or private funding to implement chapter. The state board shall, to the extent that funds are available expressly for this purpose, complete health impact reviews, in collaboration with the council, and with assistance that shall be provided by any state agency of which the board makes a request.

(1) A health impact review may be initiated by a written request submitted according to forms and procedures proposed by the council and approved by the state board before December 1, 2006.

(2) Any state legislator or the governor may request a review of any proposal for a state legislative or budgetary change. Upon receiving a request for a health impact review from the governor or a member of the legislature during a legislative session, the state board shall deliver the health impact review to the requesting party in no more than ten days.

(3) The state board may limit the number of health impact reviews it produces to retain quality while operating within its available resources.

(4) A state agency may decline a request to provide assistance if complying with the request would not be feasible while operating within its available resources.

(5) Upon delivery of the review to the requesting party, it shall be a public document, and shall be available on the state board's web site.

(6) The review shall be based on the best available empirical information and professional assumptions available to the state board within the time required for completing the review. The review should consider direct impacts on

health disparities as well as changes in the social determinants of health.

(7) The state board and the department shall collaborate to obtain any federal or private funding that may become available to implement the state board's duties under this chapter. If the department receives such funding, the department shall allocate it to the state board and affected agencies to implement its duties under this chapter, and any state general funds that may have been appropriated but are no longer needed by the state board shall lapse to the state general fund. [2006 c 239 § 5.]

43.20.290 Obtaining and allocating federal or private funding. The state board and the department shall collaborate to obtain any federal or private funding that may become available to implement the state board's duties under this chapter. If the department receives such funding, the department shall allocate it to the state board to implement its duties under this chapter, and any state general funds that may have been appropriated but are no longer needed by the state board shall lapse to the state general fund. [2006 c 239 § 6.]

Chapter 43.20A RCW

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

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- 43.20A.320 Consultation with coordinating council for occupational education.
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- 43.20A.400 Purchase of services from public or nonprofit agencies—Utilization of nonappropriated funds.
- 43.20A.405 Purchase of services from public or nonprofit agencies—Vendor rates—Establishment.
- 43.20A.410 Purchase of services from public or nonprofit agencies—Factors to be considered.
- 43.20A.415 Purchase of services from public or nonprofit agencies—Retention of basic responsibilities by secretary.
- 43.20A.420 Purchase of services from public or nonprofit agencies—Secretary to provide consultative, technical and development services to suppliers—Review of services.
- 43.20A.425 Purchase of services from public or nonprofit agencies—Qualifications of vendors.
- 43.20A.430 Purchase of services from public or nonprofit agencies—Retention of sums to pay departmental costs.
- 43.20A.433 Mental health and chemical dependency treatment providers and programs—Vendor rate increases.
- 43.20A.445 State-operated workshops at institutions—Authorized—Standards.
- 43.20A.550 Federal programs—Rules and regulations—Internal reorganization to meet federal requirements—Statutes to be construed to meet federal law—Conflicting parts deemed inoperative.
- 43.20A.605 Authority to administer oaths and issue subpoenas—Provisions governing subpoenas.
- 43.20A.607 Authority to appoint a single executive officer for multiple institutions—Exception.
- 43.20A.610 Employment of deputies, experts, physicians, etc.
- 43.20A.635 Services for children with disabilities.
- 43.20A.637 Services to crippled children—Rules and regulations.
- 43.20A.660 Reports of violations by secretary—Duty of attorney general, prosecuting attorney or city attorney to institute proceedings—Notice to alleged violator.
- 43.20A.680 State council on aging established.
- 43.20A.685 State council on aging—Membership—Terms—Vacancies—Chairperson—Secretary—Compensation of legislative members.
- 43.20A.690 State council on aging—Meetings—Compensation of nonlegislative members.
- 43.20A.695 State council on aging—Powers and duties—Bylaws.
- 43.20A.710 Investigation of conviction records or pending charges of state employees and individual providers.
- 43.20A.711 Receipt and use of criminal history information.
- 43.20A.720 Telecommunications devices and services for the hearing and speech impaired—Definitions.
- 43.20A.725 Telecommunications devices for the hearing and speech impaired—Program for provision of services and equipment—Telecommunications relay service excise tax—Rules.
- 43.20A.770 Administration of statutes applicable to runaway youth, at-risk youth, and families in conflict—Consistency required.
- 43.20A.780 Administration of family services and programs.
- 43.20A.790 Homeless families with children—Shelter and housing services.
- 43.20A.800 Vision services for the homeless—Coordination.
- 43.20A.810 Vision services for the homeless—Funding.
- 43.20A.820 Vision services for the homeless—Use of used eyeglass frames by providers.
- 43.20A.830 Vision services for the homeless—Provider liability.
- 43.20A.840 Vision services for the homeless—Third party payers.
- 43.20A.845 Vision services for the homeless—Program name.
- 43.20A.850 Group homes—Availability of evaluations and data.
- 43.20A.860 Requirement to seek federal waivers and state law changes to medical assistance program.
- 43.20A.870 Children's services—Annual quality assurance report.
- 43.20A.880 Training competencies and learning outcomes.
- 43.20A.890 Problem and pathological gambling treatment program—Rules.
- 43.20A.892 Problem gambling account.
- 43.20A.930 Effective date—Severability—1970 ex.s. c 18.
- Air pollution*
limitation on other governmental units or persons: RCW 70.94.370.
personnel, employment of: RCW 70.94.350.
- Alcoholism*
private establishments and institutions: Chapter 71.12 RCW.
treatment program, generally: Chapters 70.96, 70.96A, 74.50 RCW.
- Birth certificates:* RCW 70.58.080.
- Boarding home licensing:* Chapter 18.20 RCW.
- Certificates for out-of-state marriage license requirements:* RCW 70.58.380.
- Child welfare agencies:* RCW 74.15.060.
- Children, expectant mothers, persons with developmental disabilities, health protection as to agencies providing for, duties of secretary of health:* RCW 74.15.060.
- City sewerage systems, investigation:* RCW 35.88.090.
- Commission merchants, damaged or unfit products, certificate as to, issued by department:* RCW 20.01.450.
- Control of pet animals infected with diseases communicable to humans, secretary's duties:* Chapter 16.70 RCW.
- Council for children and families, secretary or designee as member:* RCW 43.121.020.
- County sewerage and water systems, approval by department:* RCW 36.94.100.
- Criminally insane, rights, responsibilities and duties:* Chapter 10.77 RCW.
- Diabetes, policy for inservice training for school staff treating and monitoring affected students:* RCW 28A.210.340.
- Displaced homemaker act, departmental participation:* RCW 28B.04.080.
- Educational programs for residential school residents, departmental duties and authority:* RCW 28A.190.020 through 28A.190.060.
- Family preservation services:* Chapter 74.14C RCW.
- Fees for repository of vaccines and biologics:* RCW 70.54.190.
- Food stamps:* RCW 74.04.500.
- Health, department of, functions transferred to:* RCW 43.70.900.
- Hospital and medical facilities survey and construction generally:* Chapter 70.40 RCW.
secretary's duties: RCW 70.40.040.
state plan: RCW 70.40.090, 70.40.100.
- Hospitals for individuals with mental illness, private establishments conferences with management:* RCW 71.12.530.
examinations generally: RCW 71.12.510, 71.12.520.
- Independent youth housing program:* RCW 43.63A.305.
- Juvenile justice act of 1977, department and secretary's duties under:* Chapter 13.40 RCW.
- License*
examination for compliance with: RCW 71.12.500.
examination of premises: RCW 71.12.480.
issuance: RCW 71.12.460.
- Licensing of adult family homes:* Chapter 70.128 RCW.
- Medical assistance:* Chapter 74.09 RCW.
- Mental illness, department's duties relating to:* Chapter 71.05 RCW.
- Monitoring enrollee level in basic health plan and medicaid caseload of children—Funding levels adjustment:* RCW 43.41.260.
- Mosquito control, duties in regard to:* Chapter 70.22 RCW.
- Nursing homes licensing, duties concerning:* Chapter 18.51 RCW.
- Occupational and environmental research facility advisory committee, membership:* RCW 28B.20.456.
- Occupational forecast—Agency consultation:* RCW 50.38.030.
- Offices maintained at state capital:* RCW 43.17.050.
- Powers and duties, generally:* RCW 43.17.030.
- Public assistance:* Chapters 74.08 and 74.09 RCW.
- Purchase of products and services provided by entities serving or providing opportunities for disadvantaged persons or individuals with disabilities:* RCW 43.19.520 through 43.19.530.
- Residential schools and/or homes for children with disabilities:* RCW 28A.155.040.
- Rules and regulations of department:* RCW 43.17.060.
- Sanitation advice to local authority:* RCW 70.54.040.
- Secretary*
appointment: RCW 43.17.020.
chief assistants: RCW 43.17.040.
oath: RCW 43.17.030.
vacancy: RCW 43.17.020, 43.17.040.
- Shellfish sanitation control:* Chapter 69.30 RCW.
- State otologist*
appointment: RCW 70.50.010.

duties: RCW 70.50.020.

Temporary assistance for needy families: Chapter 74.12 RCW.

Victims of crimes, reimbursement by convicted person as condition of work release or parole: RCW 7.68.120.

Vital statistics: Chapter 70.58 RCW.

43.20A.005 Intent—Public involvement and outreach. It is the intent of the legislature that the department of social and health services and the department of ecology, in consultation with affected constituent groups, continue appropriate public involvement and outreach mechanisms designed to provide cost-effective public input on their programs and policies. [2001 c 291 § 1001.]

Part headings not law—Effective date—2001 c 291: See notes following RCW 43.20A.360.

43.20A.010 Purpose. The department of social and health services is designed to integrate and coordinate all those activities involving provision of care for individuals who, as a result of their economic, social or health condition, require financial assistance, institutional care, rehabilitation or other social and health services. In order to provide for maximum efficiency of operation consistent with meeting the needs of those served or affected, the department will encompass substantially all of the powers, duties and functions vested by law on June 30, 1970, in the department of public assistance, the department of institutions, the veterans' rehabilitation council and the division of vocational rehabilitation of the coordinating council on occupational education. The department will concern itself with changing social needs, and will expedite the development and implementation of programs designed to achieve its goals. In furtherance of this policy, it is the legislative intent to set forth only the broad outline of the structure of the department, leaving specific details of its internal organization and management to those charged with its administration. [1989 1st ex.s. c 9 § 211; 1979 c 141 § 60; 1970 ex.s. c 18 § 1.]

***Reviser's note:** Phrase "Except as otherwise in this amendatory act provided" refers to 1970 ex.s. c 18 § 67, uncodified, which pertained to laws amended in existing education code and as the same were reenacted in the new education code, effective July 1, 1970, not otherwise pertinent hereto.

Additional notes found at www.leg.wa.gov

43.20A.020 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "Department" means the department of social and health services.
- (2) "Secretary" means the secretary of the department of social and health services.
- (3) "Deputy secretary" means the deputy secretary of the department of social and health services.
- (4) "Overpayment" means any department payment or department benefit to a recipient or to a vendor in excess of that to which the recipient or vendor is entitled by law, rule, or contract, including amounts in dispute pending resolution.
- (5) "Vendor" means an entity that provides goods or services to or for clientele of the department and that controls operational decisions. [1987 c 283 § 1; 1979 c 141 § 61; 1970 ex.s. c 18 § 2.]

Additional notes found at www.leg.wa.gov

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43.20A.025 "Appropriately trained professional person" defined by rule. The department of social and health services shall adopt rules defining "appropriately trained professional person" for the purposes of conducting mental health and chemical dependency evaluations under RCW *71.34.052(3), *71.34.054(1), 70.96A.245(3), and 70.96A.250(1). [1998 c 296 § 34.]

***Reviser's note:** RCW 71.34.052 and 71.34.054 were recodified as RCW 71.34.600 and 71.34.650, respectively, pursuant to 2005 c 371 § 6.

Findings—Intent—Part headings not law—Short title—1998 c 296: See notes following RCW 74.13.025.

43.20A.030 Department created—Powers and duties transferred to. There is hereby created a department of state government to be known as the department of social and health services. All powers, duties and functions vested by law on June 30, 1970, in the department of public assistance, the department of institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education are transferred to the department. Powers, duties and functions to be transferred shall include, but not be limited to, all those powers, duties and functions involving cooperation with other governmental units, such as cities and counties, or with the federal government, in particular those concerned with participation in federal grants-in-aid programs. [1989 1st ex.s. c 9 § 212; 1979 c 141 § 62; 1970 ex.s. c 18 § 3.]

Additional notes found at www.leg.wa.gov

43.20A.035 Inventory of charitable, educational, penal, and reformatory land. The department shall conduct an inventory of real properties as provided in *RCW 79.01.006. [1991 c 204 § 2.]

***Reviser's note:** RCW 79.01.006 was recodified as RCW 79.02.400 pursuant to 2003 c 334 § 554.

43.20A.037 Affordable housing—Inventory of suitable housing. (1) The department shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department shall provide a copy of the inventory to the *department of community, trade, and economic development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1995 c 399 § 65; 1993 c 461 § 8.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—1993 c 461: See note following RCW 43.63A.510.

43.20A.040 Secretary of social and health services—Appointment—Term—Salary—Temporary appointment if vacancy—As executive head and appointing

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authority. The executive head and appointing authority of the department shall be the secretary of social and health services. He or she shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. He or she shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in his or her position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he or she shall present to that body his or her nomination for the office. [2009 c 549 § 5073; 1970 ex.s. c 18 § 4.]

43.20A.050 Secretary of social and health services—Powers and duties generally—Employment of assistants and personnel, limitation. It is the intent of the legislature wherever possible to place the internal affairs of the department under the control of the secretary to institute the flexible, alert and intelligent management of its business that changing contemporary circumstances require. Therefore, whenever the secretary's authority is not specifically limited by law, he or she shall have complete charge and supervisory powers over the department. The secretary is authorized to create such administrative structures as deemed appropriate, except as otherwise specified by law. The secretary shall have the power to employ such assistants and personnel as may be necessary for the general administration of the department. Except as elsewhere specified, such employment shall be in accordance with the rules of the state civil service law, chapter 41.06 RCW. [1997 c 386 § 41; 1979 c 141 § 63; 1970 ex.s. c 18 § 5.]

43.20A.060 Departmental divisions—Plan establishing and organizing. The department of social and health services shall be subdivided into divisions, including a division of vocational rehabilitation. Except as otherwise specified or as federal requirements may differently require, these divisions shall be established and organized in accordance with plans to be prepared by the secretary and approved by the governor. In preparing such plans, the secretary shall endeavor to promote efficient public management, to improve programs, and to take full advantage of the economies, both fiscal and administrative, to be gained from the consolidation of the departments of public assistance, institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education. [1989 1st ex.s. c 9 § 213; 1979 c 141 § 64; 1970 ex.s. c 18 § 6.]

Additional notes found at www.leg.wa.gov

43.20A.065 Review of expenditures for drug and alcohol treatment. The department of social and health services shall annually review and monitor the expenditures made by any county or group of counties which is funded, in whole or in part, with funds provided by chapter 290, Laws of 2002. Counties shall repay any funds that are not spent in accordance with the requirements of chapter 290, Laws of 2002. [2002 c 290 § 6.]

Effective date—2002 c 290 §§ 1, 4-6, 12, 13, 26, and 27: See note following RCW 70.96A.350.

Intent—2002 c 290: See note following RCW 9.94A.517.

Severability—2002 c 290: See RCW 9.94A.924.

43.20A.073 Rule making regarding sex offenders. See RCW 72.09.337.

43.20A.075 Rule-making authority. For rules adopted after July 23, 1995, the secretary may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 102.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

43.20A.080 Data sharing—Confidentiality—Penalties. (1) The department shall provide the employment security department quarterly with the names and social security numbers of all clients in the WorkFirst program and any successor state welfare program.

(2) The information provided by the employment security department under RCW 50.13.060 for statistical analysis and welfare program evaluation purposes may be used only for statistical analysis, research, and evaluation purposes as provided in RCW 74.08A.410 and 74.08A.420. Through individual matches with accessed employment security department confidential employer wage files, only aggregate, statistical, group level data shall be reported. Data sharing by the employment security department may be extended to include the office of financial management and other such governmental entities with oversight responsibility for this program.

(3) The department and other agencies of state government shall protect the privacy of confidential personal data supplied under RCW 50.13.060 consistent with federal law, chapter 50.13 RCW, and the terms and conditions of a formal data-sharing agreement between the employment security department and agencies of state government, however the misuse or unauthorized use of confidential data supplied by the employment security department is subject to the penalties in RCW 50.13.080. [1997 c 58 § 1005.]

Additional notes found at www.leg.wa.gov

43.20A.090 Deputy secretary—Department personnel director—Assistant secretaries—Appointment—Duties—Salaries. The secretary shall appoint a deputy secretary, a department personnel director and such assistant secretaries as shall be needed to administer the department. The deputy secretary shall have charge and general supervision of the department in the absence or disability of the secretary, and in case of a vacancy in the office of secretary, shall continue in charge of the department until a successor is appointed and qualified, or until the governor shall appoint an acting secretary. The secretary shall appoint an assistant secretary to administer the juvenile rehabilitation responsibilities required of the department by chapters 13.04, 13.40, and 13.50 RCW. The officers appointed under this section, and exempt from the provisions of the state civil service law by the terms of *RCW 41.06.076, shall be paid salaries to be fixed by the governor in accordance with the procedure estab-

lished by law for the fixing of salaries for officers exempt from the operation of the state civil service law. [1994 sp.s. c 7 § 515; 1970 ex.s. c 18 § 7.]

***Reviser's note:** RCW 41.06.076 expired June 30, 2005.

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.20A.105 Social worker V employees—Implementation plan. The secretary shall develop a plan for implementation for the social worker V employees. The implementation plan shall be submitted to the governor and the legislature by December 1, 1997. The department shall begin implementation of the plan beginning April 1, 1998. The department shall perform the duties assigned under *sections 3 through 5, chapter 386, Laws of 1997 and **RCW 41.06.076 within existing personnel resources. [1997 c 386 § 5.]

Reviser's note: *(1) 1997 c 386 §§ 3 and 4 were vetoed by the governor. 1997 c 386 § 5 was codified as RCW 43.20A.105.

** (2) RCW 41.06.076 expired June 30, 2005.

43.20A.110 Secretary's delegation of powers and duties. The secretary may delegate any power or duty vested in or transferred to him or her by law, or executive order, to his or her deputy secretary or to any other assistant or subordinate; but the secretary shall be responsible for the official acts of the officers and employees of the department. [2009 c 549 § 5074; 1970 ex.s. c 18 § 9.]

43.20A.130 Secretary or designee as member of state board of health. See RCW 43.20.030.

43.20A.160 Department as state radiation control agency. See RCW 70.98.050.

43.20A.165 Federal Safe Drinking Water Act—Department to participate in and administer in conjunction with other departments. See RCW 43.21A.445.

43.20A.167 Federal Older Americans Act of 1965—Department to participate in and administer. See RCW 74.36.100.

43.20A.168 Community programs and projects for the aging. See RCW 74.36.110 through 74.36.130.

43.20A.205 Denial, suspension, revocation, or modification of license. This section governs the denial of an application for a license or the suspension, revocation, or modification of a license by the department.

(1) The department shall give written notice of the denial of an application for a license to the applicant or his or her agent. The department shall give written notice of revocation, suspension, or modification of a license to the licensee or his or her agent. The notice shall state the reasons for the action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in another manner that shows proof of receipt.

(2) Except as otherwise provided in this subsection and in subsection (4) of this section, revocation, suspension, or

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modification is effective twenty-eight days after the licensee or the agent receives the notice.

(a) The department may make the date the action is effective later than twenty-eight days after receipt. If the department does so, it shall state the effective date in the written notice given the licensee or agent.

(b) The department may make the date the action is effective sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or agent.

(c) When the department has received certification pursuant to chapter 74.20A RCW from the division of child support that the licensee is a person who is not in compliance with a support order or an order from court stating that the licensee is in noncompliance with a residential or visitation order under *chapter 26.09 RCW, the department shall provide that the suspension is effective immediately upon receipt of the suspension notice by the licensee.

(3) Except for licensees suspended for noncompliance with a support order under chapter 74.20A RCW or a residential or visitation order under *chapter 26.09 RCW, a license applicant or licensee who is aggrieved by a department denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the license applicant's or licensee's receiving the adverse notice, and be served in a manner that shows proof of receipt.

(4)(a) If the department gives a licensee twenty-eight or more days notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause. [1997 c 58 § 841; 1989 c 175 § 95.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

43.20A.215 Assessment of civil fine. This section governs the assessment of a civil fine against a person by the department.

(1) The department shall written give [written] notice to the person against whom it assesses a civil fine. The notice shall state the reasons for the adverse action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in an other manner that shows proof of receipt.

(2) Except as otherwise provided in subsection (4) of this section, the civil fine is due and payable twenty-eight days after receipt. The department may make the date the fine is due later than twenty-eight days after receipt. When the department does so, it shall state the effective date in the written notice given the person against whom it assesses the fine.

(3) The person against whom the department assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the fine, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the person's receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(4) If the person files a timely and sufficient appeal, the department shall not implement the action until the final order has been served. The presiding or reviewing officer may permit the department to implement part or all of the action while the proceedings are pending if the appellant causes an unreasonable delay in the proceedings or for other good cause. [1989 c 175 § 96.]

Additional notes found at www.leg.wa.gov

43.20A.240 Veterans' rehabilitation council under department's jurisdiction—Secretary's duties. See chapter 43.61 RCW.

43.20A.300 Department as state agency for receipt of federal funds for vocational rehabilitation—Exception. Except as provided in RCW 74.18.060, the department of social and health services shall serve as the sole agency of the state for the receipt of federal funds made available by acts of congress for vocational rehabilitation within this state. [1983 c 194 § 28; 1977 ex.s. c 40 § 15; 1970 ex.s. c 18 § 40.]

Additional notes found at www.leg.wa.gov

43.20A.310 Vocational rehabilitation, powers and duties of secretary or designee. In addition to his or her other powers and duties, the secretary or his or her designee, shall have the following powers and duties:

(1) To prepare, adopt and certify the state plan for vocational rehabilitation;

(2) With respect to vocational rehabilitation, to adopt necessary rules and regulations and do such other acts not forbidden by law necessary to carry out the duties imposed by state law and the federal acts;

(3) To carry out the aims and purposes of the acts of congress pertaining to vocational rehabilitation. [2009 c 549 § 5075; 1979 c 141 § 65; 1970 ex.s. c 18 § 42.]

43.20A.320 Consultation with coordinating council for occupational education. The secretary or his or her designee shall consult with the coordinating council for occupational education in order to maintain close contact with developing programs of vocational education, particularly as such programs may affect programs undertaken in connection with vocational rehabilitation. [2009 c 549 § 5076; 1970 ex.s. c 18 § 43.]

43.20A.350 Committees and councils—Declaration of purpose. The legislature declares that meaningful citizen involvement with and participation in the planning and programs of the department of social and health services are essential in order that the public may better understand the operations of the department, and the department staff may obtain the views and opinions of concerned and affected citizens. As a result of the creation of the department of social and health services and the resulting restructuring of programs and organization of the department's components, and as a further result of the legislative mandate to the department to organize and deliver services in a manner responsive to changing needs and conditions, it is necessary to provide for flexibility in the formation and functioning of the various committees and councils which presently advise the department, to restructure the present committees and councils, and to provide for new advisory committees and councils, so that all such committees and councils will more appropriately relate to the changing programs and services of the department. [1971 ex.s. c 189 § 1.]

43.20A.360 Committees and councils—Appointment—Memberships—Terms—Vacancies—Travel expenses. (1) The secretary is hereby authorized to appoint such advisory committees or councils as may be required by any federal legislation as a condition to the receipt of federal funds by the department. The secretary may appoint statewide committees or councils in the following subject areas: (a) Health facilities; (b) children and youth services; (c) blind services; (d) medical and health care; (e) drug abuse and alcoholism; (f) social services; (g) economic services; (h) vocational services; (i) rehabilitative services; and on such other subject matters as are or come within the department's responsibilities. The statewide councils shall have representation from both major political parties and shall have substantial consumer representation. Such committees or councils shall be constituted as required by federal law or as the secretary in his or her discretion may determine. The members of the committees or councils shall hold office for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive terms.

(2) Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [2001 c 291 § 101. Prior: 1989 1st ex.s. c 9 § 214; 1989 c 11 § 14; 1984 c 259 § 1; 1981 c 151 § 6; 1977 c 75 § 45; 1975-'76 2nd ex.s. c 34 § 98; 1971 ex.s. c 189 § 2.]

Part headings not law—2001 c 291: "Part headings used in this act are not any part of the law." [2001 c 291 § 1002.]

Effective date—2001 c 291: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 291 § 1003.]

Additional notes found at www.leg.wa.gov

43.20A.365 Drug reimbursement policy recommendations. A committee or council required by federal law, within the department of social and health services, that makes policy recommendations regarding reimbursement for drugs under the requirements of federal law or regulations is subject to chapters 42.30 and 42.32 RCW. [1997 c 430 § 2.]

43.20A.390 Per diem or mileage—Limitation. Notwithstanding any other provision of chapter 189, Laws of 1971 ex. sess., no person shall receive as compensation or reimbursement for per diem or mileage authorized in chapter 189, Laws of 1971 ex. sess. any amount that would exceed the per diem or mileage provided in RCW 43.03.050 and 43.03.060. [1971 ex.s. c 189 § 16.]

43.20A.400 Purchase of services from public or non-profit agencies—Utilization of nonappropriated funds. Notwithstanding any other provisions of law, the secretary of the department of social and health services is authorized to utilize nonappropriated funds made available to the department, in order to compliment the social and health services programs of the department by purchase of services from public or nonprofit agencies. The purpose of this authorization is to augment the services presently offered and to achieve pooling of public and nonprofit resources. [1971 ex.s. c 309 § 1.]

43.20A.405 Purchase of services from public or non-profit agencies—Vendor rates—Establishment. After obtaining the review and advice of the governor's advisory committee on vendor rates, the secretary shall establish rates of payment for services which are to be purchased: PROVIDED, That the secretary shall afford all interested persons reasonable opportunity to submit data, views, or arguments, and shall consider fully all submissions respecting the proposed rates. Prior to the establishment of such rates, the secretary shall give at least twenty days notice of such intended action by mail to such persons or agencies as have made timely request of the secretary for advance notice of establishment of such vendor rates. Such rates shall not exceed the amounts reasonable and necessary to assure quality services and shall not exceed the costs reasonably assignable to such services pursuant to cost finding and monitoring procedures to be established by the secretary. Information to support such rates of payment shall be maintained in a form accessible to the public. [1971 ex.s. c 309 § 2.]

43.20A.410 Purchase of services from public or non-profit agencies—Factors to be considered. In determining whether services should be purchased from other public or nonprofit agencies, the secretary shall consider:

(1) Whether the particular service or services is available or might be developed.

(2) The probability that program and workload performance standards will be met, by means of the services purchased.

(3) The availability of reasonably adequate cost finding and performance evaluation criteria.

Nothing in RCW 43.20A.400 through 43.20A.430 is to be construed to authorize reduction in state employment in service component areas presently rendering such services. [1971 ex.s. c 309 § 3.]

43.20A.415 Purchase of services from public or non-profit agencies—Retention of basic responsibilities by secretary. When, pursuant to RCW 43.20A.400 through 43.20A.430, the secretary elects to purchase a service or services, he or she shall retain continuing basic responsibility for:

(1) Determining the eligibility of individuals for services;

(2) The selection, quality, effectiveness, and execution of a plan or program of services suited to the need of an individual or of a group of individuals; and

(3) Measuring the cost effectiveness of purchase of services. [2009 c 549 § 5077; 1971 ex.s. c 309 § 4.]

43.20A.420 Purchase of services from public or non-profit agencies—Secretary to provide consultative, technical and development services to suppliers—Review of services. The secretary shall work with the suppliers of purchased services by:

(1) Providing consultation and technical assistance;

(2) Monitoring and periodically reviewing services in order to assure satisfactory performance including adherence to state prescribed workload and quality standards; and

(3) Developing new and more effective and efficient approaches to and methods of delivering services. [1971 ex.s. c 309 § 5.]

43.20A.425 Purchase of services from public or non-profit agencies—Qualifications of vendors. The secretary shall assure that sources from which services are purchased are: (1) Licensed, or (2) meet applicable accrediting standards, or (3) in the absence of licensing or accrediting standards, meet standards or criteria established by the secretary to assure quality of service: PROVIDED, That this section shall not be deemed to dispense with any licensing or accrediting requirement imposed by any other provision of law, by any county or municipal ordinance, or by rule or regulation of any public agency. [1971 ex.s. c 309 § 6.]

43.20A.430 Purchase of services from public or non-profit agencies—Retention of sums to pay departmental costs. The secretary shall, if not otherwise prohibited by law, pursuant to agreement between the department and the agency in each contract, retain from such nonappropriated funds sufficient sums to pay for the department's administrative costs, monitoring and evaluating delivery of services, and such other costs as may be necessary to administer the department's responsibilities under RCW 43.20A.400 through 43.20A.430. [1971 ex.s. c 309 § 7.]

43.20A.433 Mental health and chemical dependency treatment providers and programs—Vendor rate increases. Beginning July 1, 2007, the secretary shall require, in the contracts the department negotiates pursuant to chapters 71.24 and 70.96A RCW, that any vendor rate increases provided for mental health and chemical dependency treatment providers or programs who are parties to the contract or subcontractors of any party to the contract shall be prioritized to those providers and programs that maximize the use of evidence-based and research-based practices, as those terms are defined in *section 603 of this act, unless otherwise designated by the legislature. [2005 c 504 § 802.]

**Reviser's note:* Section 603 of this act was vetoed by the governor.

Findings—Intent—Severability—Application—Construction—Captions, part headings, subheadings not law—Adoption of rules—Effective dates—2005 c 504: See notes following RCW 71.05.027.

Alphabetization—Correction of references—2005 c 504: See note following RCW 71.05.020.

43.20A.445 State-operated workshops at institutions—Authorized—Standards. The department may establish and operate workshops for the training, habilitation, and rehabilitation of residents of institutions of the department. Products, goods, wares, articles, or merchandise manufactured or produced by the workshops may be sold to governmental agencies or on the open market at fair value. Prior to establishment of new state-operated workshops at institutions, the department shall consider the availability, appropriateness, and relative cost of contracting with and giving first preference to private nonprofit sheltered workshops, as defined in RCW 82.04.385, to provide workshop activities for residents of the institution.

The secretary shall credit the moneys derived from the sale of items from workshops under this section to a revolving fund under the control of the superintendent of the institution or facility where the items were manufactured. These moneys shall be expended for the purchase of supplies and materials for use in the workshop, to provide pay and training incentives for residents, and for other costs of the operation of the workshop. Payment of residents for work performed on workshop projects shall take into account resident productivity in comparison to the productivity of a nondisabled person earning the minimum wage as well as other factors consistent with goals of rehabilitation and treatment. Institutional work training programs shall be operated in accordance with standards required by the department for private vendors for the same or similar service.

Workshop materials and supplies may be purchased through state purchasing or from private vendors. Each institution or facility shall maintain records to demonstrate that purchases are made at the fair market value or best available price. [1983 1st ex.s. c 41 § 20.]

Additional notes found at www.leg.wa.gov

43.20A.550 Federal programs—Rules and regulations—Internal reorganization to meet federal requirements—Statutes to be construed to meet federal law—Conflicting parts deemed inoperative. In furtherance of the policy of the state to cooperate with the federal government in all of the programs under the jurisdiction of the department, such rules and regulations as may become neces-

sary to entitle the state to participate in federal funds may be adopted, unless the same be expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to state receipt of federal funds. Any section or provision of law dealing with the department which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. If any law dealing with the department is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, such conflicting part of chapter 18, Laws of 1970 ex. sess. is declared to be inoperative solely to the extent of the conflict. [1979 c 141 § 66; 1970 ex.s. c 18 § 66.]

43.20A.605 Authority to administer oaths and issue subpoenas—Provisions governing subpoenas. (1) The secretary shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before him or her together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings are governed by RCW 34.05.588(1).

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by RCW 34.05.588(2). [2009 c 549 § 5078; 1989 c 175 § 97; 1983 1st ex.s. c 41 § 21; 1979 c 141 § 47; 1967 ex.s. c 102 § 2. Formerly RCW 43.20.015.]

Additional notes found at www.leg.wa.gov

43.20A.607 Authority to appoint a single executive officer for multiple institutions—Exception. The secretary may appoint one individual to serve as chief executive officer, administrator, or superintendent for more than one facility or institution of the department where one or both facilities or institutions are required by law to have a chief executive officer, administrator, or superintendent. This section, however, shall not apply to RCW 72.40.020. [1983 1st ex.s. c 41 § 25.]

Chief executive officers—Appointment: RCW 72.01.060.

Additional notes found at www.leg.wa.gov

43.20A.610 Employment of deputies, experts, physicians, etc. The secretary may appoint and employ such deputies, scientific experts, physicians, nurses, sanitary engineers, and other personnel including consultants, and such clerical and other assistants as may be necessary to carry on the work of the department of social and health services. [1979 c 141 § 48; 1967 ex.s. c 102 § 8; 1965 c 8 § 43.20.040. Prior: 1961 ex.s. c 5 § 1; 1921 c 7 § 57; RRS § 10815. Formerly RCW 43.20.040.]

Additional notes found at www.leg.wa.gov

43.20A.635 Services for children with disabilities. It shall be the duty of the secretary of social and health services and he or she shall have the power to establish and administer a program of services for children who are crippled or who are suffering from physical conditions which lead to crippling, which shall provide for developing, extending, and improving services for locating such children, and for providing for medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and after care; to supervise the administration of those services, included in the program, which are not administered directly by it; to extend and improve any such services, including those in existence on April 1, 1941; to cooperate with medical, health, nursing, and welfare groups and organizations, and with any agency of the state charged with the administration of laws providing for vocational rehabilitation of physically handicapped children; to cooperate with the federal government, through its appropriate agency or instrumentality in developing, extending, and improving such services; and to receive and expend all funds made available to the department by the federal government, the state or its political subdivisions or from other sources, for such purposes. [2009 c 549 § 5079; 1979 c 141 § 52; 1965 c 8 § 43.20.130. Prior: 1941 c 129 § 1; Rem. Supp. 1941 § 9992-107a; prior: 1937 c 114 § 7. Formerly RCW 74.12.210; 43.20.130.]

Center for research and training in intellectual and developmental disabilities, assistant secretaries as members of advisory committee: RCW 28B.20.412.

Children with disabilities, copy of commitment order transmitted to department: RCW 26.40.060.

43.20A.637 Services to crippled children—Rules and regulations. See RCW 43.20.140.

43.20A.660 Reports of violations by secretary—Duty of attorney general, prosecuting attorney or city attorney to institute proceedings—Notice to alleged violator. (1) It shall be the duty of each assistant attorney general, prosecuting attorney, or city attorney to whom the secretary reports any violation of chapter 43.20A RCW, or regulations promulgated thereunder, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of chapter 43.20A RCW is reported by the secretary to the prosecuting attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his or her views to the secretary, either orally or in writing, with regard to such contemplated proceeding. [2009 c 549 § 5080; 1989 1st ex.s. c 9 § 215; 1979 c 141 § 57; 1967 ex.s. c 102 § 7. Formerly RCW 43.20.190.]

Additional notes found at www.leg.wa.gov

43.20A.680 State council on aging established. The state council on aging is hereby established as an advisory council to the governor, the secretary of social and health services, and the office of aging or any other office solely designated as the state unit on aging. The state council on aging may be designated by the governor to serve as the state advisory council to the state unit on aging with respect to feder-

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ally funded programs as required by federal regulation. The director of the state unit on aging shall provide appropriate staff support. [1981 c 151 § 1.]

Additional notes found at www.leg.wa.gov

43.20A.685 State council on aging—Membership—Terms—Vacancies—Chairperson—Secretary—Compensation of legislative members. (1) The initial members of the council shall be appointed by the governor to staggered terms such that approximately one-third of the members serve terms of one year, one-third serve terms of two years, and one-third serve terms of three years. Thereafter, members of the council shall be appointed by the governor to terms of three years, except in the case of a vacancy, in which event appointment shall be for the remainder of the unexpired term for which the vacancy occurs. No member of the council may serve more than two consecutive three-year terms. One member shall be appointed from each state-designated planning and service area from a list of names transmitted by each area agency on aging advisory council, such list including the names of all persons nominated within the planning and service area together with the area agency on aging advisory council's recommendations. The governor shall appoint one additional member from names submitted by the association of Washington cities and one additional member from names submitted by the Washington state association of counties. In addition, the governor may appoint not more than five at large members, in order to ensure that rural areas (those areas outside of a standard metropolitan statistical area), minority populations, and those individuals with special skills which could assist the state council are represented. The members of the state council on aging shall elect, at the council's initial meeting and at the council's first meeting each year, one member to serve as chairperson of the council and another member to serve as secretary of the council.

(2) The speaker of the house of representatives and the president of the senate shall each appoint two nonvoting members to the council; one from each of the two largest caucuses in each house. The terms of the members so appointed shall be for approximately two years and the terms shall expire before the first day of the legislative session in odd-numbered years. They shall be compensated by their respective houses as provided under RCW 44.04.120, as now or hereafter amended.

(3) With the exception of the members from the Washington state association of cities, the Washington state association of counties, and the nonvoting legislative members, all members of the council shall be at least fifty-five years old. [1981 c 151 § 2.]

Additional notes found at www.leg.wa.gov

43.20A.690 State council on aging—Meetings—Compensation of nonlegislative members. The state council on aging shall meet monthly unless determined otherwise by a majority vote of the members, which vote shall be taken at a regular meeting of the council. Nonlegislative members shall serve without compensation but shall be reimbursed for travel expenses and per diem in the performance of their duties as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1981 c 151 § 3.]

Additional notes found at www.leg.wa.gov

43.20A.695 State council on aging—Powers and duties—Bylaws. (1) The state council on aging has the following powers and duties:

(a) To serve in an advisory capacity to the governor, the secretary of social and health services, and the state unit on aging on all matters pertaining to policies, programs, and services affecting older persons;

(b) To create public awareness of the special needs and potentialities of older persons; and

(c) To provide for self-advocacy by older citizens of the state through sponsorship of training, legislative and other conferences, workshops, and such other methods as may be deemed appropriate.

(2) The council shall establish bylaws to aid in the performance of its powers and duties. [1981 c 151 § 4.]

Additional notes found at www.leg.wa.gov

43.20A.710 Investigation of conviction records or pending charges of state employees and individual providers. (1) The secretary shall investigate the conviction records, pending charges and disciplinary board final decisions of:

(a) Any current employee or applicant seeking or being considered for any position with the department who will or may have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities. This includes, but is not limited to, positions conducting comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(b) Individual providers who are paid by the state and providers who are paid by home care agencies to provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW; and

(c) Individuals or businesses or organizations for the care, supervision, case management, or treatment of children, persons with developmental disabilities, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW.

(2) The investigation may include an examination of state and national criminal identification data. The secretary shall use the information solely for the purpose of determining the character, suitability, and competence of these applicants.

(3) Except as provided in subsection (4) of this section, an individual provider or home care agency provider who has resided in the state less than three years before applying for employment involving unsupervised access to a vulnerable adult as defined in chapter 74.34 RCW must be fingerprinted for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation. This subsection applies only with respect to the provision of in-home services funded by medicaid personal care under RCW 74.09.520, community options pro-

gram entry system waiver services under RCW 74.39A.030, or chore services under RCW 74.39A.110. However, this subsection does not supersede *RCW 74.15.030(2)(b).

(4) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055, except that the department may require a background check at any time under RCW 43.43.837. For the purposes of this subsection, "background check" includes, but is not limited to, a fingerprint check submitted for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation.

(5) An individual provider or home care agency provider hired to provide in-home care for and having unsupervised access to a vulnerable adult as defined in chapter 74.34 RCW must have no conviction for a disqualifying crime under RCW 43.43.830 and 43.43.842. An individual or home care agency provider must also have no conviction for a crime relating to drugs as defined in RCW 43.43.830. This subsection applies only with respect to the provision of in-home services funded by medicaid personal care under RCW 74.09.520, community options program entry system waiver services under RCW 74.39A.030, or chore services under RCW 74.39A.110.

(6) The secretary shall provide the results of the state background check on long-term care workers, including individual providers, to the persons hiring them or to their legal guardians, if any, for their determination of the character, suitability, and competence of the applicants. If the person elects to hire or retain an individual provider after receiving notice from the department that the applicant has a conviction for an offense that would disqualify the applicant from having unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, then the secretary shall deny payment for any subsequent services rendered by the disqualified individual provider.

(7) Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose. [2009 c 580 § 5; 2001 c 296 § 5; 2000 c 87 § 2; 1999 c 336 § 7; 1997 c 392 § 525; 1993 c 210 § 1; 1989 c 334 § 13; 1986 c 269 § 1.]

**Reviser's note:* RCW 74.15.030(2)(b) was amended by 2007 c 387 § 5, changing the scope of the subsection.

Intent—2001 c 296: See note following RCW 9.96A.060.

Finding—Intent—1999 c 336: See note following RCW 74.39.007.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Children or vulnerable adults: RCW 43.43.830 through 43.43.842.

Employees with unsupervised access to children—Rules for background investigation: RCW 41.06.475.

State hospitals: RCW 72.23.035.

Additional notes found at www.leg.wa.gov

43.20A.711 Receipt and use of criminal history information. The secretary is authorized to receive criminal history record information that includes nonconviction data for any purpose associated with an investigation under chapter 74.04 RCW. Dissemination or use of nonconviction data for

purposes other than that authorized in this section is prohibited. [2008 c 74 § 4.]

Finding—2008 c 74: See note following RCW 51.04.024.

43.20A.720 Telecommunications devices and services for the hearing and speech impaired—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 43.20A.725.

(1) "Hearing impaired" means those persons who are certified to be deaf, deaf-blind, or hard of hearing, and those persons who are certified to have a hearing disability limiting their access to telecommunications.

(2) "Speech impaired" means persons who are certified to be unable to speak or who are certified to have a speech impairment limiting their access to telecommunications.

(3) "Department" means the department of social and health services.

(4) "Office" means the office of deaf and hard of hearing within the state department of social and health services. [2001 c 210 § 1; 1992 c 144 § 2; 1990 c 89 § 2; 1987 c 304 § 2.]

Legislative findings—1992 c 144: "The legislature finds that the state of Washington has shown national leadership in providing telecommunications access for the hearing impaired and speech impaired communities. The legislature further finds that the federal Americans with Disabilities Act requires states to further enhance telecommunications access for disabled persons and that the state should be positioned to allow this service to be delivered with fairness, flexibility, and efficiency." [1992 c 144 § 1.]

Legislative finding—1990 c 89: "The legislature finds that provision of telecommunications devices and relay capability for hearing impaired persons is an effective and needed service which should be continued. The legislature further finds that the same devices and relay capability can serve and should be extended to serve speech impaired persons." [1990 c 89 § 1.]

Legislative findings—1987 c 304: "The legislature finds that it is more difficult for hearing impaired people to have access to the telecommunications system than hearing persons. It is imperative that hearing impaired people be able to reach government offices and health, human, and emergency services with the same ease as other taxpayers. Regulations to provide telecommunications devices for the deaf with a relay system will help ensure that the hearing impaired community has equal access to the public accommodations and telecommunications system in the state of Washington in accordance with chapter 49.60 RCW." [1987 c 304 § 1.]

Additional notes found at www.leg.wa.gov

43.20A.725 Telecommunications devices for the hearing and speech impaired—Program for provision of services and equipment—Telecommunications relay service excise tax—Rules. (1) The department, through the sole authority of the office or its successor organization, shall maintain a program whereby an individual of school age or older who possesses a hearing or speech impairment is provided with telecommunications equipment, software, and/or peripheral devices, digital or otherwise, that is determined by the office to be necessary for such a person to access and use telecommunications transmission services effectively.

(2) The department, through the sole authority of the office or its successor organization, shall maintain a program where telecommunications relay services of a human or electronic nature will be provided to connect hearing impaired, deaf-blind, or speech impaired persons with persons who do not have a hearing or speech impairment. Such telecommunications relay services shall provide the ability for an individual who has a hearing or speech impairment to engage in

voice, tactile, or visual communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech impairment to communicate using voice or visual communication services by wire or radio subject to subsection (4)(b) of this section.

(3) The telecommunications relay service and equipment distribution program may operate in such a manner as to provide communications transmission opportunities that are capable of incorporating new technologies that have demonstrated benefits consistent with the intent of this chapter and are in the best interests of the citizens of this state.

(4) The office shall administer and control the award of money to all parties incurring costs in implementing and maintaining telecommunications services, programs, equipment, and technical support services according to this section. The relay service contract shall be awarded to an individual company registered as a telecommunications company by the utilities and transportation commission, to a group of registered telecommunications companies, or to any other company or organization determined by the office as qualified to provide relay services, contingent upon that company or organization being approved as a registered telecommunications company prior to final contract approval. The relay system providers and telecommunications equipment vendors shall be selected on the basis of cost-effectiveness and utility to the greatest extent possible under the program and technical specifications established by the office.

(a) To the extent funds are available under the then-current rate and not otherwise held in reserve or required for other purposes authorized by this chapter, the office may award contracts for communications and related services and equipment for hearing impaired or speech impaired individuals accessing or receiving services provided by, or contracted for, the department to meet access obligations under Title 2 of the federal Americans with disabilities act or related federal regulations.

(b) The office shall perform its duties under this section with the goal of achieving functional equivalency of access to and use of telecommunications services similar to the enjoyment of access to and use of such services experienced by an individual who does not have a hearing or speech impairment only to the extent that funds are available under the then-current rate and not otherwise held in reserve or required for other purposes authorized by this chapter.

(5) The program shall be funded by a telecommunications relay service (TRS) excise tax applied to each switched access line provided by the local exchange companies. The office shall determine, in consultation with the office's program advisory committee, the budget needed to fund the program on an annual basis, including both operational costs and a reasonable amount for capital improvements such as equipment upgrade and replacement. The budget proposed by the office, together with documentation and supporting materials, shall be submitted to the office of financial management for review and approval. The approved budget shall be given by the department in an annual budget to the department of revenue no later than March 1st prior to the beginning of the fiscal year. The department of revenue shall then determine the amount of telecommunications relay service excise tax to be placed on each switched access line and shall inform local

exchange companies and the utilities and transportation commission of this amount no later than May 1st. The department of revenue shall determine the amount of telecommunications relay service excise tax to be collected in the following fiscal year by dividing the total of the program budget, as submitted by the office, by the total number of switched access lines in the prior calendar year, as reported to the department of revenue under chapter 82.14B RCW, and shall not exercise any further oversight of the program under this subsection other than administering the collection of the telecommunications relay service excise tax as provided in RCW 82.72.010 through 82.72.090. The telecommunications relay service excise tax shall not exceed nineteen cents per month per access line. The telecommunications relay service excise tax shall be separately identified on each ratepayer's bill with the following statement: "Funds federal ADA requirement." All proceeds from the telecommunications relay service excise tax shall be put into a fund to be administered by the office through the department. During the 2009-2011 fiscal biennium, the funds may also be used to provide individualized employment services and employment-related counseling to people with disabilities, and technical assistance to employers about the employment of people with disabilities. "Switched access line" has the meaning provided in RCW 82.14B.020.

(6) The telecommunications relay service program and equipment vendors shall provide services and equipment consistent with the requirements of federal law for the operation of both interstate and intrastate telecommunications services for the hearing impaired or speech impaired. The department and the utilities and transportation commission shall be responsible for ensuring compliance with federal requirements and shall provide timely notice to the legislature of any legislation that may be required to accomplish compliance.

(7) The department shall adopt rules establishing eligibility criteria, ownership obligations, financial contributions, and a program for distribution to individuals requesting and receiving such telecommunications devices distributed by the office, and other rules necessary to administer programs and services consistent with this chapter. [2010 1st sp.s. c 37 § 921; 2004 c 254 § 1; 2001 c 210 § 2; 1998 c 245 § 59; 1993 c 425 § 1; 1992 c 144 § 3; 1990 c 89 § 3; 1987 c 304 § 3.]

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Responsibility for collection of tax—2004 c 254: "(1) The department of revenue is responsible for the administration and collection of telephone program excise taxes as provided in this act only with regard to telephone program excise taxes that are imposed on switched access lines for any time period occurring on or after July 1, 2004.

(2) The department of social and health services is responsible for the administration and collection of telephone program excise taxes as provided in this act only with regard to telephone program excise taxes that are imposed on switched access lines for the current year and the four preceding years which occurred prior to July 1, 2004." [2004 c 254 § 13.]

Implementation—2004 c 254: "The secretary of the department of social and health services and the director of the department of revenue may take the necessary steps to ensure that this act is implemented on its effective date." [2004 c 254 § 15.]

Effective date—2004 c 254: See note following RCW 82.72.010.

Legislative findings—Severability—1992 c 144: See notes following RCW 43.20A.720.

Legislative finding—1990 c 89: See note following RCW 43.20A.720.

Additional notes found at www.leg.wa.gov

43.20A.770 Administration of statutes applicable to runaway youth, at-risk youth, and families in conflict—Consistency required. The department shall ensure that the administration of chapter 13.32A RCW and applicable portions of chapter 74.13 RCW relating to runaway youth, at-risk youth, and families in conflict is consistent in all areas of the state and in accordance with statutory requirements. [1991 c 364 § 6.]

Additional notes found at www.leg.wa.gov

43.20A.780 Administration of family services and programs. The secretary shall administer family services and programs to promote the state's policy as provided in RCW 74.14A.025. [1992 c 198 § 9.]

Additional notes found at www.leg.wa.gov

43.20A.790 Homeless families with children—Shelter and housing services. (1) The department shall collaborate with the *department of community, trade, and economic development in the development of the coordinated and comprehensive plan for homeless families with children required under RCW 43.63A.650, which designates the *department of community, trade, and economic development as the state agency with primary responsibility for providing shelter and housing services to homeless families with children. In fulfilling its responsibilities to collaborate with the *department of community, trade, and economic development pursuant to RCW 43.63A.650, the department shall develop, administer, supervise, and monitor its portion of the plan. The department's portion of the plan shall contain at least the following elements:

(a) Coordination or linkage of services with shelter and housing;

(b) Accommodation and addressing the needs of homeless families in the design and administration of department programs;

(c) Participation of the department's local offices in the identification, assistance, and referral of homeless families; and

(d) Ongoing monitoring of the efficiency and effectiveness of the plan's design and implementation.

(2) The department shall include community organizations involved in the delivery of services to homeless families with children, and experts in the development and ongoing evaluation of the plan.

(3) The duties under this section shall be implemented within amounts appropriated for that specific purpose by the legislature in the operating and capital budgets. [1999 c 267 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Intent—1999 c 267: "The legislature finds that homelessness for families with children is a serious, widespread problem that has a devastating effect on children, including significant adverse effects upon their growth and development. Planning for and serving the shelter and housing needs of homeless families with children has been and continues to be a responsibility of the *department of community, trade, and economic development. The legislature further finds that the department of social and health services also plays an important role in addressing the service needs of homeless families with children. In order to adequately and effectively

address the complex issues confronting homeless families with children, planning for, implementing, and evaluating such services must be a collaborative effort between the *department of community, trade, and economic development and the department of social and health services, other local, state, and federal agencies, and community organizations. It is the intent of the legislature that the *department of community, trade, and economic development and the department of social and health services jointly present the plan to the appropriate committees of the legislature as required in section 3 of this act. It is the intent of the legislature that children should not be placed or retained in the foster care system if family homelessness is the primary reason for placement or the continuation of their placement. It is the further intent of the legislature that services to homeless families with children shall be provided within funds appropriated for that specific purpose by the legislature in the operating and capital budgets. Nothing in this act is intended to prevent the court's review of the plan developed by the department of social and health services and the *department of community, trade, and economic development under *Washington State Coalition for the Homeless v. Department of Social and Health Services*, King County Superior Court No. 91-2-15889-4. However, it is the intent of the legislature that the court's review in that proceeding be confined solely to review of the plan submitted under the order of February 4, 1998. Nothing in sections 1 through 10 of this act is intended to grant the court in this proceeding continuing review over the department of social and health services after July 25, 1999." [1999 c 267 § 1.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.20A.800 Vision services for the homeless—Coordination. The secretary of the department of social and health services shall coordinate the efforts of nonprofit agencies working with the homeless, the Washington academy of eye physicians and surgeons, the Washington optometric association, and the opticians association of Washington to deliver vision services to the homeless free of charge. The secretary shall enter into agreements identifying cooperating agencies and the circumstances under which specified services will be delivered. [1993 c 96 § 2.]

Findings—1993 c 96: "The legislature finds that many homeless people in the state of Washington have impaired eyesight that reduces their chances of obtaining employment or training for employment. The legislature finds that it is in the public interest to facilitate ophthalmologists, optometrists, and opticians in providing free vision services to homeless people of the state." [1993 c 96 § 1.]

43.20A.810 Vision services for the homeless—Funding. To the extent consistent with the department's budget, the secretary shall pay for the eyeglasses hardware prescribed and dispensed pursuant to the program set up in RCW 43.20A.800 through 43.20A.840. The secretary shall also attempt to obtain private sector funding for this program. [1993 c 96 § 3.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.820 Vision services for the homeless—Use of used eyeglass frames by providers. Ophthalmologists, optometrists, and dispensing opticians may utilize used eyeglass frames obtained through donations to this program. [1993 c 96 § 4.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.830 Vision services for the homeless—Provider liability. An ophthalmologist, optometrist, or dispensing optician who provides:

- (1) Free vision services; or

(2010 Ed.)

(2) Eyeglasses, or any part thereof, including used frames, at or below retail cost to homeless people in the state of Washington

and who is not reimbursed for such services or eyeglasses as allowed for in RCW 43.20A.840, is not liable for civil damages for injury to a homeless person resulting from any act or omission in providing such services or eyeglasses, other than an act or omission constituting gross negligence or intentional conduct. [1993 c 96 § 5.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.840 Vision services for the homeless—Third party payers. Nothing in RCW 43.20A.800 through 43.20A.840 shall prevent ophthalmologists, optometrists, or dispensing opticians from collecting for either their goods or services, or both from third-party payers covering the goods or services for homeless persons. [1993 c 96 § 6.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.845 Vision services for the homeless—Program name. The program created in RCW 43.20A.800 through 43.20A.840 shall be known as the eye care for the homeless program in Washington. [1993 c 96 § 7.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.850 Group homes—Availability of evaluations and data. The secretary of social and health services shall make all of the department's evaluation and research materials and data on private nonprofit group homes available to group home contractors. The department may delete any information from the materials that identifies a specific client or contractor, other than the contractor requesting the materials. [1994 sp.s. c 7 § 322.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.20A.860 Requirement to seek federal waivers and state law changes to medical assistance program. The department of social and health services, in consultation with the health care authority, the office of financial management, and other appropriate state agencies, shall seek necessary federal waivers and state law changes to the medical assistance program of the department to achieve greater coordination in financing, purchasing, and delivering health services to low-income residents of Washington state in a cost-effective manner, and to expand access to care for these low-income residents. Such waivers shall include any waiver needed to require that point-of-service cost-sharing, based on recipient household income, be applied to medical assistance recipients. In negotiating the waiver, consideration shall be given to the degree to which benefits in addition to the minimum list of services should be offered to medical assistance recipients. [1995 c 265 § 26.]

Additional notes found at www.leg.wa.gov

43.20A.870 Children's services—Annual quality assurance report. The department shall prepare an annual quality assurance report that shall include but is not limited to: (1) Performance outcomes regarding health and safety of children in the children's services system; (2) children's

length of stay in out-of-home placement from each date of referral; (3) adherence to permanency planning timelines; and (4) the response time on child protective services investigations differentiated by risk level determined at intake. [1999 c 372 § 7; 1997 c 386 § 47.]

43.20A.880 Training competencies and learning outcomes. The department shall publish its final basic and specialty training competencies and learning outcomes as required by chapter 121, Laws of 2000 no later than June 1, 2002. [2002 c 233 § 2.]

Effective date—2002 c 233: See note following RCW 18.20.270.

43.20A.890 Problem and pathological gambling treatment program—Rules. (1) A program for (a) the prevention and treatment of problem and pathological gambling; and (b) the training of professionals in the identification and treatment of problem and pathological gambling is established within the department of social and health services, to be administered by a qualified person who has training and experience in problem gambling or the organization and administration of treatment services for persons suffering from problem gambling. The department may certify and contract with treatment facilities for any services provided under the program. The department shall track program participation and client outcomes.

(2) To receive treatment under subsection (1) of this section, a person must:

(a) Need treatment for problem or pathological gambling, or because of the problem or pathological gambling of a family member, but be unable to afford treatment; and

(b) Be targeted by the department of social and health services as being most amenable to treatment.

(3) Treatment under this section is available only to the extent of the funds appropriated or otherwise made available to the department of social and health services for this purpose. The department may solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, any tribal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies or any tribal government in making an application for any grant.

(4) The department may adopt rules establishing standards for the review and certification of treatment facilities under this program.

(5) The department of social and health services shall establish an advisory committee to assist it in designing, managing, and evaluating the effectiveness of the program established in this section. The advisory committee shall give due consideration in the design and management of the program that persons who hold licenses or contracts issued by the gambling commission, horse racing commission, and lottery commission are not excluded from, or discouraged from, applying to participate in the program. The committee shall include, at a minimum, persons knowledgeable in the field of problem and pathological gambling and persons representing tribal gambling, privately owned nontribal gambling, and the state lottery.

[Title 43 RCW—page 128]

(6) For purposes of this section, "pathological gambling" is a mental disorder characterized by loss of control over gambling, progression in preoccupation with gambling and in obtaining money to gamble, and continuation of gambling despite adverse consequences. "Problem gambling" is an earlier stage of pathological gambling which compromises, disrupts, or damages family or personal relationships or vocational pursuits. [2010 c 171 § 1; 2005 c 369 § 2; 2002 c 349 § 4. Formerly RCW 67.70.350.]

Findings—Intent—2005 c 369: "(1) The legislature finds that:

(a) The costs to society of problem and pathological gambling include family disintegration, criminal activity, and financial insolvencies;

(b) Problem and pathological gamblers suffer a higher incidence of addictive disorders such as alcohol and substance abuse;

(c) Residents of Washington have the opportunity to participate in a variety of legal gambling activities operated by the state, by federally recognized tribes, and by private businesses and nonprofit organizations; and

(d) A 1999 study found that five percent of adult Washington residents and eight percent of adolescents could be classified as problem gamblers during their lifetimes, and that more than one percent of adults have been afflicted with pathological gambling.

(2) The legislature intends to provide long-term, dedicated funding for public awareness and education regarding problem and pathological gambling, training in its identification and treatment, and treatment services for problem and pathological gamblers and, as clinically appropriate, members of their families." [2005 c 369 § 1.]

Severability—2005 c 369: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2005 c 369 § 10.]

Effective date—2005 c 369: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005." [2005 c 369 § 11.]

43.20A.892 Problem gambling account. The problem gambling account is created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of the program established under RCW 43.20A.890. [2005 c 369 § 3.]

Findings—Intent—Severability—Effective date—2005 c 369: See notes following RCW 43.20A.890.

43.20A.930 Effective date—Severability—1970 ex.s. c 18. See notes following RCW 43.20A.010.

Chapter 43.20B RCW

REVENUE RECOVERY FOR DEPARTMENT OF SOCIAL AND HEALTH SERVICES

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GENERAL PROVISIONS

43.20B.010 Definitions. The definitions in this section apply throughout this chapter:

- (1) "Department" means the department of social and health services.
- (2) "Secretary" means the secretary of the department of social and health services.
- (3) "License" means that exercise of regulatory authority by the secretary to grant permission, authority, or liberty to do or to forbear certain activities. The term includes licenses, permits, certifications, registrations, and other similar terms.
- (4) "Vendor" means an entity that provides goods or services to or for clientele of the department and that controls operational decisions.
- (5) "Overpayment" means any payment or benefit to a recipient or to a vendor in excess of that to which is entitled by law, rule, or contract, including amounts in dispute. [1987 c 75 § 42.]

43.20B.020 Fees for services—Department of health and department of social and health services. The department of social and health services and the department of health are authorized to charge fees for services provided unless otherwise prohibited by law. The fees may be sufficient to cover the full cost of the service provided if practical or may be charged on an ability-to-pay basis if practical. This section does not supersede other statutory authority enabling the assessment of fees by the departments. Whenever the department of social and health services is authorized by law to collect total or partial reimbursement for the cost of its providing care of or exercising custody over any person, the department shall collect the reimbursement to the extent practical. [1991 c 3 § 295; 1981 1st ex.s. c 6 § 25. Formerly RCW 43.20A.670.]

Additional notes found at www.leg.wa.gov

43.20B.030 Overpayments and debts due the department—Time limit—Write-offs and compromises. (1) Except as otherwise provided by law, including subsection (2) of this section, there will be no collection of overpayments and other debts due the department after the expiration of six years from the date of notice of such overpayment or other debt unless the department has commenced recovery

action in a court of law or unless an administrative remedy authorized by statute is in place. However, any amount due in a case thus extended shall cease to be a debt due the department at the expiration of ten years from the date of the notice of the overpayment or other debt unless a court-ordered remedy would be in effect for a longer period.

(2) There will be no collection of debts due the department after the expiration of twenty years from the date a lien is recorded pursuant to RCW 43.20B.080.

(3) The department, at any time, may accept offers of compromise of disputed claims or may grant partial or total write-off of any debt due the department if it is no longer cost-effective to pursue. The department shall adopt rules establishing the considerations to be made in the granting or denial of a partial or total write-off of debts. [2005 c 292 § 5; 2003 c 207 § 1; 1997 c 130 § 5; 1989 c 78 § 4; 1987 c 283 § 6; 1979 c 141 § 308; 1965 ex.s. c 91 § 2. Formerly RCW 74.04.306.]

Additional notes found at www.leg.wa.gov

43.20B.040 Chapter does not apply where another party liable—Statement of lien—Form. The form of the lien in RCW 43.20B.060 shall be substantially as follows:

STATEMENT OF LIEN

Notice is hereby given that the State of Washington, Department of Social and Health Services, has rendered assistance or provided residential care to, a person who was injured on or about the day of in the county of state of, and the said department hereby asserts a lien, to the extent provided in RCW 43.20B.060, for the amount of such assistance or residential care, upon any sum due and owing (name of injured person) from, alleged to have caused the injury, and/or his or her insurer and from any other person or insurer liable for the injury or obligated to compensate the injured person on account of such injuries by contract or otherwise.

STATE OF WASHINGTON, DEPARTMENT OF SOCIAL AND HEALTH SERVICES

By: (Title)

STATE OF WASHINGTON

COUNTY OF

} ss.

I,, being first duly sworn, on oath state: That I am (title); that I have read the foregoing Statement of Lien, know the contents thereof, and believe the same to be true.

Signed and sworn to or affirmed before me this day of, 19. . . .

by (name of person making statement).

(Seal or stamp)

Notary Public in and for the State of Washington

My appointment expires:

[1990 c 100 § 3; 1979 c 141 § 341; 1969 ex.s. c 173 § 9. Formerly RCW 74.09.182.]

43.20B.050 Liens—Compromise—Settlement or judgment. (1) No settlement made by and between the recipient and tort feisor and/or insurer shall discharge or otherwise compromise the lien created in RCW 43.20B.060 without the express written consent of the secretary. Discretion to compromise such liens rests solely with the secretary or the secretary’s designee.

(2) No settlement or judgment shall be entered purporting to compromise the lien created by RCW 43.20B.060 without the express written consent of the secretary or the secretary’s designee. [1990 c 100 § 4; 1969 ex.s. c 173 § 12. Formerly RCW 74.09.186.]

Additional notes found at www.leg.wa.gov

43.20B.060 Reimbursement for medical care or residential care—Lien—Subrogation—Delegation of lien and subrogation rights. (1) To secure reimbursement of any assistance paid under chapter 74.09 RCW or reimbursement for any residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, as a result of injuries to or illness of a recipient caused by the negligence or wrong of another, the department shall be subrogated to the recipient’s rights against a tort feisor or the tort feisor’s insurer, or both.

(2) The department shall have a lien upon any recovery by or on behalf of the recipient from such tort feisor or the tort feisor’s insurer, or both to the extent of the value of the assistance paid or residential care provided by the department, provided that such lien shall not be effective against recoveries subject to wrongful death when there are surviving dependents of the deceased. The lien shall become effective upon filing with the county auditor in the county where the assistance was authorized or where any action is brought against the tort feisor or insurer. The lien may also be filed in any other county or served upon the recipient in the same manner as a civil summons if, in the department’s discretion, such alternate filing or service is necessary to secure the department’s interest. The additional lien shall be effective upon filing or service.

(3) The lien of the department shall be upon any claim, right of action, settlement proceeds, money, or benefits arising from an insurance program to which the recipient might be entitled (a) against the tort feisor or insurer of the tort feisor, or both, and (b) under any contract of insurance purchased by the recipient or by any other person providing coverage for the illness or injuries for which the assistance or residential care is paid or provided by the department.

(4) If recovery is made by the department under this section and the subrogation is fully or partially satisfied through an action brought by or on behalf of the recipient, the amount paid to the department shall bear its proportionate share of attorneys’ fees and costs.

(a) The determination of the proportionate share to be borne by the department shall be based upon:

(i) The fees and costs approved by the court in which the action was initiated; or

(ii) The written agreement between the attorney and client which establishes fees and costs when fees and costs are not addressed by the court.

(b) When fees and costs have been approved by a court, after notice to the department, the department shall have the right to be heard on the matter of attorneys' fees and costs or its proportionate share.

(c) When fees and costs have not been addressed by the court, the department shall receive at the time of settlement a copy of the written agreement between the attorney and client which establishes fees and costs and may request and examine documentation of fees and costs associated with the case. The department may bring an action in superior court to void a settlement if it believes the attorneys' calculation of its proportionate share of fees and costs is inconsistent with the written agreement between the attorney and client which establishes fees and costs or if the fees and costs associated with the case are exorbitant in relation to cases of a similar nature.

(5) The rights and remedies provided to the department in this section to secure reimbursement for assistance, including the department's lien and subrogation rights, may be delegated to a managed health care system by contract entered into pursuant to RCW 74.09.522. A managed health care system may enforce all rights and remedies delegated to it by the department to secure and recover assistance provided under a managed health care system consistent with its agreement with the department. [1997 c 236 § 2; 1990 c 100 § 7.]

Additional notes found at www.leg.wa.gov

43.20B.070 Torts committed against recipients of state assistance—Duties of attorney representing recipient—Trust account for departmental lien. (1) An attorney representing a person who, as a result of injuries or illness sustained through the negligence or wrong of another, has received, is receiving, or has applied to receive assistance under chapter 74.09 RCW, or residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, shall:

(a) Notify the department at the time of filing any claim against a third party, commencing an action at law, negotiating a settlement, or accepting a settlement offer from the tortfeasor or the tortfeasor's insurer, or both; and

(b) Give the department thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or recipient to recover damages for such injuries or illness.

(2) The proceeds from any recovery made pursuant to any action or claim described in RCW 43.20B.060 that is necessary to fully satisfy the department's lien against recovery shall be placed in a trust account or in the registry of the court until the department's lien is satisfied. [1999 c 55 § 1; 1990 c 100 § 8.]

Additional notes found at www.leg.wa.gov

43.20B.080 Recovery for paid medical assistance—Rules—Disclosure of estate recovery costs, terms, and conditions. (1) The department shall file liens, seek adjustment, or otherwise effect recovery for medical assistance correctly paid on behalf of an individual consistent with 42

U.S.C. Sec. 1396p. The department shall adopt a rule providing for prior notice and hearing rights to the record title holder or purchaser under a land sale contract.

(2) Liens may be adjusted by foreclosure in accordance with chapter 61.12 RCW.

(3) In the case of an individual who was fifty-five years of age or older when the individual received medical assistance, the department shall seek adjustment or recovery from the individual's estate, and from nonprobate assets of the individual as defined by RCW 11.02.005, but only for medical assistance consisting of nursing facility services, home and community-based services, other services that the department determines to be appropriate, and related hospital and prescription drug services. Recovery from the individual's estate, including foreclosure of liens imposed under this section, shall be undertaken as soon as practicable, consistent with 42 U.S.C. Sec. 1396p.

(4) The department shall apply the medical assistance estate recovery law as it existed on the date that benefits were received when calculating an estate's liability to reimburse the department for those benefits.

(5)(a) The department shall establish procedures consistent with standards established by the federal department of health and human services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when such recovery would work an undue hardship. The department shall recognize an undue hardship for a surviving domestic partner whenever recovery would not have been permitted if he or she had been a surviving spouse. The department is not authorized to pursue recovery under such circumstances.

(b) Recovery of medical assistance from a recipient's estate shall not include property made exempt from claims by federal law or treaty, including exemption for tribal artifacts that may be held by individual Native Americans.

(6) A lien authorized under this section relates back to attach to any real property that the decedent had an ownership interest in immediately before death and is effective as of that date or date of recording, whichever is earlier.

(7) The department may enforce a lien authorized under this section against a decedent's life estate or joint tenancy interest in real property held by the decedent immediately prior to his or her death. Such a lien enforced under this subsection shall not end and shall continue as provided in this subsection until the department's lien has been satisfied.

(a) The value of the life estate subject to the lien shall be the value of the decedent's interest in the property subject to the life estate immediately prior to the decedent's death.

(b) The value of the joint tenancy interest subject to the lien shall be the value of the decedent's fractional interest the recipient would have owned in the jointly held interest in the property had the recipient and the surviving joint tenants held title to the property as tenants in common on the date of the recipient's death.

(c) The department may not enforce the lien provided by this subsection against a bona fide purchaser or encumbrancer that obtains an interest in the property after the death of the recipient and before the department records either its lien or the request for notice of transfer or encumbrance as provided by RCW 43.20B.750.

(d) The department may not enforce a lien provided by this subsection against any property right that vested prior to July 1, 2005.

(8)(a) Subject to the requirements of 42 U.S.C. Sec. 1396p(a) and the conditions of this subsection (8), the department is authorized to file a lien against the property of an individual prior to his or her death, and to seek adjustment and recovery from the individual's estate or sale of the property subject to the lien, if:

(i) The individual is an inpatient in a nursing facility, intermediate care facility for persons with intellectual disabilities, or other medical institution; and

(ii) The department has determined after notice and opportunity for a hearing that the individual cannot reasonably be expected to be discharged from the medical institution and to return home.

(b) If the individual is discharged from the medical facility and returns home, the department shall dissolve the lien.

(9) The department is authorized to adopt rules to effect recovery under this section. The department may adopt by rule later enactments of the federal laws referenced in this section.

(10) It is the responsibility of the department to fully disclose in advance verbally and in writing, in easy to understand language, the terms and conditions of estate recovery to all persons offered long-term care services subject to recovery of payments.

(11) In disclosing estate recovery costs to potential clients, and to family members at the consent of the client, the department shall provide a written description of the community service options. [2010 c 94 § 12; 2008 c 6 § 302; 2005 c 292 § 6; 1999 c 354 § 2; 1997 c 392 § 302; 1995 1st sp.s. c 18 § 67; 1994 c 21 § 3.]

Purpose—2010 c 94: See note following RCW 44.04.280.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Legislative confirmation of effect of 1994 c 21: RCW 43.20B.090.

Additional notes found at www.leg.wa.gov

43.20B.090 Recovery for paid medical assistance and state-funded long-term care—Legislative intent—Legislative confirmation of effect of 1994 c 21. (1) It is the intent of the legislature to ensure that needy individuals have access to basic long-term care without requiring them to sell their homes. In the face of rising medical costs and limited funding for social welfare programs, however, the state's medicaid and state-funded long-term care programs have placed an increasing financial burden on the state. By balancing the interests of individuals with immediate and future unmet medical care needs, surviving spouses and dependent children, adult nondependent children, more distant heirs, and the state, the estate recovery provisions of RCW 43.20B.080 and 74.39A.170 provide an equitable and reasonable method of easing the state's financial burden while ensuring the continued viability of the medicaid and state-funded long-term care programs.

(2) It is further the intent of the legislature to confirm that chapter 21, Laws of 1994, effective July 1, 1994, repealed

[Title 43 RCW—page 132]

and substantially reenacted the state's medicaid estate recovery laws and did not eliminate the department's authority to recover the cost of medical assistance paid prior to October 1, 1993, from the estates of deceased recipients regardless of whether they received benefits before, on, or after July 1, 1994. [1997 c 392 § 301.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

NONRESIDENTIAL FEES AND COSTS OF SERVICES

43.20B.110 License fees to be charged by secretary—Waiver—Review and comment. (1) The secretary shall charge fees to the licensee for obtaining a license. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

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

(4) Fees associated with the licensing or regulation of health professions or health facilities administered by the department of health, shall be in accordance with RCW 43.70.110 and 43.70.250. [1991 c 3 § 296; 1989 1st ex.s. c 9 § 216; 1987 c 75 § 6; 1982 c 201 § 2. Formerly RCW 43.20A.055.]

Additional notes found at www.leg.wa.gov

43.20B.120 Funeral assistance—Lien against assets. If the department furnishes funeral assistance for deceased recipients under *RCW 74.08.120, the department shall have a lien against those assets left to a surviving spouse or minor children under those conditions defined in *RCW 74.08.120. The lien is valid for six years from the date of filing with the county auditor and has preference over the claims of all unsecured creditors. If the assets remain exempt or if no probate is commenced, the lien automatically terminates without further action six years after filing. [1987 c 75 § 45.]

*Reviser's note: RCW 74.08.120 was repealed by 1997 c 58 § 1002.

RESIDENTIAL SERVICES

43.20B.310 Residential care payments by families, when not collected. No payment may be collected by the department for residential care if the collection will reduce the income as defined in RCW 74.04.005 of the head of household and remaining dependents below one hundred percent of the need standard for temporary assistance for needy families. [1997 c 59 § 6; 1983 1st ex.s. c 41 § 34. Formerly RCW 74.04.780.]

Additional notes found at www.leg.wa.gov

43.20B.320 Mental illness—Treatment costs—Criminally insane—Liability. Patients hospitalized at state hos-

pitals as criminally insane shall be responsible for payment of hospitalization charges. [1987 c 75 § 12; 1959 c 25 § 71.02.380. Prior: 1951 c 139 § 62. Formerly RCW 71.02.380.]

Criminally insane, reimbursement for costs: RCW 10.77.250.

43.20B.325 Mental illness—Hospitalization charges—How computed. Charges for hospitalization of patients in state hospitals are to be based on the actual cost of operating such hospitals for the previous year, taking into consideration the overhead expense of operating the hospital and expense of maintenance and repair, including in both cases all salaries of supervision and management as well as material and equipment actually used or expended in operation as computed by the department: PROVIDED, That a schedule of differing hospitalization charges may be computed, including a schedule of charges for outpatient services, considering the costs of care, treatment and maintenance in accordance with the classification of mental illness, type and intensity of treatment rendered, which may vary among and within the several state hospitals. Costs of transportation shall be computed by the department. [1967 ex.s. c 127 § 1; 1959 c 25 § 71.02.410. Prior: 1951 c 139 § 52. Formerly RCW 71.02.410.]

43.20B.330 Mental illness—Treatment costs—Liability. Any person admitted or committed to a state hospital for the mentally ill, and their estates and responsible relatives are liable for reimbursement to the state of the costs of hospitalization and/or outpatient services, as computed by the secretary, or his designee, in accordance with RCW 43.20B.325: PROVIDED, That such mentally ill person, and his or her estate, and the husband or wife of such mentally ill person and their estate shall be primarily responsible for reimbursement to the state for the costs of hospitalization and/or outpatient services; and, the parents of such mentally ill person and their estates, until such person has attained the age of eighteen years, shall be secondarily liable. [1987 c 75 § 13; 1971 ex.s. c 292 § 64; 1967 ex.s. c 127 § 4. Formerly RCW 71.02.411.]

Additional notes found at www.leg.wa.gov

43.20B.335 Mental illness—Treatment costs—Determination of ability to pay—Standards—Rules and regulations. The department is authorized to investigate the financial condition of each person liable under the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350, and is further authorized to make determinations of the ability of each such person to pay hospitalization charges and/or charges for outpatient services, in accordance with the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350, and, for such purposes, to set a standard as a basis of judgment of ability to pay, which standard shall be recomputed periodically to reflect changes in the costs of living, and other pertinent factors, and to make provisions for unusual and exceptional circumstances in the application of such standard. Such factors and circumstances shall include judgments owed by the person to any victim of an act that would have resulted in criminal conviction of the patient but for a finding of criminal insanity. A victim shall include a

personal representative of an estate who has obtained judgment for wrongful death against the criminally insane patient.

In accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW, the department shall adopt appropriate rules and regulations relating to the standards to be applied in determining ability to pay such charges, the schedule of charges pursuant to RCW 43.20B.325, and such other rules and regulations as are deemed necessary to administer the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350. [1996 c 125 § 2; 1987 c 75 § 14; 1979 c 141 § 126; 1967 ex.s. c 127 § 5. Formerly RCW 71.02.412.]

Findings—Purpose—1996 c 125: "The legislature finds that laws and regulations relating to the rights of the state to collection from criminally insane patients for cost of their hospitalization are in need of clarification. The legislature previously directed the department of social and health services to set standards regarding ability of such patients to pay that would include pertinent factors, as well as unusual and exceptional circumstances. The legislature finds that the regulations established by the department fail to take into account a factor and circumstance that should be paramount: Compensation owed by the patient to victims of his or her criminally insane conduct. The state public policy recognizes the due dignity and respect to be accorded victims of crime and the need for victims to be compensated, as set forth in Article I, section 35 of the state Constitution and in chapter 7.68 RCW. The legislature did not intend, in enacting RCW 43.20B.320, that the department attempt to obtain funds for hospitalization of criminally insane patients that would otherwise have compensated the victims of the patient. The purpose of chapter 125, Laws of 1996 is to clarify legislative intent and existing law." [1996 c 125 § 1.]

43.20B.340 Mental illness—Treatment costs—Notice and finding of responsibility—Period—Adjudicative proceedings. In any case where determination is made that a person, or the estate of such person, is able to pay all, or any portion of the charges for hospitalization, and/or charges for outpatient services, a notice and finding of responsibility shall be served on such person or the court-appointed personal representative of such person. The notice shall set forth the amount the department has determined that such person, or his or her estate, is able to pay not to exceed the costs of hospitalization, and/or costs of outpatient services, as fixed in accordance with the provisions of RCW 43.20B.325, or as otherwise limited by the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350. The responsibility for the payment to the department shall commence twenty-eight days after service of such notice and finding of responsibility which finding of responsibility shall cover the period from the date of admission of such mentally ill person to a state hospital, and for the costs of hospitalization, and/or the costs of outpatient services, accruing thereafter. The notice and finding of responsibility shall be served upon all persons found financially responsible in the manner prescribed for the service of summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An application for an adjudicative proceeding may be filed with the secretary, or the secretary's designee within twenty-eight days from the date of service of such notice and finding of responsibility. The application must be written and served on the secretary by registered or certified mail, or by personal service. If no application is filed, the notice and finding of responsibility shall become final. If an application is filed, the execution of notice and finding of responsibility shall be stayed pending the final adjudicative order. The hearing shall

be conducted in a local department office or other location in Washington convenient to the appellant. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. [1989 c 175 § 98; 1987 c 75 § 15; 1985 c 245 § 3; 1981 c 67 § 33; 1971 c 81 § 133; 1969 ex.s. c 268 § 1; 1967 ex.s. c 127 § 6. Formerly RCW 71.02.413.]

Additional notes found at www.leg.wa.gov

43.20B.345 Mental illness—Treatment costs—Judgment for accrued amounts. Whenever any notice and finding of responsibility, or appeal therefrom, shall have become final, the superior court, wherein such person or persons reside or have property either real or personal, shall, upon application of the secretary enter a judgment in the amount of the accrued monthly charges for the costs of hospitalization, and/or the costs of outpatient services, and such judgment shall have and be given the same effect as if entered pursuant to civil action instituted in said court; except, such judgment shall not be the subject of collection by the department unless and until any outstanding judgment for a victim referenced in RCW 43.20B.335 has been fully satisfied. [1996 c 125 § 3; 1987 c 75 § 16; 1979 c 141 § 127; 1967 ex.s. c 127 § 7. Formerly RCW 71.02.414.]

Findings—Purpose—1996 c 125: See note following RCW 43.20B.335.

43.20B.347 Mental illness—Treatment costs—Lien against real and personal property. Whenever a notice and finding of responsibility, or appeal therefrom, has become final, the department may file a lien against the real and personal property of all persons found financially responsible under RCW 43.20B.330 with the county auditor of the county where the persons reside or own property. [1993 c 272 § 1.]

Additional notes found at www.leg.wa.gov

43.20B.350 Mental illness—Treatment costs—Modification or vacation of findings of responsibility. The secretary, or the secretary's designee, upon application of the person responsible for payment of reimbursement to the state of the costs of hospitalization, and/or the costs of outpatient services, or the legal representative of such person, and, after investigation, or after investigation without application, the secretary, or the secretary's designee, if satisfied of the financial ability or inability of such person to reimburse the state in accordance with the original finding of responsibility, may, modify or vacate such original finding of responsibility and enter a new finding of responsibility. The determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedures for appeals of original findings of responsibility. [1987 c 75 § 17; 1967 ex.s. c 127 § 8. Formerly RCW 71.02.415.]

43.20B.355 Mental illness—Hospitalization charges—Due date—Collection. Hospitalization charges are payable on the tenth day of each calendar month, for services rendered during the preceding month, and the department may make all necessary rules and regulations relative to the billing and collection of such charges. [1967 ex.s. c 127

§ 2; 1959 c 25 § 71.02.320. Prior: 1951 c 139 § 56. Formerly RCW 71.02.320.]

43.20B.360 Mental illness—Hospitalization charges—Collection—Statutes of limitation. No statutes of limitations shall run against the state of Washington for hospitalization charges: PROVIDED, HOWEVER, That periods of limitations for the filing of creditors' claims against probate and guardianship estates shall apply against such claims. [1959 c 25 § 71.02.360. Prior: 1951 c 139 § 61. Formerly RCW 71.02.360.]

Period of limitation for claims against guardianship estate: RCW 11.92.035.

43.20B.370 Mental illness—Hospitalization charges—Collection—Prosecuting attorneys to assist. The prosecuting attorneys of the various counties shall assist the department in the collection of hospitalization charges. [1959 c 25 § 71.02.370. Prior: 1951 c 139 § 64. Formerly RCW 71.02.370.]

43.20B.410 Residential habilitation centers—Liability for costs of services—Declaration of purpose. The purpose of RCW 43.20B.410 through 43.20B.455 is to place financial responsibility for cost of care, support and treatment upon those residents of residential habilitation centers operated under chapter 71A.20 RCW who possess assets over and above the minimal amount required to be retained for personal use; to provide procedures for establishing such liability and the monthly rate thereof, and the process for appeal therefrom to the secretary of social and health services and the courts by any person deemed aggrieved thereby. [1988 c 176 § 902; 1987 c 75 § 23; 1979 c 141 § 237; 1967 c 141 § 1. Formerly RCW 72.33.650.]

Additional notes found at www.leg.wa.gov

43.20B.415 State residential schools—Liability for costs of services—Limitation. The estates of all mentally or physically deficient persons who have been admitted to the state residential schools listed in *RCW 72.33.030 either by application of their parents or guardian or by commitment of court, or who may hereafter be admitted or committed to such institutions, shall be liable for their per capita costs of care, support and treatment: PROVIDED, That the estate funds may not be reduced as a result of such liability below an amount as set forth in *RCW 72.33.180. [1971 ex.s. c 118 § 2; 1967 c 141 § 2. Formerly RCW 72.33.655.]

***Reviser's note:** RCW 72.33.030 and 72.33.180 were repealed by 1988 c 176 § 1007. See Title 71A RCW. The term "residential schools" was changed to "residential habilitation centers" by 1988 c 176.

Additional notes found at www.leg.wa.gov

43.20B.420 Residential habilitation centers—Determination of costs of services—Establishment of rates—Collection. The charges for services as provided in RCW 43.20B.425 shall be based on the rates established for the purpose of receiving federal reimbursement for the same services. For those services for which there is no applicable federal reimbursement-related rate, charges shall be based on the average per capita costs, adjusted for inflation, of operating

each of the residential habilitation centers for the previous reporting year taking into consideration all expenses of institutional operation, maintenance and repair, salaries and wages, equipment and supplies: PROVIDED, That all expenses directly related to the cost of education for persons under the age of twenty-two years shall be excluded from the computation of the average per capita cost. The department shall establish rates on a per capita basis and promulgate those rates or the methodology used in computing costs and establishing rates as rules of the department in accordance with chapter 34.05 RCW. The department shall be charged with the duty of collection of charges incurred under RCW 43.20B.410 through 43.20B.455, which may be enforced by civil action instituted by the attorney general within or without the state. [1988 c 176 § 903; 1987 c 75 § 24; 1984 c 200 § 1; 1979 c 141 § 238; 1967 c 141 § 3. Formerly RCW 72.33.660.]

Additional notes found at www.leg.wa.gov

43.20B.425 Residential habilitation centers—Costs of services—Investigation and determination of ability to pay—Exemptions. The department shall investigate and determine the assets of the estates of each resident of a residential habilitation center and the ability of each such estate to pay all, or any portion of, the average monthly charge for care, support and treatment at a residential habilitation center as determined by the procedure set forth in RCW 43.20B.420: PROVIDED, That the sum as set forth in RCW 71A.20.100 shall be retained by the estate of the resident at all times for such personal needs as may arise: PROVIDED FURTHER, That where any person other than a resident or the guardian of the resident's estate deposits funds so that the depositor and a resident become joint tenants with the right of survivorship, such funds shall not be considered part of the resident's estate so long as the resident is not the sole survivor among such joint tenants. [1988 c 176 § 904; 1987 c 75 § 25; 1971 ex.s. c 118 § 3; 1967 c 141 § 4. Formerly RCW 72.33.665.]

Additional notes found at www.leg.wa.gov

43.20B.430 Residential habilitation centers—Costs of services—Notice and finding of responsibility—Service—Adjudicative proceeding. In all cases where a determination is made that the estate of a resident of a residential habilitation center is able to pay all or any portion of the charges, a notice and finding of responsibility shall be served on the guardian of the resident's estate, or if no guardian has been appointed then to the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident. The notice shall set forth the amount the department has determined that such estate is able to pay, not to exceed the charge as fixed in accordance with RCW 43.20B.420, and the responsibility for payment to the department shall commence twenty-eight days after personal service of such notice and finding of responsibility. Service shall be in the manner prescribed for the service of a summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An application for an adjudicative proceed-

ing from the determination of responsibility may be made to the secretary by the guardian of the resident's estate, or if no guardian has been appointed then by the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state school, within such twenty-eight day period. The application must be written and served on the secretary by registered or certified mail, or by personal service. If no application is filed, the notice and finding of responsibility shall become final. If an application is filed, the execution of notice and finding of responsibility shall be stayed pending the final adjudicative order. The hearing shall be conducted in a local department office or other location in Washington convenient to the appellant. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. [1989 c 175 § 99; 1988 c 176 § 905; 1987 c 75 § 26; 1985 c 245 § 6; 1982 c 189 § 7; 1979 c 141 § 239; 1970 ex.s. c 75 § 1; 1967 c 141 § 5. Formerly RCW 72.33.670.]

Additional notes found at www.leg.wa.gov

43.20B.435 State residential habilitation centers—Costs of services—Modification or vacation of finding of responsibility. The secretary, upon application of the guardian of the estate of the resident, and after investigation, or upon investigation without application, may, if satisfied of the financial ability or inability of such person to make payments in accordance with the original finding of responsibility, modify or vacate such original finding of responsibility, and enter a new finding of responsibility. The secretary's determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedure for appeals of original findings of responsibility. [1979 c 141 § 240; 1967 c 141 § 7. Formerly RCW 72.33.680.]

Additional notes found at www.leg.wa.gov

43.20B.440 Residential habilitation centers—Costs of services—Charges payable in advance. The charges for care, support, maintenance and treatment of persons at residential habilitation centers as provided by RCW 43.20B.410 through 43.20B.455 shall be payable in advance on the first day of each and every month to the department. [1988 c 176 § 906; 1987 c 75 § 27; 1979 c 141 § 241; 1967 c 141 § 8. Formerly RCW 72.33.685.]

Additional notes found at www.leg.wa.gov

43.20B.445 Residential habilitation centers—Costs of services—Reimbursement from property subsequently acquired—Placement outside school—Liability after death of resident. The provisions of RCW 43.20B.410 through 43.20B.455 shall not be construed to prohibit or prevent the department of social and health services from obtaining reimbursement from any person liable under RCW 43.20B.410 through 43.20B.455 for payment of the full amount of the accrued per capita cost from any property acquired by gift, devise or bequest subsequent to and regardless of the initial findings of responsibility under RCW 43.20B.430: PROVIDED, That the estate of any resident of a residential habilitation center shall not be liable for such reimbursement subsequent to termination of services for that

resident at the residential habilitation center: PROVIDED FURTHER, That upon the death of any person while a resident in a residential habilitation center, the person's estate shall become liable to the same extent as the resident's liability on the date of death. [1988 c 176 § 907; 1987 c 75 § 28; 1979 c 141 § 242; 1967 c 141 § 9. Formerly RCW 72.33.690.]

Additional notes found at www.leg.wa.gov

43.20B.450 State residential habilitation centers—Costs of services—Liabilities created apply to care, support, and treatment after July 1, 1967. The liabilities created by RCW 43.20B.410 through 43.20B.455 shall apply to the care, support and treatment occurring after July 1, 1967. [1987 c 75 § 29; 1967 c 141 § 11. Formerly RCW 72.33.695.]

Additional notes found at www.leg.wa.gov

43.20B.455 Residential habilitation centers—Costs of services—Discretionary allowance in resident's fund. Notwithstanding any other provision of RCW 43.20B.410 through 43.20B.455, the secretary may, if in the secretary's discretion any resident of a residential habilitation center can be terminated from receiving services at the habilitation center more rapidly and assimilated into a community, keep an amount not exceeding five thousand dollars in the resident's fund for such resident and such resident shall not thereafter be liable thereon for per capita costs of care, support and treatment as provided for in RCW 43.20B.415. [1988 c 176 § 908; 1987 c 75 § 30; 1979 c 141 § 243; 1967 c 141 § 12. Formerly RCW 72.33.700.]

Additional notes found at www.leg.wa.gov

43.20B.460 Guardianship fees and additional costs for incapacitated clients paying part of costs—Maximum amount—Rules. The department of social and health services shall establish by rule the maximum amount of guardianship fees and additional compensation for administrative costs that may be allowed by the court as compensation for a guardian or limited guardian of an incapacitated person who is a department of social and health services client residing in a nursing facility or in a residential or home setting and is required by the department of social and health services to contribute a portion of their income towards the cost of residential or supportive services. [1994 c 68 § 2.]

RECOVERY OF OVERPAYMENTS

43.20B.620 Overpayments of assistance—Lien against recipient's property—Recovery methods. Overpayments of public assistance or food stamps or food stamp benefits transferred electronically under RCW 74.04.300 shall become a lien against the real and personal property of the recipient from the time of filing by the department with the county auditor of the county in which the recipient resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

Debts due the state for overpayments of public assistance or food stamps or food stamp benefits transferred electronically may be recovered by the state by deduction from the subsequent assistance payments to such persons, lien and

foreclosure, or order to withhold and deliver, or may be recovered by civil action. [1998 c 79 § 4; 1987 c 75 § 43.]

43.20B.630 Overpayments of assistance—Procedures—Adjudicative proceeding. (1) Any person who owes a debt to the state for an overpayment of public assistance and/or food stamps or food stamp benefits transferred electronically shall be notified of that debt by either personal service or certified mail, return receipt requested. Personal service, return of the requested receipt, or refusal by the debtor of such notice is proof of notice to the debtor of the debt owed. Service of the notice shall be in the manner prescribed for the service of a summons in a civil action. The notice shall include a statement of the debt owed; a statement that the property of the debtor will be subject to collection action after the debtor terminates from public assistance and/or food stamps or benefits; a statement that the property will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and a statement that the net proceeds will be applied to the satisfaction of the overpayment debt. Action to collect the debt by lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver, is lawful after ninety days from the debtor's termination from public assistance and/or food stamps or benefits or the receipt of the notice of debt, whichever is later. This does not preclude the department from recovering overpayments by deduction from subsequent assistance payments, not exceeding deductions as authorized under federal law with regard to financial assistance programs: PROVIDED, That subject to federal legal requirement, deductions shall not exceed five percent of the grant payment standard if the overpayment resulted from error on the part of the department or error on the part of the recipient without willful or knowing intent of the recipient in obtaining or retaining the overpayment.

(2) A current or former recipient who is aggrieved by a claim that he or she owes a debt for an overpayment of public assistance or food stamps or food stamp benefits transferred electronically has the right to an adjudicative proceeding pursuant to RCW 74.08.080. If no application is filed, the debt will be subject to collection action as authorized under this chapter. If a timely application is filed, the execution of collection action on the debt shall be stayed pending the final adjudicative order or termination of the debtor from public assistance and/or food stamps or food stamp benefits transferred electronically, whichever occurs later. [1998 c 79 § 5; 1989 c 175 § 100; 1982 c 201 § 18; 1981 c 163 § 1. Formerly RCW 74.04.700.]

Overpayments and debts due the state: RCW 74.04.300.

Additional notes found at www.leg.wa.gov

43.20B.635 Overpayments of assistance—Orders to withhold property of debtor—Procedures. After service of a notice of debt for an overpayment as provided for in RCW 43.20B.630, stating the debt accrued, the secretary may issue to any person, firm, corporation, association, political subdivision, or department of the state, an order to withhold and deliver property of any kind including, but not restricted to, earnings which are due, owing, or belonging to the debtor, when the secretary has reason to believe that there is in the

possession of such person, firm, corporation, association, political subdivision, or department of the state property which is due, owing, or belonging to the debtor. The order to withhold and deliver shall state the amount of the debt, and shall state in summary the terms of this section, RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. 1673, and other state or federal exemption laws applicable generally to debtors. The order to withhold and deliver shall be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person, firm, corporation, association, political subdivision, or department of the state upon whom service has been made shall answer the order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein. The secretary may require further and additional answers to be completed by the person, firm, corporation, association, political subdivision, or department of the state. If any such person, firm, corporation, association, political subdivision, or department of the state possesses any property which may be subject to the claim of the department of social and health services, such property shall be withheld immediately upon receipt of the order to withhold and deliver and shall, after the twenty-day period, upon demand, be delivered forthwith to the secretary. The secretary shall hold the property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. In the alternative, there may be furnished to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability. Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, association, political subdivision, or department of the state subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary. Delivery to the secretary, subject to the exemptions under RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. 1673, and other state or federal law applicable generally to debtors, of the money or other property held or claimed satisfies the requirement of the order to withhold and deliver. Delivery to the secretary serves as full acquittance, and the state warrants and represents that it shall defend and hold harmless for such actions persons delivering money or property to the secretary pursuant to this chapter. The state also warrants and represents that it shall defend and hold harmless for such actions persons withholding money or property pursuant to this chapter.

The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed by certified mail a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address, or, in the alternative, a copy of the order to withhold and deliver shall be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order shall be mailed or served together with a concise explanation of the right to petition for a hearing on any issue related to the collection. This requirement is not jurisdictional, but, if the copy is not mailed or served as provided in this section, or if any irregularity appears with respect to the

mailing or service, the superior court, on its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy. [1990 c 100 § 1; 1987 c 75 § 37; 1981 c 163 § 2. Formerly RCW 74.04.710.]

43.20B.640 Overpayments of assistance—Failure to withhold property of debtor. If any person, firm, corporation, association, political subdivision, or department of the state fails to answer an order to withhold and deliver within the time prescribed in RCW 43.20B.635, or fails or refuses to deliver property pursuant to the order, or after actual notice of filing of a lien as provided for in this chapter, pays over, releases, sells, transfers, or conveys real or personal property subject to such lien to or for the benefit of the debtor or any other person, or fails or refuses to surrender upon demand property distrained under RCW 43.20B.635, or fails or refuses to honor an assignment of wages presented by the secretary, such person, firm, corporation, association, political subdivision, or department of the state is liable to the department in an amount equal to one hundred percent of the value of the debt which is the basis of the lien, order to withhold and deliver, distraint, or assignment of wages, together with costs, interest, and reasonable attorney fees. [1987 c 75 § 38; 1981 c 163 § 3. Formerly RCW 74.04.720.]

43.20B.645 Overpayments of assistance—Assignment of earnings. Any person, firm, corporation, association, political subdivision, or department employing a person owing a debt for overpayment of public assistance received as defined in RCW 74.04.300, shall honor, according to its terms, a duly executed assignment of earnings presented to the employer by the secretary as a plan to satisfy or retire an overpayment debt. This requirement to honor the assignment of earnings is applicable whether the earnings are to be paid presently or in the future and continues in force and effect until released in writing by the secretary. Payment of moneys pursuant to an assignment of earnings presented to the employer by the secretary serves as full acquittance under any contract of employment, and the state warrants and represents it shall defend and hold harmless such action taken pursuant to the assignment of earnings. The secretary is released from liability for improper receipt of moneys under assignment of earnings upon return of any moneys so received. [1981 c 163 § 4. Formerly RCW 74.04.730.]

43.20B.660 Improper realty transfer—Suit to rescind—Recovery from recipient's estate. If an improper real property transfer is made as defined in RCW 74.08.331 through 74.08.338, the department may request the attorney general to file suit to rescind the transaction except as to subsequent bona fide purchasers for value. If it is established by judicial proceedings that a fraudulent conveyance occurred, the value of any public assistance which has been furnished may be recovered in any proceedings from the recipient or the recipient's estate. [1987 c 75 § 46.]

43.20B.670 Excess property assistance program—Lien—Department as creditor. When the department provides grant assistance to persons who possess excess real property under *RCW 74.04.005(10)(f), the department may file a lien against, or otherwise perfect its interest in such real property as a condition of granting such assistance, and the department shall have the status of a secured creditor. [1985 c 245 § 10. Formerly RCW 74.04.007.]

***Reviser's note:** RCW 74.04.005 was amended by 1997 c 58 § 309, changing subsection (10)(f) to subsection (10)(g). RCW 74.04.005 was subsequently amended by 2010 1st sp.s. c 8 § 4, changing subsection (10)(g) to subsection (11)(g).

43.20B.675 Vendor overpayments—Goods or services provided on or after July 1, 1998—Notice—Adjudicative proceeding—Enforcement—Collection—Rules.

(1) When the department determines that a vendor was overpaid by the department for either goods or services, or both, provided to department clients, except nursing homes under chapter 74.46 RCW, the department will give written notice to the vendor. The notice will include the amount of the overpayment, the basis for the claim, and the rights of the vendor under this section.

(2) The notice may be served upon the vendor in the manner prescribed for the service of a summons in civil action or be mailed to the vendor at the last known address by certified mail, return receipt requested, demanding payment within twenty days of the date of receipt.

(3) The vendor has the right to an adjudicative proceeding governed by the administrative procedure act, chapter 34.05 RCW, and the rules of the department. The vendor's application for an adjudicative proceeding must be in writing, state the basis for contesting the overpayment notice, and include a copy of the department's notice. The application must be served on and received by the department within twenty-eight days of the vendor's receipt of the notice of overpayment. The vendor must serve the department in a manner providing proof of receipt.

(4) Where an adjudicative proceeding has been requested, the presiding or reviewing office will determine the amount, if any, of the overpayment received by the vendor.

(5) If the vendor fails to attend or participate in the adjudicative proceeding, upon a showing of valid service, the presiding or reviewing officer may enter an administrative order declaring the amount claimed in the notice to be assessed against the vendor and subject to collection action by the department.

(6) Failure to make an application for an adjudicative proceeding within twenty-eight days of the date of notice will result in the establishment of a final debt against the vendor in the amount asserted by the department and that amount is subject to collection action. The department may also charge the vendor with any costs associated with the collection of any final overpayment or debt established against the vendor.

(7) The department may enforce a final overpayment or debt through lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, or other collection action available to the department to satisfy the debt due.

(8) Debts determined under this chapter are subject to collection action without further necessity of action by a pre-

siding or reviewing officer. The department may collect the debt in accordance with RCW 43.20B.635, 43.20B.640, and 43.20B.680. In addition, a vendor lien may be subject to distraint and seizure and sale in the same manner as prescribed for support liens in RCW 74.20A.130.

(9) Chapter 66, Laws of 1998 applies to overpayments for goods or services provided on or after July 1, 1998.

(10) The department may adopt rules consistent with this section. [1998 c 66 § 2.]

Findings—1998 c 66: "The legislature finds that more efficient and cost-effective means are available for the collection of vendor overpayments owed the state of Washington. The legislature further finds it desirable to provide vendors a uniform formal appeal process that will streamline the current process for both the department of social and health services and the vendor." [1998 c 66 § 1.]

43.20B.680 Vendor overpayments—Lien or other security—Setoff or recoupment—Exception.

(1) The department may, at the secretary's discretion, secure the repayment of any outstanding overpayment, plus interest, if any, through the filing of a lien against the vendor's real property, or by requiring the posting of a bond, assignment of deposit, or some other form of security acceptable to the department, or by doing both.

(a) Any lien shall be effective from the date of filing for record with the county auditor of the county in which the property is located and the lien claim shall have preference over the claims of all unsecured creditors.

(b) The department shall review and determine the acceptability of all other forms of security.

(c) Any bond must be issued by a company licensed as a surety in the state of Washington.

(d) This subsection does not apply to nursing homes licensed under chapter 18.51 RCW or portions of hospitals licensed under chapter 70.41 RCW and operating as a nursing home, if those facilities are subject to chapter 74.46 RCW.

(2) The department may recover any overpayment, plus interest, if any, by setoff or recoupment against subsequent payments to the vendor. [1987 c 283 § 10.]

Additional notes found at www.leg.wa.gov

43.20B.685 Vendor overpayments—Liens—Duration—Enforcement.

Liens created under RCW 43.20B.680 shall bind the affected property for a period of ten years after the lien has been recorded or ten years after the resolution of all good faith disputes as to the overpayment, whichever is later. Any civil action by the department to enforce such lien must be timely commenced before the ten-year period expires or the lien shall be released. A civil action to enforce such lien shall not be timely commenced unless the summons and complaint are filed within the ten-year period in a court having jurisdiction and service of the summons and complaint is made upon all parties in the manner prescribed by appropriate civil court rules. [1987 c 283 § 11.]

Additional notes found at www.leg.wa.gov

43.20B.688 Limitation on actions to enforce vendor overpayment debts.

Any action to enforce a vendor overpayment debt shall be commenced within six years from the date of the department's notice to the vendor. [1987 c 283 § 15. Formerly RCW 43.20A.440.]

Vendor overpayments: RCW 43.20B.680 through 43.20B.695.

Additional notes found at www.leg.wa.gov

43.20B.690 Vendor overpayments—Remedies non-exclusive. The remedies under RCW 43.20B.680 and 43.20B.685 are nonexclusive and nothing contained in this chapter may be construed to impair or affect the right of the department to maintain a civil action or to pursue any other remedies available to it under the laws of this state to recover such debt. [1987 c 283 § 12.]

Additional notes found at www.leg.wa.gov

43.20B.695 Vendor overpayments—Interest—Exceptions. (1) Except as provided in subsection (4) of this section, vendors shall pay interest on overpayments at the rate of one percent per month or portion thereof. Where partial repayment of an overpayment is made, interest accrues on the remaining balance. Interest will not accrue when the overpayment occurred due to department error.

(2) If the overpayment is discovered by the vendor prior to discovery and notice by the department, the interest shall begin accruing ninety days after the vendor notifies the department of such overpayment.

(3) If the overpayment is discovered by the department prior to discovery and notice by the vendor, the interest shall begin accruing thirty days after the date of notice by the department to the vendor.

(4) This section does not apply to:

(a) Interagency or intergovernmental transactions;

(b) Contracts for public works, goods and services procured for the exclusive use of the department, equipment, or travel; and

(c) Contracts entered into before September 1, 1979, for contracts with medical assistance funding, and August 23, 1983, for all other contracts. [2008 c 53 § 1; 1987 c 283 § 2; 1983 1st ex.s. c 41 § 17. Formerly RCW 43.20A.435.]

Additional notes found at www.leg.wa.gov

43.20B.710 Medical assistance—Improper transfer or assignment of resources—Penalty—Presumption, rebuttal—Attorney’s fees. If cash or resources are improperly transferred or assigned under *RCW 74.09.538, a person who knowingly or willingly receives the assets for less than fair market value is liable for a civil penalty equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value. The civil penalty shall not exceed the cost of assistance rendered by the department to the applicant or recipient. The person may rebut the presumption that the transfer or assignment was made for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance. The prevailing party in such an action shall be awarded reasonable attorney’s fees. [1987 c 75 § 47.]

*Reviser’s note: RCW 74.09.538 was repealed by 1989 c 87 § 11.

Transfer of spousal resources: RCW 74.09.530 through 74.09.595.

43.20B.720 Recipient receiving industrial insurance compensation—Subrogation rights of department—Lien—Withhold and deliver notice. (1) To avoid a duplicate payment of benefits, a recipient of public assistance from

(2010 Ed.)

the department of social and health services is deemed to have subrogated the department to the recipient’s right to recover temporary total disability compensation due to the recipient and the recipient’s dependents under Title 51 RCW, to the extent of such assistance or compensation, whichever is less. However, the amount to be repaid to the department of social and health services shall bear its proportionate share of attorney’s fees and costs, if any, incurred under Title 51 RCW by the recipient or the recipient’s dependents.

(2) The department of social and health services may assert and enforce a lien and notice to withhold and deliver to secure reimbursement. The department shall identify in the lien and notice to withhold and deliver the recipient of public assistance and temporary total disability compensation and the amount claimed by the department. [1997 c 130 § 1; 1985 c 245 § 7; 1982 c 201 § 17; 1973 1st ex.s. c 102 § 1. Formerly RCW 74.04.530.]

43.20B.730 Recipient receiving industrial insurance compensation—Effective date of lien and notice—Service. The effective date of the lien and notice to withhold and deliver provided in RCW 43.20B.720 is the day that it is received by the department of labor and industries or a self-insurer as defined in chapter 51.08 RCW. Service of the lien and notice to withhold and deliver may be made personally, by regular mail with postage prepaid, or by electronic means. A statement of lien and notice to withhold and deliver shall be mailed to the recipient at the recipient’s last known address by certified mail, return receipt requested, no later than two business days after the department mails, delivers, or transmits the lien and notice to withhold and deliver to the department of labor and industries or a self-insurer. [1997 c 130 § 2; 1987 c 75 § 34; 1985 c 245 § 9; 1973 1st ex.s. c 102 § 3. Formerly RCW 74.04.550.]

43.20B.735 Recipient receiving industrial insurance compensation—Duty to withhold and deliver—Amount. The director of labor and industries or the director’s designee, or a self-insurer as defined in chapter 51.08 RCW, following receipt of the lien and notice to withhold and deliver, shall deliver to the secretary of social and health services or the secretary’s designee any temporary total disability compensation payable to the recipient named in the lien and notice to withhold and deliver up to the amount claimed. The director of labor and industries or self-insurer shall withhold and deliver from funds currently in the director’s or self-insurer’s possession or from any funds that may at any time come into the director’s or self-insurer’s possession on account of temporary total disability compensation payable to the recipient named in the lien and notice to withhold and deliver. [1997 c 130 § 3; 1973 1st ex.s. c 102 § 4. Formerly RCW 74.04.560.]

43.20B.740 Recipient receiving industrial insurance compensation—Adjudicative proceeding—Collection pending final order. A recipient feeling aggrieved by the action of the department of social and health services in recovering his or her temporary total disability compensation as provided in RCW 43.20B.720 through 43.20B.745 shall have the right to an adjudicative proceeding.

A recipient seeking an adjudicative proceeding shall file an application with the secretary within twenty-eight days after the statement of lien and notice to withhold and deliver was mailed to the recipient. If the recipient files an application more than twenty-eight days after, but within one year of, the date the statement of lien and notice to withhold and deliver was mailed, the recipient is entitled to a hearing if the recipient shows good cause for the recipient's failure to file a timely application. The filing of a late application does not affect prior collection action pending the final adjudicative order. Until good cause for failure to file a timely application is decided, the department may continue to collect under the lien and notice to withhold and deliver.

The proceeding shall be governed by chapter 34.05 RCW, the Administrative Procedure Act. [1997 c 130 § 4; 1989 c 175 § 101; 1987 c 75 § 35; 1973 1st ex.s. c 102 § 5. Formerly RCW 74.04.570.]

Additional notes found at www.leg.wa.gov

43.20B.745 Recipient receiving industrial insurance compensation—Application. RCW 43.20B.720 through 43.20B.745 shall not apply to persons whose eligibility for benefits under Title 51 RCW, is based upon an injury or illness occurring prior to July 1, 1972. [1987 c 75 § 36; 1973 1st ex.s. c 102 § 6. Formerly RCW 74.04.580.]

43.20B.750 Recipients holding title to real property or purchasing under land sales contracts—Recording request for notice or termination or request for notice of transfer or encumbrance of property—Notice and hearing—Rules. (1) When an individual receives medical assistance subject to recovery under this chapter and the individual is the holder of record title to real property or the purchaser under a land sale contract, the department of social and health services may present to the county auditor for recording in the deed and mortgage records of a county a request for notice of transfer or encumbrance of the real property. The department shall adopt a rule providing prior notice and hearing rights to the record title holder or purchaser under a land sale contract.

(2) The department shall present to the county auditor for recording a termination of request for notice of transfer or encumbrance when, in the judgment of the department, it is no longer necessary or appropriate for the department to monitor transfers or encumbrances related to the real property.

(3) The department shall adopt by rule a form for the request for notice of transfer or encumbrance and the termination of request for notice of transfer or encumbrance that, at a minimum:

(a) Contains the name of the public assistance recipient and a departmental case identifier or other appropriate information that links the individual who is the holder of record title to real property or the purchaser under a land sale contract to the individual's public assistance records;

(b) Contains the legal description of the real property;

(c) Contains a mailing address for the department to receive the notice of transfer or encumbrance; and

(d) Complies with the requirements for recording in RCW 36.18.010 for those forms intended to be recorded.

(4) The department shall pay the recording fee required by the county clerk under RCW 36.18.010.

(5) The request for notice of transfer or encumbrance described in this section does not affect title to real property and is not a lien on, encumbrance of, or other interest in the real property. [2005 c 292 § 1.]

CONSTRUCTION

43.20B.900 Savings—1987 c 75. The enactment of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on July 26, 1987. [1987 c 75 § 48.]

43.20B.901 Severability—1987 c 75. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 75 § 51.]

43.20B.902 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 106.]

Chapter 43.21A RCW

DEPARTMENT OF ECOLOGY

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Funding for radiation monitoring programs, department of ecology to seek: RCW 70.98.122.

Metals mining and milling operations, department of ecology responsibilities: Chapter 78.56 RCW.

Minimum flows and levels—Departmental authority exclusive—Other recommendations considered: RCW 90.03.247.

43.21A.005 Intent—Public involvement and outreach. See RCW 43.20A.005.

43.21A.010 Legislative declaration of state policy on environment and utilization of natural resources. The legislature recognizes and declares it to be the policy of this state, that it is a fundamental and inalienable right of the people of the state of Washington to live in a healthful and pleasant environment and to benefit from the proper development and use of its natural resources. The legislature further recognizes that as the population of our state grows, the need to provide for our increasing industrial, agricultural, residential, social, recreational, economic and other needs will place an increasing responsibility on all segments of our society to plan, coordinate, restore and regulate the utilization of our natural resources in a manner that will protect and conserve our clean air, our pure and abundant waters, and the natural beauty of the state. [1970 ex.s. c 62 § 1.]

Additional notes found at www.leg.wa.gov

43.21A.020 Purpose. In recognition of the responsibility of state government to carry out the policies set forth in RCW 43.21A.010, it is the purpose of this chapter to establish a single state agency with the authority to manage and develop our air and water resources in an orderly, efficient, and effective manner and to carry out a coordinated program of pollution control involving these and related land resources. To this end a department of ecology is created by this chapter to undertake, in an integrated manner, the various water regulation, management, planning and development programs now authorized to be performed by the department of water resources and the water pollution control commission, the air regulation and management program now performed by the state air pollution control board, the solid waste regulation and management program authorized to be performed by state government as provided by chapter 70.95 RCW, and such other environmental, management protection and development programs as may be authorized by the legislature. [1970 ex.s. c 62 § 2.]

43.21A.030 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "Department" means the department of ecology.
- (2) "Director" means the director of the department of ecology.

(3) "Commission" means the ecological commission. [1970 ex.s. c 62 § 3.]

43.21A.040 Department of ecology—Created. There is created a department of state government to be known as the department of ecology. [1970 ex.s. c 62 § 4.]

43.21A.050 Department of ecology—Director—Appointment—Powers and duties—Salary—Temporary appointment when vacancy. The executive and administrative head of the department shall be the director. The director shall be appointed by the governor with the consent of the senate. He or she shall have complete charge of and supervisory powers over the department. He or she shall be paid a salary fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he or she shall present to that body his or her nomination for the position. [2009 c 549 § 5081; 1970 ex.s. c 62 § 5.]

43.21A.061 Powers and duties—Reclamation. The department of ecology shall exercise all the powers and perform all the duties prescribed by law with respect to the reclamation and development of arid, swamp, overflow, and logged-off lands in the state and such other duties as may be prescribed by law. [1987 c 109 § 26; 1965 c 8 § 43.21.110. Prior: 1921 c 7 § 70; RRS § 10828. Formerly RCW 43.21.110.]

Purpose—Short title—Construction—Rules—Severability—Capitions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.064 Powers and duties—Water resources. Subject to RCW 43.21A.068, the director of the department of ecology shall have the following powers and duties:

(1) The supervision of public waters within the state and their appropriation, diversion, and use, and of the various officers connected therewith;

(2) Insofar as may be necessary to assure safety to life or property, the director shall inspect the construction of all dams, canals, ditches, irrigation systems, hydraulic power plants, and all other works, systems, and plants pertaining to the use of water, and may require such necessary changes in the construction or maintenance of said works, to be made from time to time, as will reasonably secure safety to life and property;

(3) The director shall regulate and control the diversion of water in accordance with the rights thereto;

(4) The director shall determine the discharge of streams and springs and other sources of water supply, and the capacities of lakes and of reservoirs whose waters are being or may be utilized for beneficial purposes;

(5) The director shall, if requested, provide assistance to an applicant for a water right in obtaining or developing an adequate and appropriate supply of water consistent with the land use permitted for the area in which the water is to be used and the population forecast for the area under RCW 43.62.035. If the applicant is a public water supply system, the supply being sought must be used in a manner consistent

with applicable land use, watershed and water system plans, and the population forecast for that area provided under RCW 43.62.035;

(6) The director shall keep such records as may be necessary for the recording of the financial transactions and statistical data thereof, and shall procure all necessary documents, forms, and blanks. The director shall keep a seal of the office, and all certificates covering any of the director's acts or the acts of the director's office, or the records and files of that office, under such seal, shall be taken as evidence thereof in all courts;

(7) The director shall render when required by the governor, a full written report of the office's work with such recommendations for legislation as the director deems advisable for the better control and development of the water resources of the state;

(8) The director and duly authorized deputies may administer oaths;

(9) The director shall establish and promulgate rules governing the administration of chapter 90.03 RCW;

(10) The director shall perform such other duties as may be prescribed by law. [1997 c 443 § 2; 1995 c 8 § 3; 1977 c 75 § 46; 1965 c 8 § 43.21.130. Prior: 1961 c 19 § 1; prior: (i) 1951 c 57 § 3; 1921 c 7 § 72; RRS § 10830. (ii) 1951 c 57 § 3; 1917 c 117 § 8; RRS § 7358. Formerly RCW 43.21.130.]

Finding—Intent—1997 c 443: "The legislature finds that there is a need for development of additional water resources to meet the forecasted population growth in the state. It is the intent of chapter 443, Laws of 1997 to direct the responsible agencies to assist applicants seeking a safe and reliable water source for their use. Providing this assistance for public water supply systems can be accomplished through assistance in the creation of municipal interties and transfers, additional storage capabilities, enhanced conservation efforts, and added efficiency standards for using existing supplies." [1997 c 443 § 1.]

Findings—1995 c 8: "The legislature finds and declares:

(1) The federal energy regulatory commission, under the federal power act, licenses hydropower projects in navigable waters and regularly and extensively inspects facilities for safety; and

(2) Nothing in this act alters or affects the department of ecology's authority to: (a) Participate in the federal process of licensing hydropower projects; or (b) ensure that hydropower projects comply with federal statutes such as the coastal zone management act and the clean water act and, subject to RCW 43.21A.068, all applicable state law." [1995 c 8 § 1.]

Review of permit applications to divert and store water, water flow policy: RCW 77.57.020.

Water power development, license fees: RCW 90.16.050, 90.16.060, 90.16.090.

43.21A.067 Water resources—"Basic data fund" created. The director of ecology may create within his or her department a fund to be known as the "basic data fund."

Into such fund shall be deposited all moneys contributed by persons for stream flow, groundwater and water quality data or other hydrographic information furnished by the department in cooperation with the United States geological survey, and the fund shall be expended on a matching basis with the United States geological survey for the purpose of obtaining additional basic information needed for an intelligent inventory of water resources in the state.

Disbursements from the basic data fund shall be on vouchers approved by the department and the district engineer of the United States geological survey. [2009 c 549 § 5082; 1987 c 109 § 27; 1967 c 53 § 1; 1965 c 8 § 43.21.140.

Prior: 1951 c 57 § 4; 1943 c 30 § 1; Rem. Supp. 1943 § 5505-1. Formerly RCW 43.21.140.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.068 Federal power act licensees—Exemption from state requirements. (1) With respect to the safety of any dam, canal, ditch, hydraulic power plant, reservoir, project, or other work, system, or plant that requires a license under the federal power act, no licensee shall be required to:

- (a) Submit proposals, plans, specifications, or other documents for approval by the department;
- (b) Seek a permit, license, or other form, permission, or authorization from the department;
- (c) Submit to inspection by the department; or
- (d) Change the design, construction, modification, maintenance, or operation of such facilities at the demand of the department.

(2) For the purposes of this section, "licensee" means an owner or operator, or any employee thereof, of a dam, canal, ditch, hydraulic power plant, reservoir, project, or other work, system, or plant that requires a license under the federal power act. [1995 c 8 § 2.]

Findings—1995 c 8: See note following RCW 43.21A.064.

43.21A.069 Powers and duties—Flood control. The department of ecology shall exercise all the powers and perform all the duties prescribed by law with respect to flood control. [1987 c 109 § 28; 1965 c 8 § 43.21.160. Prior: 1941 c 204 § 2, part; Rem. Supp. 1941 § 9663F-2, part. Formerly RCW 43.21.160.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.070 Application of administrative procedure act to the review of decisions by director. The administrative procedure act, chapter 34.05 RCW, shall apply to the review of decisions by the director to the same extent as it applied to decisions issued by the directors of the various departments whose powers, duties and functions are transferred by chapter 62, Laws of 1970 ex. sess. to the department of ecology. The administrative procedure act shall further apply to all other decisions of the director as in chapter 34.05 RCW provided. [1970 ex.s. c 62 § 7.]

43.21A.080 Rule-making authority. The director of the department of ecology is authorized to adopt such rules and regulations as are necessary and appropriate to carry out the provisions of this chapter: PROVIDED, That the director may not adopt rules after July 23, 1995, that are based solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt the rule. [1995 c 403 § 103; 1970 ex.s. c 62 § 8.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

43.21A.085 Technical assistance officer and units—Coordination of voluntary compliance with regulatory

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laws. The department, to the greatest extent possible, within available resources and without jeopardizing the department's ability to carry out its legal responsibilities, may designate one or more of its employees as a technical assistance officer, and may organize the officers into one or more technical assistance units within the department. The duties of a technical assistance officer are to coordinate voluntary compliance with the regulatory laws administered by the department and to provide technical assistance concerning compliance with the laws. [1992 c 19 § 1.]

43.21A.087 Technical assistance officer and units—Authority to issue orders or assess penalties. (1) An employee designated by the department as a technical assistance officer or as a member of a technical assistance unit may not, during the period of the designation, have authority to issue orders or assess penalties on behalf of the department. Such an employee who provides on-site consultation at an industrial or commercial facility and who observes violations of the law shall inform the owner or operator of the facility of the violations. On-site consultation visits by such an employee may not be regarded as inspections or investigations and no notices or citations may be issued or civil penalties assessed during such a visit. However, violations of the law must be reported to the appropriate officers within the department. If the owner or operator of the facility does not correct the observed violations within a reasonable time, the department may reinspect the facility and take appropriate enforcement action. If a technical assistance officer or member of a technical assistance unit observes a violation of the law that places a person in danger of death or substantial bodily harm, or has caused or is likely to cause physical damage to the property of others in an amount exceeding one thousand dollars, the department may initiate enforcement action immediately upon observing the violation.

(2) The state, the department, and officers or employees of the state shall not be liable for damages to a person to the extent that liability is asserted to arise from the performance by technical assistance officers of their duties, or if liability is asserted to arise from the failure of the department to supply technical assistance. [1992 c 19 § 2.]

43.21A.090 Powers, duties and functions transferred to department to be performed by director—Delegation by director, limitations. All powers, duties and functions transferred to the department by the terms of chapter 62, Laws of 1970 ex. sess. shall be performed by the director: PROVIDED, That the director may delegate, by appropriate rule or regulation, the performance of such of his or her powers, duties, and functions, other than those relating to the adoption, amendment or rescission of rules and regulations, to employees of the department whenever it appears desirable in fulfilling the policy and purposes of this chapter. [2009 c 549 § 5083; 1970 ex.s. c 62 § 9.]

43.21A.100 Departmental administrative divisions—Deputy director, duties—Assistant directors, duties—As exempt from state civil service law—Salaries. In order to obtain maximum efficiency and effectiveness within the department, the director may create such administrative divi-

sions within the department as he or she deems necessary. The director shall appoint a deputy director as well as such assistant directors as shall be needed to administer the several divisions within the department. The deputy director shall have charge and general supervision of the department in the absence or disability of the director. In the case of a vacancy in the office of director, the deputy director shall administer the department until the governor appoints a successor to the director or an acting director. The officers appointed under this section and exempt from the provisions of the state civil service law as provided in RCW 41.06.073, shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. [2009 c 549 § 5084; 1970 ex.s. c 62 § 10.]

43.21A.120 Director to employ personnel—Application of state civil service law. The director shall have the power to employ such personnel as may be necessary for the general administration of this chapter: PROVIDED, That except as specified in RCW 41.06.073, such employment shall be in accordance with the rules of the state civil service law, chapter 41.06 RCW. [1970 ex.s. c 62 § 12.]

43.21A.130 Studies—Limitations. (1) In addition to any other powers granted the director, the director may undertake studies dealing with all aspects of environmental problems involving land, water, or air; however, in the absence of specific legislative authority, such studies shall be limited to investigations of particular problems, and shall not be implemented by positive action.

(2)(a) Any studies conducted by the department to establish the total maximum daily load of a water body under chapter 90.48 RCW must involve meaningful participation and opportunities to comment by the local watershed planning group established in chapter 90.82 RCW, the local governments whose jurisdictions are within the affected watershed, and any affected or concerned citizen who notifies the department of his or her interest in participating. Technical or procedural disputes or disagreements that arise during the participation and comment process may be presented to the director for review. The director shall conduct a review of the disputed items and issue written findings and conclusions to all interested participants.

(b) If a study conducted on the total maximum daily load of a water body may affect a new or renewed national pollution discharge elimination permit under chapter 90.48 RCW, the department must disclose prior to the finalization of the study the precision and accuracy of data collected, computer models developed, and assumptions used. [2002 c 364 § 1; 1987 c 505 § 28; 1980 c 87 § 22; 1970 ex.s. c 62 § 13.]

43.21A.140 Director to consult with department, state board of health. The director in carrying out his or her powers and duties under this chapter shall consult with the department of social and health services and the state board of health, or their successors, insofar as necessary to assure that those agencies concerned with the preservation of life and health may integrate their efforts to the fullest extent pos-

sible and endorse policies in common. [2009 c 549 § 5085; 1979 c 141 § 67; 1970 ex.s. c 62 § 14.]

43.21A.150 Director to consult with other states, federal government and Canadian provinces—Authority to receive and disburse grants, funds and gifts. The director, whenever it is lawful and feasible to do so, shall consult and cooperate with the federal government, as well as with other states and Canadian provinces, in the study and control of environmental problems. On behalf of the department, the director is authorized to accept, receive, disburse, and administer grants or other funds or gifts from any source, including private individuals or agencies, the federal government, and other public agencies, for the purpose of carrying out the provisions of this chapter. [1970 ex.s. c 62 § 15.]

43.21A.155 Environmental excellence program agreements—Effect on chapter. Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.21K RCW. [1997 c 381 § 20.]

Purpose—1997 c 381: See RCW 43.21K.005.

43.21A.160 Request for certification of records as confidential—Procedure. Whenever any records or other information furnished under the authority of this chapter to the director, the department, or any division of the department, relate to the processes of production unique to the owner or operator thereof, or may affect adversely the competitive position of such owner or operator if released to the public or to a competitor, the owner or operator of such processes or production may so certify, and request that such information or records be made available only for the confidential use of the director, the department, or the appropriate division of the department. The director shall give consideration to the request, and if such action would not be detrimental to the public interest and is otherwise within accord with the policies and purposes of this chapter, may grant the same. [1970 ex.s. c 62 § 16.]

43.21A.165 Environmental technology—Review of certification programs—Demonstration activities. (1) The legislature finds that:

(a) New and innovative environmental technologies can help improve environmental quality at lower costs;

(b) Current regulatory processes often include permits or approvals that require applicants to duplicate costly technical analysis;

(c) The commercialization of innovative environmental technologies can be discouraged due to the costs of repeated environmental analysis;

(d) The regulatory process can be improved by sharing and relying on information generated through demonstration projects and technical certification programs; and

(e) Other states have developed programs to certify environmental technologies in order to streamline the permitting process and to encourage use of environmental technologies.

(2) The legislature therefore declares that the department shall:

(a) Review environmental technology certification programs established by other states or federal agencies, and enter into agreements to use the information from these programs if the department finds that this information will improve the efficiency and effectiveness of the state's environmental regulatory process; and

(b) Participate in technology demonstration activities that support the state's needs for environmental technology. [1997 c 419 § 1.]

43.21A.175 Environmental certification programs—Fees—Rules—Liability. (1) At the request of a project proponent, the department shall consider information developed through a certification program when making permit or other regulatory decisions. The department may not require duplicative demonstration of such information, but may require additional information as necessary to assure that state requirements are met. A local government that has a regulatory authority delegated by the department may use information developed through a certification program when making permit or other regulatory decisions.

(2) The department shall develop a certification program for technologies for remediation of radioactive and mixed waste, as those terms are defined in chapter 70.105 RCW, if all program development and operational costs are paid by the federal government or persons seeking certification of the technologies.

(3) Following the development of the certification program in subsection (2) of this section, the department may use the policies and procedures of that program on a pilot basis to evaluate the use of certification for site remediation technologies and other environmental technologies, if the operational costs of the certification are paid by the federal government or persons seeking certification of such technologies.

(4) The department shall charge a reasonable fee to recover the operational costs of certifying a technology.

(5) Subsections (1), (3), and (4) of this section apply to permit and other regulatory decisions made under the following: Chapters 70.94, 70.95, 70.105, 70.105D, 70.120, 70.138, 90.48, 90.54, and 90.56 RCW.

(6) For the purposes of this section, "certification program" means a program, developed or approved by the department, to certify the quantitative performance of an environmental technology over a specified range of parameters and conditions. Certification of a technology does not imply endorsement of a specific technology by the department, or a guarantee of the performance of a technology.

(7) The department may adopt rules as necessary to implement the requirements of subsections (2) and (3) of this section, and establish requirements and procedures for evaluation and certification of environmental technologies.

(8) The state, the department, and officers and employees of the state shall not be liable for damages resulting from the utilization of information developed through a certification program, or from a decision to certify or deny certification to an environmental technology. Actions of the department under this section are not decisions reviewable under RCW 43.21B.110. [1997 c 419 § 2.]

43.21A.230 Certification of environmental laboratories authorized—Fees—Use of certified laboratories by persons submitting data or results to department. The director of ecology may certify environmental laboratories which conduct tests or prepare data for submittal to the department. Fees for certification may be charged by the department to cover the department's costs. Such certification may consider:

(1) Evaluating protocols and procedures;

(2) Determining the accuracy and reliability of test results, including internal quality assurance and quality control procedures and proficiency at analyzing test samples supplied by the department;

(3) Certifying laboratories based on prior certification by another state or federal agency whose certification requirements are deemed satisfactory by the director; and

(4) Such other factors as the director considers appropriate.

The director of ecology may require that any person submitting laboratory data or test results to the department use laboratories certified by the department or laboratories which participate in quality assurance programs administered by the federal environmental protection agency.

Persons receiving a federal permit for wastewater discharge who operate a lab solely for their own use and who require certification for only conventional pollutants shall not be charged an annual certification fee in excess of the actual costs of providing the certification or four thousand dollars, whichever is less. Conventional pollutants as used in this subsection means those conventional pollutants regulated under the federal clean water act (33 U.S.C. Sec. 1314).

Fees and lab quality control requirements for persons receiving state or federal wastewater discharge permits shall not be implemented before September 30, 1988. The department shall not duplicate any laboratory quality control requirements imposed by the United States environmental protection agency. [1987 c 481 § 1.]

43.21A.235 Exemption from laboratory certification and fee requirements. Laboratories owned by persons holding wastewater discharge permits and operated solely for their own use which participate in quality assurance programs administered by the federal environmental protection agency shall be exempt from certification and fee requirements for the specific methods and tests which are the subject of such quality assurance programs. [1987 c 481 § 2.]

43.21A.250 Pollution control hearings board of the state as affecting department, director and commission. See chapter 43.21B RCW.

43.21A.350 Master plan of development. The department of ecology shall prepare and perfect from time to time a state master plan for flood control, state public reservations, financed in whole or in part from moneys collected by the state, sites for state public buildings and for the orderly development of the natural and agricultural resources of the state. The plan shall address how the department will expedite the completion of projects of statewide significance. The plan shall be a guide in making recommendations to the officers, boards, commissions, and departments of the state.

Whenever an improvement is proposed to be established by the state, the state agency having charge of the establishment thereof shall request of the director a report thereon, which shall be furnished within a reasonable time thereafter. In case an improvement is not established in conformity with the report, the state agency having charge of the establishment thereof shall file in its office and with the department a statement setting forth its reasons for rejecting or varying from such report which shall be open to public inspection.

The department shall insofar as possible secure the cooperation of adjacent states, and of counties and municipalities within the state in the coordination of their proposed improvements with such master plan. [2009 c 421 § 7; 1997 c 369 § 6; 1987 c 109 § 29; 1965 c 8 § 43.21.190. Prior: 1957 c 215 § 22; 1933 ex.s. c 54 § 3; RRS § 10930-3. Formerly RCW 43.21.190.]

Effective date—2009 c 421: See note following RCW 43.157.005.

Purpose—Short title—Construction—Rules—Severability—Capitions—1987 c 109: See notes following RCW 43.21B.001.

Industrial project of statewide significance—Defined: RCW 43.157.010.

43.21A.355 Master plan of development—Public hearings. The director may hold public hearings, in connection with any duty prescribed in RCW 43.21A.350 and may compel the attendance of witnesses and the production of evidence. [1988 c 127 § 7; 1965 c 8 § 43.21.200. Prior: 1957 c 215 § 23; 1933 ex.s. c 54 § 4; RRS § 10930-4. Formerly RCW 43.21.200.]

43.21A.405 Marine pollution—Baseline study program—Legislative finding and declaration. The legislature recognizes that there exists a great risk of potential damage from oil pollution of the waters of the state of Washington and further declares that immediate steps must be undertaken to reduce this risk. The legislature also is aware that such danger is expected to increase in future years in proportion to the increase in the size and cargo capacity of ships, barges, and other waterborne carriers, the construction and operational characteristics of these carriers, the density of waterborne traffic, and the need for a greater supply of petroleum products.

A program of systematic baseline studies to be conducted by the department of ecology has been recognized as a vital part of the efforts to reduce the risk of oil pollution of marine waters, and the legislature recognizes that many factors combine to make this effort one of considerable magnitude and difficulty. The marine shoreline of the state is about two thousand seven hundred miles long, a greater length than the combined coastlines of Oregon and California. There are some three million acres of submerged land and more than three hundred islands in these marine waters. The average depth of Puget Sound is two hundred twenty feet. There is a great diversity of animal life in the waters of the state. These waters have a multitude of uses by both humans and nonhumans, and the interaction between human activities and natural processes in these waters varies greatly with locale. [2010 c 8 § 7001; 1973 2nd ex.s. c 30 § 1.]

Oil and hazardous substances pollution: RCW 90.56.010 through 90.56.280.

43.21A.410 Marine pollution—Baseline study program established—Utilization of related programs—Coordination—Contracts. As part of the state effort to prevent and control oil pollution, a continuing, comprehensive program of systematic baseline studies for the waters of the state shall be established by the department of ecology. Full utilization of related historical data shall be made in planning these studies. Data from these and other scientific investigations made pursuant to RCW 43.21A.405 through 43.21A.420 should, whenever possible, have multiple use, including use as supporting evidence of environmental damage resulting from oil pollution, as indicators of the potential or existing risks and impacts of oil pollution, as aids to developing a methodology for implementing the reduction of risks, and as aids to maintaining water quality standards.

A baseline study program shall take full advantage of the data and information produced by related programs, such as the marine ecosystems analysis (MESA) program of the national oceanic and atmospheric administration, studies and inventories made pursuant to the state shorelines management act of 1971, and others. All phases of the program, including planning, operations, data analysis, interpretation, storage, retrieval, and dissemination phases, shall be coordinated to the greatest possible extent with appropriate governmental, academic, and industrial organizations. Whenever possible, the department shall contract with existing state agencies, boards, commissions, and institutions of higher education for the scientific investigation programs to be conducted. [1973 2nd ex.s. c 30 § 2.]

43.21A.415 Marine pollution—Baseline study program—Scope of database produced. The database produced by such studies should include chemical, physical, and biological parameters of the waters, complete information on marine pollution accidents, and an economic evaluation of the marine resources and shoreline properties that may be damaged or impaired by oil pollution. Where oceanographic and water quality instrumentation is used to gather data, such instruments shall be standardized and intercalibrated. [1973 2nd ex.s. c 30 § 3.]

43.21A.420 Marine pollution—Baseline study program—Priority factors. In planning the state baseline studies program, priority shall be given to those waters (1) in which the greatest risk of damage from oil spills exists; (2) which contain marine and fresh water life that is particularly sensitive to toxins contained in crude oil, oil products, and oil wastes; and (3) which are used or may be used for the harvesting, gathering, or production of food or food products. [1973 2nd ex.s. c 30 § 4.]

43.21A.430 Catalytic converters in police, ambulance or emergency aid vehicles—Department's powers restricted in respect thereto. The department of ecology may not adopt, maintain in effect, or enforce any rule requiring the installation or maintenance of a catalytic converter in the exhaust system of any motor vehicle used as a police vehicle, or ambulance, an emergency aid vehicle, or a fire department vehicle, and any catalytic converter in the exhaust system of any such vehicle may be lawfully removed. [1977 ex.s. c 264 § 1.]

43.21A.440 Department authorized to participate in and administer federal Comprehensive Environmental Response, Compensation and Liability Act. The department of ecology is authorized to participate fully in and is empowered to administer all programs of the federal Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.), as it exists on July 24, 1983, contemplated for state participation and administration under that act. [1983 c 270 § 3.]

Additional notes found at www.leg.wa.gov

43.21A.445 Departments authorized to participate in and administer federal Safe Drinking Water Act—Agreements with other departments. The department of ecology, the department of natural resources, the department of health, and the *oil and gas conservation committee are authorized to participate fully in and are empowered to administer all programs of Part C of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300h et seq.), as it exists on June 19, 1986, contemplated for state participation in administration under the act.

The department of ecology, in the implementation of powers provided herein shall enter into agreements of administration with the departments of health and natural resources and the *oil and gas conservation committee to administer those portions of the state program, approved under the federal act, over which the said departments and committee have primary subject-matter authority under existing state law. The departments of health and natural resources and the *oil and gas conservation committee are empowered to enter into such agreements and perform the administration contained therein. [1989 1st ex.s. c 9 § 218; 1988 c 279 § 1; 1983 c 270 § 4.]

***Reviser's note:** The duties of the oil and gas conservation committee were transferred to the department of natural resources by 1994 sp.s. c 9.

Adoption of rules for on-site sewage disposal systems adjacent to marine waters: RCW 90.48.264.

Drinking water quality consumer complaints: RCW 80.04.110.

Additional notes found at www.leg.wa.gov

43.21A.450 Control of outflow and level of Lake Osoyoos—Lake Osoyoos International Water Control Structure authorized. (1) The legislature recognizes the need for the state of Washington to implement an understanding reached with the Province of British Columbia in relation to a joint venture with British Columbia for controlling the outflow and level of Lake Osoyoos, an international lake, and in connection therewith to replace an existing lake control structure on the Okanogan river in Washington state which has been classified as deteriorated and unsafe.

(2) For the purpose of implementing subsection (1) of this section, the department of ecology may acquire, design, construct, own, operate, and maintain a project to be known as the Lake Osoyoos International Water Control Structure and may acquire all real property interests necessary thereto by purchase, grant, gift, or eminent domain; provided that the authority of eminent domain as granted to the department under this section is limited to acquiring property necessary for access to the control structure, location of abutments for the control structure, and flowage easements if necessary.

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(3) The department may accept and administer grants or gifts from any source for the purpose of carrying out subsection (2) of this section.

(4) The department may exercise its powers under subsection (2) of this section directly or through contracts, except that it may not delegate its authority of eminent domain. The department may also enter into agreements with any public or municipal corporation with respect to operation and maintenance of the project authorized under subsection (2) of this section. [1985 c 27 § 1; 1982 c 76 § 1.]

Intent—1985 c 27; 1982 c 76: "It is the intent of this legislature in enacting RCW 43.21A.450 that total capital costs for the said project be shared equally by Washington state and British Columbia." [1985 c 27 § 2; 1982 c 76 § 2.]

43.21A.470 Yakima enhancement project—Duties—Request for congressional authorization for pipeline. (1) The director of the department of ecology shall:

(a) Continue to participate with the federal government in its studies of the Yakima enhancement project and of options for future development of the second half of the Columbia Basin project;

(b) Vigorously represent the state's interest in said studies, particularly as they relate to protection of existing water rights and resolution of conflicts in the adjudication of the Yakima river within the framework of state water rights law and propose means of resolving the conflict that minimize adverse effects on the various existing uses;

(c) As a cooperative federal and nonfederal effort, work with members of the congressional delegation to identify and advance, subject to the limitations in subsection (2) of this section, for federal authorization elements of the Yakima enhancement project which: Have general public support and acceptable cost-sharing arrangements, meet study objectives, and otherwise have potential for early implementation; and

(d) In developing acceptable cost-sharing arrangements, request federal recognition of state credit for expenditures of moneys from Washington state utility ratepayers.

(2) In the interest of promoting cooperation between all interested parties and to effectuate the efficient and satisfactory implementation of the Yakima enhancement project, the state requests that Congress authorize the construction of a pipeline between Keechelus Lake and Kachess Lake as one of the elements of early implementation of the Yakima enhancement project for the purpose of supplying the water which is demanded for and caused by the operation of the fish passage facilities at the Easton Dam. The department, in concert with other state agencies, shall work diligently to assure that the pipeline element is included in the federal legislation. [1987 c 517 § 1; 1986 c 316 § 3.]

43.21A.510 State environmental profile. In order to assist the *department of community, trade, and economic development in providing information to businesses interested in locating in Washington state, the department shall develop an environmental profile of the state. This profile shall identify the state's natural resources and describe how these assets are valuable to industry. Examples of information to be included are water resources and quality, air qual-

ity, and recreational opportunities related to natural resources. [1995 c 399 § 66; 1985 c 466 § 51; 1984 c 94 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—1984 c 94: "The legislature finds (1) that a locality's natural environment is an important factor in determining where new businesses will locate, (2) that environmental regulations that preserve the quality of the environment can enhance economic development and the determination by new businesses where to locate and can lead to the creation of jobs and new industries, and (3) that some areas of the state have been and might be handicapped in their economic development efforts because of perceived environmental problems. Thus, the legislature declares that it is the policy of this state to recognize and emphasize the importance of the state's natural environment in its economic development efforts in attracting and maintaining businesses." [1984 c 94 § 1.]

Additional notes found at www.leg.wa.gov

43.21A.515 Assistance to businesses interested in locating in Washington required—Information on environmental laws and regulations to be provided. In order to emphasize the importance of the state's environmental laws and regulations and to facilitate compliance with them, the department of ecology shall provide assistance to businesses interested in locating in Washington state. When the *department of community, trade, and economic development receives a query from an interested business through its industrial marketing activities, it shall arrange for the department of ecology to provide information on the state's environmental laws and regulations and methods of compliance. This section shall facilitate compliance with state environmental laws and regulations and shall not weaken their application or effectiveness. [1995 c 399 § 67; 1985 c 466 § 52; 1984 c 94 § 3.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—1984 c 94: See note following RCW 43.21A.510.

Additional notes found at www.leg.wa.gov

43.21A.520 Environmental excellence awards program for products. (1) The department of ecology shall develop and implement an environmental excellence awards program that recognizes products that are produced, labeled, or packaged in a manner that helps ensure environmental protection. The award shall be in recognition of products that are made from recycled materials, easy to recycle, substitute for more hazardous products, or otherwise help protect the environment. Application for the award shall be voluntary. The awards may be made in a variety of product categories including, but not limited to:

- (a) Paint products;
- (b) Cleaning products;
- (c) Pest control products;
- (d) Automotive, marine, and related maintenance products;
- (e) Hobby and recreation products; and
- (f) Any other product available for retail or wholesale sale.

(2) Products receiving an environmental excellence award pursuant to this section shall be entitled to display a logo or other symbol developed by the department to signify the award. Awards shall be given each year to as many products as qualify. The award logo may be displayed for a

period to be determined by the department. [2010 1st sp.s. c 7 § 87; 1989 c 431 § 47; 1987 c 67 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Additional notes found at www.leg.wa.gov

43.21A.600 Powers and duties—Electric power resources. The department shall make studies and surveys, collect, compile and disseminate information and statistics to facilitate development of the electric power resources of the state by public utility districts, municipalities, electric cooperatives, joint operating agencies and public utility companies. The director may cause studies to be made relating to the construction of steam generating plants using any available fuel and their integration with hydro-electric facilities. He or she may cause designs for any such plant to be prepared. He or she shall employ such engineers and other experts and assistants as may be necessary to carry out his or her power resources functions. [2009 c 549 § 5086; 1988 c 127 § 8; 1965 c 8 § 43.21.220. Prior: 1957 c 284 § 2. Formerly RCW 43.21.220.]

Joint operating agencies: Chapter 43.52 RCW.

43.21A.605 Development of electric power resources—Cooperation with governmental units. The director may represent the state and aid and assist the public utilities therein to the end that its resources shall be properly developed in the public interest insofar as they affect electric power and to this end he or she shall cooperate and may negotiate with Canada, the United States, the states thereof and their agencies to develop and integrate the resources of the region. [2009 c 549 § 5087; 1988 c 127 § 9; 1965 c 8 § 43.21.230. Prior: 1957 c 284 § 3. Formerly RCW 43.21.230.]

43.21A.610 Steam electric generating plant—Study—Construction. The director shall continue the study of the state power commission made in 1956 relating to the construction of a steam power electric generating plant, and if the construction of a steam electric generating plant is found to be feasible by the director, the director may construct such plant at a site determined by him or her to be feasible and operate it as a state owned facility. [2009 c 549 § 5088; 1988 c 127 § 10; 1965 c 8 § 43.21.250. Prior: 1957 c 275 § 3. Formerly RCW 43.21.250.]

43.21A.612 Steam electric generating plant—Statement of intention—Construction by public utility, operating agency, or the department, procedure—Powers of director of community, trade, and economic development. Before the director shall construct said steam generating facility within the state, or make application for any permit, license or other right necessary thereto, the director shall give notice thereof by publishing once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is located a statement of intention setting forth the general nature, extent and location of the project. If any public utility in the state or any operating agency desires to construct such facility, such utility or operating agency shall notify the director thereof within

ten days after the last date of publication of such notice. If the director determines that it is in the best public interest that the director proceed with such construction rather than the public utility or operating agency, the director shall so notify the *director of community, trade, and economic development, who shall set a date for hearing thereon. If after considering the evidence introduced the *director of community, trade, and economic development finds that the public utility or operating agency making the request intends to immediately proceed with such construction and is financially capable of carrying out such construction and further finds that the plan of such utility or operating agency is equally well adapted to serve the public interest, the director shall enter an order so finding and such order shall divest the director of authority to proceed further with such construction or acquisition until such time as the other public utility or agency voluntarily causes an assignment of its right or interest in the project to the director or fails to procure any further required governmental permit, license or authority or having procured such, has the same revoked or withdrawn, in accordance with the laws and regulations of such governmental entity, in which event the director shall have the same authority to proceed as though the director had originally entered an order so authorizing the director to proceed. If, after considering the evidence introduced, the *director of community, trade, and economic development finds that the public utility or agency making the request does not intend to immediately proceed with such construction or acquisition or is not financially capable of carrying out such construction or acquisition, or finds that the plan of such utility or operating agency is not equally well adapted to serve the public interest, the director shall then enter an order so finding and authorizing the director to proceed with the construction or acquisition of the facility. [1995 c 399 § 68; 1988 c 127 § 11; 1985 c 466 § 49; 1965 c 8 § 43.21.260. Prior: 1957 c 275 § 4. Formerly RCW 43.21.260.]

***Reviser's note:** The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.21A.614 Steam electric generating plant—Powers of director in constructing, operating and maintaining. In order to construct, operate and maintain the single steam power electric generating plant provided for in RCW 43.21A.610 the director shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate such steam electric power plant, work and facilities for the generation and/or transmission of electric energy and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of such work, plant and facilities; providing that the director shall not be authorized to acquire by condemnation any plant, work and facility

owned and operated by any city or district, or by a privately owned public utility.

(3) To apply to the appropriate agencies of the state of Washington, the United States or any state thereof, or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(4) To establish rates for electric energy sold or transmitted by the director. When any revenue bonds or warrants are outstanding the director shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy furnished or supplied by the director which shall be fair and nondiscriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the director is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the director and all necessary repairs, replacements and renewals thereof.

(5) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the director may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the director shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the director. [1988 c 127 § 12; 1965 c 8 § 43.21.270. Prior: 1957 c 275 § 5. Formerly RCW 43.21.270.]

43.21A.616 Steam electric generating plant—Eminent domain. For the purpose of carrying out any or all of the powers herein granted the director shall have the power of eminent domain for the acquisition of either real or personal property used or useful in connection with the construction of facilities authorized hereunder. Actions in eminent domain pursuant to RCW 43.21A.610 through 43.21A.642 shall be brought in the name of the state in any court of competent jurisdiction under the procedure set out in chapter 8.04 RCW. The director may institute condemnation proceedings in the superior court of any county in which any of the property sought to be condemned is located or in which the owner thereof does business, and the court in any such action shall have jurisdiction to condemn property wherever located within the state. It shall not be necessary to allege or prove any offer to purchase or inability to agree with the owners thereof for the purchase of any such property in said proceedings. Upon the filing of a petition for condemnation, as provided in this section, the court may issue an order restraining the removal from the jurisdiction of the state of any personal property sought to be acquired by the proceedings during the pendency thereof. The court shall further have the power to issue such orders or process as shall be necessary to place the director into possession of any property condemned. [1988 c 127 § 13; 1965 c 8 § 43.21.280. Prior: 1957 c 275 § 6. Formerly RCW 43.21.280.]

43.21A.618 Steam electric generating plant—State not financially obligated—Separation and expenditure of funds. The director shall have no right or power to impose any debt nor to suffer or create any financial obligation upon the state of Washington or its subdivisions in the execution of RCW 43.21A.610 through 43.21A.642.

No revenues received by the director for the sale of electricity or otherwise, shall be expended except for the payment of lawful obligations of the director and all such revenues and receipts shall be kept and maintained in a separate fund. [1988 c 127 § 14; 1965 c 8 § 43.21.290. Prior: 1957 c 275 § 7. Formerly RCW 43.21.290.]

43.21A.620 Steam electric generating plant—Revenue bonds and warrants. For the purposes provided for in RCW 43.21A.610 through 43.21A.642, the state finance committee shall, upon being notified to do so by the director, issue revenue bonds or warrants payable from the revenues from the steam electric plant provided for in RCW 43.21A.610. When the director deems it advisable that he or she acquire or construct said steam electric plant or make additions or betterments thereto, he or she shall so notify the state finance committee and he or she shall also notify the state finance committee as to the plan proposed, together with the estimated cost thereof. The state finance committee, upon receiving such notice, shall provide for the construction thereof and the issuance of revenue bonds or warrants therefor by a resolution which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof, as nearly as may be, including as part of the cost, funds necessary for working capital for the operation of such utility and the payment of the expenses incurred in the acquisition or construction thereof. Such resolution shall specify that utility revenue bonds are to be issued to defray the cost thereof and the amount of such bonds to be issued. Bonds issued under the provisions of RCW 43.21A.610 through 43.21A.642 shall distinctly state that they are not a general obligation of the state. [2009 c 549 § 5089; 1988 c 127 § 15; 1965 c 8 § 43.21.300. Prior: 1957 c 275 § 8. Formerly RCW 43.21.300.]

43.21A.622 Steam electric generating plant—Special funds—Payment of bonds, interest. When the state finance committee issues revenue bonds as provided in RCW 43.21A.620, it shall, as a part of the plan and system, request the state treasurer to establish a special fund or funds to defray the cost of the steam electric utility, or additions or betterments thereto or extensions thereof. The state finance committee may obligate and bind the director to set aside and pay to the state treasurer for deposit into such fund or funds a fixed proportion of the gross revenue of the steam electric utility and all additions or betterments thereto or extensions thereof, or any fixed amount out of, and not exceeding the fixed proportion of such revenue, or a fixed amount without regard to any fixed proportion, or an amount of the revenue equal to a fixed percentage of the aggregate principal amount of revenue bonds at any time issued against the special fund or funds. It may issue and sell utility bonds payable as to both principal and interest only out of such fund or funds.

The revenue bonds shall be payable at such places and times, both as to principal and interest, and bear interest at

such rates payable semiannually as the state finance committee shall determine. [1988 c 127 § 16; 1965 c 8 § 43.21.310. Prior: 1957 c 275 § 9. Formerly RCW 43.21.310.]

43.21A.624 Steam electric generating plant—Considerations in issuance of bonds, limitations. In the issuance of any bonds hereunder the state finance committee shall have due regard to the cost of operation and maintenance of the steam electric utility as acquired, constructed or added to, and to any proportion or amount of the revenue previously pledged as a fund for the payment of revenue bonds. It shall not require to be set aside into the fund a greater amount or proportion of the revenue than in its judgment and as agreed to by the director will be available over and above the cost of maintenance and operation and any amount or proportion of the revenue so previously pledged. Revenue bonds and interest thereon issued against such fund shall be a valid claim of the holder thereof only as against the fund and the proportion or amount of the revenue pledged thereto, but shall constitute a prior charge over all other charges or claims whatsoever against the fund and the proportion or amount of the revenues pledged thereto. Each revenue bond shall state on its face that it is payable from a special fund, naming the fund and the resolution creating it. [1988 c 127 § 17; 1965 c 8 § 43.21.320. Prior: 1957 c 275 § 10. Formerly RCW 43.21.320.]

43.21A.626 Steam electric generating plant—Resolution authorizing issuance of bonds, contents, covenants. The resolution of the state finance committee authorizing the issuance of revenue bonds shall specify the title of the bonds as determined by the state finance committee, and may contain covenants by the committee to protect and safeguard the security and the rights of the holders thereof, including covenants as to, among other things:

(1) The purpose or purposes to which the proceeds of the sale of the revenue bonds may be applied and the use and disposition thereof;

(2) The use and disposition of the gross revenue of the steam electric utility and any additions or betterments thereto or extensions thereof, the cost of which is to be defrayed with such proceeds, including the creation and maintenance of funds for working capital to be used in the operation of the steam electric utility and for renewals and replacements thereof;

(3) The amount, if any, of additional revenue bonds payable from such fund which may be issued and the terms and conditions on which such additional revenue bonds or warrants may be issued;

(4) The establishment and maintenance of adequate rates and charges for electric power and energy and other services, facilities, and commodities, sold, furnished or supplied by the steam electric utility;

(5) The operation, maintenance, management, accounting and auditing of the electric utility;

(6) The terms upon which the revenue bonds, or any of them, may be redeemed at the election of the agency;

(7) Limitations upon the right to dispose of the steam electric utility or any part thereof without providing for the payment of the outstanding revenue bonds; and

(8) The appointment of trustees, depositaries, and paying agents to receive, hold, disburse, invest, and reinvest all or any part of the income, revenue, receipts and profits derived by the director from the operation, ownership, and management of its steam electric utility. [1988 c 127 § 18; 1965 c 8 § 43.21.330. Prior: 1957 c 275 § 11. Formerly RCW 43.21.330.]

43.21A.628 Steam electric generating plant—Sale of bonds. All bonds issued under or by authority of RCW 43.21A.610 through 43.21A.642 shall be sold to the highest and best bidder after such advertising for bids as the state finance committee may deem proper. The state finance committee may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as the state finance committee may deem most advantageous to its own interests. [1988 c 127 § 19; 1970 ex.s. c 56 § 61; 1969 ex.s. c 232 § 32; 1965 c 8 § 43.21.340. Prior: 1957 c 275 § 12. Formerly RCW 43.21.340.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.
Additional notes found at www.leg.wa.gov

43.21A.630 Steam electric generating plant—Examination, registration of bonds by state auditor—Defects, irregularities. Prior to the issuance and delivery of any revenue bonds, such bonds and a certified copy of the resolution authorizing them shall be delivered to the state auditor together with any additional information that he or she may require. When the bonds have been examined they shall be registered by the auditor in books to be kept by him or her for that purpose, and a certificate of registration shall be endorsed upon each bond and signed by the auditor or a deputy appointed by him or her for the purpose. The bonds shall then be prima facie valid and binding obligations of the state finance committee in accordance with their terms, notwithstanding any defects or irregularities in the authorization and issuance of the bonds, or in the sale, execution or delivery thereof. [2009 c 549 § 5090; 1965 c 8 § 43.21.350. Prior: 1957 c 275 § 13. Formerly RCW 43.21.350.]

43.21A.632 Steam electric generating plant—Rates or charges. When revenue bonds are outstanding the director shall establish, maintain, and collect rates or charges for electric power and energy, and other services, facilities and commodities sold and supplied by the director which shall be fair and nondiscriminatory and adequate to provide revenue sufficient to pay the principal of and interest on revenue bonds outstanding, and all payments which the director is obligated to make to the state treasurer for deposit in any special fund or funds created for such purpose, and for the proper operation and maintenance of the utility and all necessary repairs, replacements and renewals thereof. [1988 c 127 § 20; 1965 c 8 § 43.21.360. Prior: 1957 c 275 § 14. Formerly RCW 43.21.360.]

43.21A.634 Steam electric generating plant—Refunding revenue bonds. When the state finance committee has outstanding revenue bonds, the state finance committee, with the concurrence of the director, may by resolution provide for the issuance of refunding revenue bonds with

which to refund the outstanding revenue bonds, or any part thereof at maturity, or before maturity if they are by their terms or by other agreement, subject to call for prior redemption, with the right in the state finance committee to combine various series and issues of the outstanding revenue bonds by a single issue of refunding revenue bonds. The refunding bonds shall be payable only out of a special fund created out of the gross revenue of the steam electric utility, and shall only be a valid claim as against such special fund and the amount or proportion of the revenue of the utility pledged to said fund. The rate of interest on refunding revenue bonds shall not exceed the rate of interest on revenue bonds refunded thereby. The state finance committee may exchange the refunding revenue bonds for the revenue bonds which are being refunded, or it may sell them in such manner as it deems for its best interest. Except as specifically provided in this section, the refunding revenue bonds shall be issued in accordance with the provisions contained in RCW 43.21A.610 through 43.21A.642 with respect to revenue bonds. [1988 c 127 § 21; 1965 c 8 § 43.21.370. Prior: 1957 c 275 § 15. Formerly RCW 43.21.370.]

43.21A.636 Steam electric generating plant—Signatures on bonds. All revenue bonds, including refunding revenue bonds, shall be signed by the governor and the state auditor under the seal of the state, one of which signatures shall be made manually and the other signature may be in printed facsimile, and any coupons may have printed or lithographic facsimile of the signatures of such officers. [1965 c 8 § 43.21.380. Prior: 1957 c 275 § 16. Formerly RCW 43.21.380.]

43.21A.638 Steam electric generating plant—Provisions of law, resolution, a contract with bondholder—Enforcement. The provisions of RCW 43.21A.610 through 43.21A.642 and any resolution providing for the issuance of revenue bonds shall constitute a contract with the holder or holders from time to time of the revenue bonds of the state finance committee. Such provisions of RCW 43.21A.610 through 43.21A.642 and of any such resolution shall be enforceable by any such bondholders by appropriate action in any court of competent jurisdiction. [1988 c 127 § 22; 1965 c 8 § 43.21.390. Prior: 1957 c 275 § 17. Formerly RCW 43.21.390.]

43.21A.640 Steam electric generating plant—Bonds are legal security, investment, negotiable. All revenue bonds issued hereunder shall be legal securities, which may be used by a bank or trust company for deposit with the state treasurer, or by a county or city or town treasurer, as security for deposits in lieu of a surety bond under any law relating to deposits of public moneys. They shall constitute legal investments for trustees and other fiduciaries other than corporations doing a trust business in this state, and for savings and loan associations, banks and insurance companies doing business in this state. All revenue bonds and all coupons appertaining thereto shall be negotiable instruments within the meaning and for all purposes of the negotiable instruments law. [1965 c 8 § 43.21.400. Prior: 1957 c 275 § 18. Formerly RCW 43.21.400.]

43.21A.642 Steam electric generating plant—Director not authorized to acquire other facilities or engage in retail distribution. Nothing in RCW 43.21A.610 through 43.21A.642 shall authorize or empower the director to purchase or acquire any transmission or distribution system or facilities or to engage in the retail distribution of electric energy, or to purchase or acquire any operating hydroelectric generating plant owned by any city or district, or by a privately owned public utility, or which hereafter may be acquired by any city or district by condemnation. [1988 c 127 § 23; 1965 c 8 § 43.21.410. Prior: 1957 c 275 § 19. Formerly RCW 43.21.410.]

43.21A.650 Freshwater aquatic weeds account. The freshwater aquatic weeds account is hereby created in the state treasury. Expenditures from this account may only be used as provided in RCW 43.21A.660. Moneys in the account may be spent only after appropriation. [1991 c 302 § 2.]

Findings—1991 c 302: "The legislature hereby finds that Eurasian water milfoil and other freshwater aquatic weeds can adversely affect fish populations, reduce habitat for desirable plant and wildlife species, and decrease public recreational opportunities. The legislature further finds that the spread of freshwater aquatic weeds is a statewide problem and requires a coordinated response among state agencies, local governments, and the public. It is therefore the intent of the legislature to establish a funding source to reduce the propagation of Eurasian water milfoil and other freshwater aquatic weeds and to manage the problems created by such freshwater aquatic plants." [1991 c 302 § 1.]

Additional notes found at www.leg.wa.gov

43.21A.660 Freshwater aquatic weeds management program. Funds in the freshwater aquatic weeds account may be appropriated to the department of ecology to develop a freshwater aquatic weeds management program. Funds shall be expended as follows:

(1) No less than two-thirds of the appropriated funds shall be issued as grants to (a) cities, counties, tribes, special purpose districts, and state agencies to prevent, remove, reduce, or manage excessive freshwater aquatic weeds; (b) fund demonstration or pilot projects consistent with the purposes of this section; and (c) fund hydrilla eradication activities in waters of the state. Except for hydrilla eradication activities, such grants shall only be issued for lakes, rivers, or streams with a public boat launching ramp or which are designated by the department of fish and wildlife for fly-fishing. The department shall give preference to projects having matching funds or in-kind services; and

(2) No more than one-third of the appropriated funds shall be expended to:

(a) Develop public education programs relating to preventing the propagation and spread of freshwater aquatic weeds; and

(b) Provide technical assistance to local governments and citizen groups. [1999 c 251 § 1; 1996 c 190 § 1; 1991 c 302 § 4.]

Findings—Effective date—1991 c 302: See notes following RCW 43.21A.650.

43.21A.662 Freshwater aquatic weeds management program—Advisory committee. (1) The department shall

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appoint an advisory committee to oversee the freshwater aquatic weeds management program.

(2) The advisory committee shall include representatives from the following groups:

(a) Recreational boaters interested in freshwater aquatic weed management;

(b) Residents adjacent to lakes, rivers, or streams with public boat launch facilities;

(c) Local governments;

(d) Scientific specialists;

(e) Pesticide registrants, as defined in *RCW 15.58.030(34);

(f) Certified pesticide applicators, as defined in **RCW 17.21.020(5), who specialize in the use of aquatic pesticides; and

(g) If ***chapter . . . , Laws of 1999 (Senate Bill No. 5315) is enacted by June 30, 1999, the aquatic nuisance species coordinating committee.

(3) The advisory committee shall review and provide recommendations to the department on freshwater aquatic weeds management program activities and budget and establish criteria for grants funded from the freshwater aquatic weeds account. [1999 c 251 § 2.]

Reviser's note: *(1) RCW 15.58.030 was amended by 2000 c 96 § 1, changing subsection (34) to subsection (35). RCW 15.58.030 was subsequently amended by 2003 c 212 § 1, changing subsection (35) to subsection (36).

***(2) RCW 17.21.020 was amended by 2001 c 333 § 1, changing subsection (5) to subsection (6), effective July 1, 2002.

****(3) Senate Bill No. 5315 (1999) was not enacted into law by June 30, 1999.

43.21A.667 Freshwater aquatic algae control account—Freshwater aquatic algae control program—Reports to the legislature. (1) The freshwater aquatic algae control account is created in the state treasury. Moneys directed to the account from *RCW 88.02.050 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the freshwater aquatic algae control account may be appropriated to the department to develop a freshwater aquatic algae control program. Funds must be expended as follows:

(a) As grants to cities, counties, tribes, special purpose districts, and state agencies to manage excessive freshwater algae, with priority for the treatment of lakes in which harmful algal blooms have occurred within the past three years; and during the 2009-2011 fiscal biennium to provide grants for sea lettuce research and removal to assist Puget Sound communities that are impacted by hyperblooms of sea lettuce; and

(b) To provide technical assistance to applicants and the public about aquatic algae control.

(3) The department shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of chapter 464, Laws of 2005. The first report is due December 1, 2007. [2009 c 564 § 933; 2005 c 464 § 4.]

Reviser's note: RCW 88.02.050 was recodified as RCW 88.02.560 pursuant to 2010 c 161 § 1233, effective July 1, 2011.

Effective date—2009 c 564: See note following RCW 2.68.020.

Findings—Intent—2005 c 464: See note following RCW 88.02.560.

43.21A.680 Solid waste plan advisory committee abolished. The director of ecology shall abolish the solid waste plan advisory committee effective July 1, 1994. [1994 sp.s. c 9 § 804.]

Additional notes found at www.leg.wa.gov

43.21A.681 Geoduck aquaculture operations—Guidelines—Rules. (1) The department of ecology shall develop, by rule, guidelines for the appropriate siting and operation of geoduck aquaculture operations to be included in any master program under this section. The guidelines adopted under this section must be prepared with the advice of the shellfish aquaculture regulatory committee created in section 4, chapter 216, Laws of 2007, which shall serve as the advisory committee for the development of the guidelines.

(2) The guidelines required under this section must be filed for public review and comment no later than six months after the delivery of the final report by the shellfish aquaculture regulatory committee created in section 4, chapter 216, Laws of 2007.

(3) The department of ecology shall update the guidelines required under this section, as necessary, after the completion of the geoduck research by the sea grant program at the University of Washington required under RCW 28B.20.475. [2007 c 216 § 5.]

43.21A.690 Cost-reimbursement agreements. (1) The department may enter into a written cost-reimbursement agreement with a permit applicant or project proponent to recover from the applicant or proponent the reasonable costs incurred by the department in carrying out the requirements of this chapter, as well as the requirements of other relevant laws, as they relate to permit coordination, environmental review, application review, technical studies, and permit processing.

(2) The cost-reimbursement agreement shall identify the tasks and costs for work to be conducted under the agreement. The agreement must include a schedule that states:

- (a) The estimated number of weeks for initial review of the permit application;
- (b) The estimated number of revision cycles;
- (c) The estimated number of weeks for review of subsequent revision submittals;
- (d) The estimated number of billable hours of employee time;
- (e) The rate per hour; and
- (f) A date for revision of the agreement if necessary.

(3) The written cost-reimbursement agreement shall be negotiated with the permit applicant or project proponent. Under the provisions of a cost-reimbursement agreement, funds from the applicant shall be used by the department to contract with an independent consultant to carry out the work covered by the cost-reimbursement agreement. The department may also use funds provided under a cost-reimbursement agreement to hire temporary employees, to assign current staff to review the work of the consultant, to provide necessary technical assistance when an independent consultant

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with comparable technical skills is unavailable, and to recover reasonable and necessary direct and indirect costs that arise from processing the permit. The department shall, in developing the agreement, ensure that final decisions that involve policy matters are made by the agency and not by the consultant. The department shall make an estimate of the number of permanent staff hours to process the permits, and shall contract with consultants or hire temporary employees to replace the time and functions committed by these permanent staff to the project. The billing process shall provide for accurate time and cost accounting and may include a billing cycle that provides for progress payments.

(4) The cost-reimbursement agreement must not negatively impact the processing of other permit applications. In order to maintain permit processing capacity, the agency may hire outside consultants, temporary employees, or make internal administrative changes. Consultants or temporary employees hired as part of a cost-reimbursement agreement or to maintain agency capacity are hired as agents of the state not of the permit applicant. The restrictions of chapter 42.52 RCW apply to any cost-reimbursement agreement, and to any person hired as a result of a cost-reimbursement agreement. [2009 c 97 § 8; 2007 c 94 § 10; 2003 c 70 § 1; 2000 c 251 § 2.]

Intent—2000 c 251: "It is the intent of the legislature to allow applicants for environmental permits for complex projects to compensate permitting agencies for providing environmental review through the voluntary negotiation of cost-reimbursement agreements with the permitting agency. It is the further intent of the legislature that cost-reimbursement agreements for complex projects free permitting agency resources to focus on the review of small projects permits." [2000 c 251 § 1.]

Captions not law—2000 c 251: "Captions used in this act are not any part of the law." [2000 c 251 § 8.]

Effective date—2000 c 251: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2000]." [2000 c 251 § 9.]

43.21A.900 Chapter to be liberally construed. The rule of strict construction shall have no application to this chapter and it shall be liberally construed in order to carry out the broad purposes set forth in RCW 43.21A.020. [1970 ex.s. c 62 § 27.]

43.21A.910 Savings—Permits, standards not affected—Severability—Effective date—1970 ex.s. c 62. See notes following RCW 43.21A.010.

Chapter 43.21B RCW

ENVIRONMENTAL HEARINGS OFFICE— POLLUTION CONTROL HEARINGS BOARD

Sections

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- 43.21B.300 Penalty procedures (*as amended by 2010 c 210*).
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43.21B.001 Definitions. (*Effective until July 1, 2011.*)

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

- (1) "Business days" means Monday through Friday exclusive of any state or federal holiday.
- (2) "Date of receipt" means:
- (a) Five business days after the date of mailing; or
- (b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing.
- (3) "Department" means the department of ecology.
- (4) "Director" means the director of ecology. [2004 c 204 § 1; 1987 c 109 § 4.]

Purpose—1987 c 109: "The purposes of this act are to:

- (1) Simplify and clarify existing statutory and administrative procedures for appealing decisions of the department of ecology and air pollution control authorities in order to (a) expedite those appeals, (b) insure that those appeals are conducted with a minimum of expense to save state and private resources, and (c) allow the appellate authorities to decide cases on their merits rather than on procedural technicalities.
- (2) Clarify existing statutes relating to the environment but which refer to numerous agencies no longer in existence.
- (3) Eliminate provisions no longer effective or meaningful and abbreviate statutory provisions which are unnecessarily long and confusing." [1987 c 109 § 1.]

Additional notes found at www.leg.wa.gov

43.21B.001 Definitions. (*Effective July 1, 2011.*) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Business days" means Monday through Friday exclusive of any state or federal holiday.
- (2) "Date of receipt" means:
- (a) Five business days after the date of mailing; or
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- (3) "Department" means the department of ecology.
- (4) "Director" means the director of ecology.
- (5) "Environmental boards" means the pollution control hearings board created in RCW 43.21B.010 and the shorelines hearings board created in RCW 90.58.170.
- (6) "Land use board" means the growth management hearings board created in RCW 36.70A.250. [2010 c 210 § 2; 2004 c 204 § 1; 1987 c 109 § 4.]

Intent—2010 c 210: "It is the intent of the legislature to reduce and consolidate the number of state boards that conduct administrative review of environmental and land use decisions and to make more uniform the timelines for filing appeals with such boards. The legislature intends to eliminate the hydraulics appeals board and the forest practices appeals board by transferring their duties to the pollution control hearings board. The legislature further intends to eliminate certain preliminary informal appeals heard internally by agencies. The legislature also intends to consolidate administratively and physically collocate the growth management hearings boards into the environmental and land use hearings office by July 1, 2011." [2010 c 210 § 1.]

Effective dates—2010 c 210: "(1) Sections 1, 3, 5, 7, 9 through 14, and 16 through 42 of this act take effect July 1, 2010.

(2) Sections 2, 4, 6, 15, 43, and 46 of this act take effect July 1, 2011. The chief executive officer of the environmental hearings office may take the necessary steps to ensure that these sections are implemented on their effective date.

(3) Section 8 of this act takes effect June 30, 2019." [2010 c 210 § 44.]

Application—Pending cases and rules—2010 c 210: "(1) This act applies prospectively only and not retroactively. It applies only to appeals that are commenced on or after July 1, 2010. The repeals in section 41 of this act do not affect any existing right acquired or liability or obligation incurred under the statutes repealed or under any rule or order adopted under those statutes nor do they affect any proceeding instituted under them.

(2) All pending cases before the forest practices appeals board and the hydraulics appeals board shall be continued and acted upon by those boards. All existing rules of the forest practices appeals board shall remain in effect and be used by the pollution control hearings board until the pollution control hearings board adopts superseding rules for forest practices appeals." [2010 c 210 § 42.]

Purpose—1987 c 109: "The purposes of this act are to:

- (1) Simplify and clarify existing statutory and administrative procedures for appealing decisions of the department of ecology and air pollution control authorities in order to (a) expedite those appeals, (b) insure that those appeals are conducted with a minimum of expense to save state and private resources, and (c) allow the appellate authorities to decide cases on their merits rather than on procedural technicalities.
- (2) Clarify existing statutes relating to the environment but which refer to numerous agencies no longer in existence.
- (3) Eliminate provisions no longer effective or meaningful and abbreviate statutory provisions which are unnecessarily long and confusing." [1987 c 109 § 1.]

Additional notes found at www.leg.wa.gov

43.21B.005 Environmental hearings office created—Composition—Administrative appeals judges—Contracts for services (*as*

amended by 2010 c 210. (Effective until July 1, 2011.) (1) There is created an environmental hearings office of the state of Washington. The environmental hearings office ((~~shall~~)) consists of the pollution control hearings board created in RCW 43.21B.010, ((~~the forest practices appeals board created in RCW 76.09.210;~~)) the shorelines hearings board created in RCW 90.58.170, and the environmental and land use hearings board created in *chapter 43.21L RCW((~~and the hydraulic appeals board created in RCW 77.55.170~~)). The chair of the pollution control hearings board shall be the chief executive officer of the environmental hearings office. Membership, powers, functions, and duties of the pollution control hearings board((~~the forest practices appeals board;~~)) and the shorelines hearings board((~~and the hydraulic appeals board~~)) shall be as provided by law.

(2) The chief executive officer of the environmental hearings office may appoint an administrative appeals judge who shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, in cases before the boards comprising the office. The administrative appeals judge shall have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. Additional administrative appeals judges may also be appointed by the chief executive officer on the same terms. Administrative appeals judges shall not be subject to chapter 41.06 RCW.

(3) The administrative appeals judges appointed under subsection (2) of this section are subject to discipline and termination, for cause, by the chief executive officer. Upon written request by the person so disciplined or terminated, the chief executive officer shall state the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(4) The chief executive officer may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

(5) The chief executive officer may also contract for required services. [2010 c 210 § 3; 2003 c 393 § 18; 2003 c 39 § 22; 1999 c 125 § 1; 1990 c 65 § 1; 1986 c 173 § 3; 1979 ex.s. c 47 § 2.]

***Reviser's note:** Chapter 43.21L RCW was repealed by 2010 1st sp.s. c 7 § 37, effective June 30, 2010, and by 2010 c 210 § 46, effective July 1, 2011.

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Expiration dates—2010 c 210 §§ 3, 5, and 7: See note following RCW 43.21B.110.

43.21B.005 Environmental and land use hearings office created—Composition—Administrative appeals judges—Contracts for services (as amended by 2010 c 210). (Effective July 1, 2011.) (1) There is created an environmental and land use hearings office of the state of Washington. The environmental and land use hearings office ((~~shall~~)) consists of the pollution control hearings board created in RCW 43.21B.010, ((~~the forest practices appeals board created in RCW 76.09.210;~~)) the shorelines hearings board created in RCW 90.58.170, ((~~the environmental and land use hearings board created in chapter 43.21L RCW,~~ and the hydraulic appeals board created in RCW 77.55.170. The chair of the pollution control hearings board shall be the chief executive officer of the environmental hearings office)) and the growth management hearings board created in RCW 36.70A.250. The governor shall designate one of the members of the pollution control hearings board or growth management hearings board to be the director of the environmental and land use hearings office during the term of the governor. Membership, powers, functions, and duties of the pollution control hearings board, ((~~the forest practices appeals board;~~)) the shorelines hearings board, and the ((~~hydraulic appeals~~)) growth management hearings board shall be as provided by law.

(2) The ((~~chief executive officer~~)) director of the environmental and land use hearings office may appoint ((~~an~~)) one or more administrative appeals judges ((~~who shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW;~~)) in cases before the environmental boards and, with the consent of the chair of the growth management hearings board, one or more hearing examiners in cases before the land use board comprising the office. The administrative appeals judges shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. ((~~Additional administrative appeals judges may also be appointed by the chief executive officer on the same terms. Administrative appeals judges shall not be subject to chapter 41.06 RCW.~~)) The hearing examiners possess the powers and duties provided for in RCW 36.70A.270.

(2010 Ed.)

(3) Administrative appeals judges are not subject to chapter 41.06 RCW. The administrative appeals judges appointed under subsection (2) of this section are subject to discipline and termination, for cause, by the ((~~chief executive officer~~)) director of the environmental and land use hearings office. Upon written request by the person so disciplined or terminated, the ((~~chief executive officer~~)) director of the environmental and land use hearings office shall state the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(4) The ((~~chief executive officer~~)) director of the environmental and land use hearings office may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

(5) The ((~~chief executive officer~~)) director of the environmental and land use hearings office may also contract for required services. [2010 c 210 § 4; 2003 c 393 § 18; 2003 c 39 § 22; 1999 c 125 § 1; 1990 c 65 § 1; 1986 c 173 § 3; 1979 ex.s. c 47 § 2.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

43.21B.005 Environmental hearings office created—Composition—Administrative appeals judges—Contracts for services (as amended by 2010 1st sp.s. c 7). (1) There is created an environmental hearings office of the state of Washington. The environmental hearings office shall consist of the pollution control hearings board created in RCW 43.21B.010, the forest practices appeals board created in RCW *76.09.210, the shorelines hearings board created in RCW 90.58.170, ((~~the environmental and land use hearings board created in chapter 43.21L RCW;~~)) and the hydraulic appeals board created in **RCW ((~~77.55.170~~)) 77.55.301. The chair of the pollution control hearings board shall be the chief executive officer of the environmental hearings office. Membership, powers, functions, and duties of the pollution control hearings board, the forest practices appeals board, the shorelines hearings board, and the hydraulic appeals board shall be as provided by law.

(2) The chief executive officer of the environmental hearings office may appoint an administrative appeals judge who shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, in cases before the boards comprising the office. The administrative appeals judge shall have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. Additional administrative appeals judges may also be appointed by the chief executive officer on the same terms. Administrative appeals judges shall not be subject to chapter 41.06 RCW.

(3) The administrative appeals judges appointed under subsection (2) of this section are subject to discipline and termination, for cause, by the chief executive officer. Upon written request by the person so disciplined or terminated, the chief executive officer shall state the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(4) The chief executive officer may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

(5) The chief executive officer may also contract for required services. [2010 1st sp.s. c 7 § 39. Prior: 2003 c 393 § 18; 2003 c 39 § 22; 1999 c 125 § 1; 1990 c 65 § 1; 1986 c 173 § 3; 1979 ex.s. c 47 § 2.]

Reviser's note: *(1) RCW 76.09.210 was repealed by 2010 c 210 § 41.

** (2) RCW 77.55.301 was repealed by 2010 c 210 § 41.

(3) RCW 43.21B.005 was amended three times during the 2010 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Intent—1979 ex.s. c 47: "It is the intent of the legislature to consolidate administratively the pollution control hearings board, the forest practices appeals board, and the shorelines hearings board into one agency of state government with minimum disturbance to these boards. It is not the intent of the legislature in consolidating these boards to change the existing membership of these boards.

All full-time employees of the pollution control hearings board and the full-time employee of the forest practices appeals board shall be full-time employees of the environmental hearings office without loss of rights. Property and obligations of these boards and the shorelines hearings board shall

be property and obligations of the environmental hearings office." [1979 ex.s. c 47 § 1.]

43.21B.010 Pollution control hearings board created—Purpose. (*Effective until July 1, 2011.*) There is hereby created within the environmental hearings office a pollution control hearings board of the state of Washington.

The purpose of the pollution control hearings board is to provide for a more expeditious and efficient disposition of designated environmental appeals as provided for in RCW 43.21B.110. [2010 c 210 § 5; 1979 ex.s. c 47 § 3; 1970 ex.s. c 62 § 31.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Expiration dates—2010 c 210 §§ 3, 5, and 7: See note following RCW 43.21B.110.

Intent—1979 ex.s. c 47: See note following RCW 43.21B.005.

43.21B.010 Pollution control hearings board created—Purpose. (*Effective July 1, 2011.*) There is hereby created within the environmental and land use hearings office a pollution control hearings board of the state of Washington.

The purpose of the pollution control hearings board is to provide for a more expeditious and efficient disposition of designated environmental appeals as provided for in RCW 43.21B.110. [2010 c 210 § 6; 1979 ex.s. c 47 § 3; 1970 ex.s. c 62 § 31.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Intent—1979 ex.s. c 47: See note following RCW 43.21B.005.

43.21B.020 Members—Qualifications—Appointment. The hearings board shall consist of three members qualified by experience or training in pertinent matters pertaining to the environment, and at least one member of the hearings board shall have been admitted to practice law in this state and engaged in the legal profession at the time of his or her appointment. The hearings board shall be appointed by the governor with the advice and consent of the senate, and no more than two of whom at the time of appointment or during their term shall be members of the same political party. [2009 c 549 § 5091; 1970 ex.s. c 62 § 32.]

43.21B.030 Members—Terms—Filling vacancies, term. Members of the hearings board shall be appointed for a term of six years and until their successors are appointed and have qualified. In case of a vacancy, it shall be filled by appointment by the governor for the unexpired portion of the term in which said vacancy occurs: PROVIDED, That the terms of the first three members of the hearings board shall be staggered so that one member shall be appointed to serve until July 1, 1972, one member until July 1, 1974, and one member until July 1, 1976. [1970 ex.s. c 62 § 33.]

43.21B.040 Removal of member, procedure—As disqualification for reappointment. Any member of the hearings board may be removed for inefficiency, malfeasance and misfeasance in office, under specific written charges filed by the governor, who shall transmit such written charges to the member accused and to the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal com-

posed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time of the hearing which shall be public, and the procedure for the hearing, and the decision of such tribunal shall be final and not subject to review by the supreme court. Removal of any member of the hearings board by the tribunal shall disqualify such member for reappointment. [1970 ex.s. c 62 § 34.]

43.21B.050 Governor to determine basis for operation—Compensation if part-time basis, limitation—Reimbursement of travel expenses. The hearings board shall operate on either a part-time or a full-time basis, as determined by the governor. If it is determined that the hearings board shall operate on a full-time basis, each member of the hearings board shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined the hearings board shall operate on a part-time basis, each member of the hearings board shall receive compensation on the basis of seventy-five dollars for each day spent in performance of his or her duties but such compensation shall not exceed ten thousand dollars in a fiscal year. Each hearings board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [2009 c 549 § 5092; 1975-'76 2nd ex.s. c 34 § 101; 1970 ex.s. c 62 § 35.]

Additional notes found at www.leg.wa.gov

43.21B.060 Restrictions upon conduct while member and upon termination of membership. Each member of the hearings board: (1) Shall not be a candidate for nor hold any other public office or trust, and shall not engage in any occupation or business interfering with or inconsistent with his or her duty as a member of the hearings board, nor shall he or she serve on or under any committee of any political party; and (2) shall not for a period of one year after the termination of his or her membership on the hearings board, act in a representative capacity before the hearings board on any matter. [2009 c 549 § 5093; 1970 ex.s. c 62 § 36.]

43.21B.080 Chair, biennial election of. The hearings board shall as soon as practicable after the initial appointment of the members thereof, meet and elect from among its members a chair, and shall at least biennially thereafter meet and elect such a chair. [2009 c 549 § 5094; 1970 ex.s. c 62 § 38.]

43.21B.090 Principal office—Quorum—Hearings—Board powers and duties. The principal office of the hearings board shall be at the state capitol, but it may sit or hold hearings at any other place in the state. A majority of the hearings board shall constitute a quorum for making orders or decisions, promulgating rules and regulations necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position of the hearings board be vacant. One or more members may hold hearings and take testimony to be reported for action by the hearings board when authorized by rule or order of the hearings board. The hearings board shall perform all the powers and duties specified in this chapter or as otherwise provided by law. [1990 c 65 § 2; 1974 ex.s. c 69 § 1; 1970 ex.s. c 62 § 39.]

43.21B.100 Board to make findings of fact and written decisions on each case considered—Effective upon signing and filing—Public information. The hearings board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decisions shall be effective upon being signed by two or more members of the hearings board and upon being filed at the hearings board's principal office, and shall be open for public inspection at all reasonable times. [1970 ex.s. c 62 § 40.]

43.21B.110 Pollution control hearings board jurisdiction. (Effective until June 30, 2019.) (1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, local health departments, the department of natural resources, the department of fish and wildlife, and the parks and recreation commission:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) A final decision by the department or director made under chapter 183, Laws of 2009.

(d) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(e) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(f) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(g) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(h) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(i) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(j) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of

natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(k) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(l) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW.

(m) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(n) Decisions of a state agency that is an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable under RCW 79.100.120.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(e) Appeals of decisions by the department as provided in *chapter 43.21L RCW.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW. [2010 c 210 § 7; 2010 c 84 § 2. Prior: 2009 c 456 § 16; 2009 c 332 § 18; 2009 c 183 § 17; 2003 c 393 § 19; 2001 c 220 § 2; prior: 1998 c 262 § 18; 1998 c 156 § 8; 1998 c 36 § 22; 1993 c 387 § 22; prior: 1992 c 174 § 13; 1992 c 73 § 1; 1989 c 175 § 102; 1987 c 109 § 10; 1970 ex.s. c 62 § 41.]

Reviser's note: *(1) Chapter 43.21L RCW was repealed by 2010 1st sp.s. c 7 § 37, effective June 30, 2010, and by 2010 c 210 § 46, effective July 1, 2011.

(2) This section was amended by 2010 c 84 § 2 and by 2010 c 210 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration dates—2010 c 210 §§ 3, 5, and 7: "(1) Sections 3 and 5 of this act expire July 1, 2011.

(2) Section 7 of this act expires June 30, 2019." [2010 c 210 § 45.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Expiration date—2010 c 84 § 2: "Section 2 of this act expires June 30, 2019." [2010 c 84 § 5.]

Application—2009 c 332: See note following RCW 90.03.110.

Expiration date—2009 c 183: See note following RCW 90.92.010.

Intent—2001 c 220: "The legislature intends to assure that appeals of department of ecology decisions regarding changes or transfers of water rights that are the subject of an ongoing general adjudication of water rights are governed by an appeals process that is efficient and eliminates unnecessary duplication, while fully preserving the rights of all affected parties. The legislature intends to address only the judicial review process for certain decisions of the pollution control hearings board when a general adjudication is being actively litigated. The legislature intends to fully preserve the role of the pollution control hearings board, except as specifically provided in this act." [2001 c 220 § 1.]

Construction—2001 c 220: "Nothing in this act shall be construed to affect or modify any treaty or other federal rights of an Indian tribe, or the rights of any federal agency or other person or entity arising under federal law. Nothing in this act is intended or shall be construed as affecting or modifying any existing right of a federally recognized Indian tribe to protect from

impairment its federally reserved water rights in federal court." [2001 c 220 § 6.]

Effective date—2001 c 220: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 9, 2001]." [2001 c 220 § 7.]

Intent—1998 c 36: See RCW 15.54.265.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Order for compliance with oil spill contingency or prevention plan not subject to review by pollution control hearings board: RCW 90.56.270.

Additional notes found at www.leg.wa.gov

43.21B.110 Pollution control hearings board jurisdiction. (Effective June 30, 2019.) (1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, local health departments, the department of natural resources, the department of fish and wildlife, and the parks and recreation commission:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of

natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of a state agency that is an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable under RCW 79.100.120.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(e) Appeals of decisions by the department as provided in *chapter 43.21L RCW.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW. [2010 c 210 § 8; 2010 c 84 § 3. Prior: 2009 c 456 § 16; 2009 c 332 § 18; 2003 c 393 § 19; 2001 c 220 § 2; prior: 1998 c 262 § 18; 1998 c 156 § 8; 1998 c 36 § 22; 1993 c 387 § 22; prior: 1992 c 174 § 13; 1992 c 73 § 1; 1989 c 175 § 102; 1987 c 109 § 10; 1970 ex.s. c 62 § 41.]

Reviser's note: *(1) Chapter 43.21L RCW was repealed by 2010 1st sp.s. c 7 § 37, effective June 30, 2010, and by 2010 c 210 § 46, effective July 1, 2011.

(2) This section was amended by 2010 c 84 § 3 and by 2010 c 210 § 8, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Effective date—2010 c 84 § 3: "Section 3 of this act takes effect June 30, 2019." [2010 c 84 § 6.]

Application—2009 c 332: See note following RCW 90.03.110.

Intent—2001 c 220: "The legislature intends to assure that appeals of department of ecology decisions regarding changes or transfers of water rights that are the subject of an ongoing general adjudication of water rights are governed by an appeals process that is efficient and eliminates unnecessary duplication, while fully preserving the rights of all affected parties. The legislature intends to address only the judicial review process for certain decisions of the pollution control hearings board when a general adjudication is being actively litigated. The legislature intends to fully preserve the role of the pollution control hearings board, except as specifically provided in this act." [2001 c 220 § 1.]

Construction—2001 c 220: "Nothing in this act shall be construed to affect or modify any treaty or other federal rights of an Indian tribe, or the rights of any federal agency or other person or entity arising under federal law. Nothing in this act is intended or shall be construed as affecting or modifying any existing right of a federally recognized Indian tribe to protect from impairment its federally reserved water rights in federal court." [2001 c 220 § 6.]

Effective date—2001 c 220: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state gov-

ernment and its existing public institutions, and takes effect immediately [May 9, 2001]." [2001 c 220 § 7.]

Intent—1998 c 36: See RCW 15.54.265.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Order for compliance with oil spill contingency or prevention plan not subject to review by pollution control hearings board: RCW 90.56.270.

Additional notes found at www.leg.wa.gov

43.21B.130 Administrative procedure act to apply to appeal of board rules and regulations—Scope of board action on decisions and orders of others. The administrative procedure act, chapter 34.05 RCW, shall apply to the appeal of rules and regulations adopted by the board to the same extent as it applied to the review of rules and regulations adopted by the directors and/or boards or commissions of the various departments whose powers, duties and functions were transferred by section 6, chapter 62, Laws of 1970 ex. sess. to the department. All other decisions and orders of the director and all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW shall be subject to review by the hearings board as provided in this chapter. [1990 c 65 § 3; 1970 ex.s. c 62 § 43.]

43.21B.160 Appeals—Generally. In all appeals, the hearings board shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions as are granted to agencies in chapter 34.05 RCW, the Administrative Procedure Act. The hearings board, and each member thereof, shall be subject to all duties imposed upon, and shall have all powers granted to, an agency by those provisions of chapter 34.05 RCW relating to adjudicative proceedings. In the case of appeals within the jurisdiction of the hearings board, the hearings board, or any member thereof, may obtain such assistance, including the making of field investigations, from the staff of the director as the hearings board, or any member thereof, may deem necessary or appropriate. Any communication, oral or written, from the staff of the director to the hearings board shall be presented only in an open hearing. [1995 c 382 § 2; 1990 c 65 § 5; 1989 c 175 § 103; 1974 ex.s. c 69 § 3; 1970 ex.s. c 62 § 46.]

Additional notes found at www.leg.wa.gov

43.21B.170 Proceedings conducted in accordance with published board rules and regulations. All proceedings before the hearings board or any of its members shall be conducted in accordance with such rules of practice and procedure as the hearings board may prescribe. The hearings board shall publish such rules and arrange for the reasonable distribution thereof. [1995 c 382 § 3; 1970 ex.s. c 62 § 47.]

43.21B.175 Mediation. In all appeals, upon request of one or more parties and with the consent of all parties, the environmental hearings boards may schedule a conference for the purpose of attempting to mediate the case. Mediation must be conducted by an administrative appeals judge or other duly authorized agent of the board who has received training in dispute resolution techniques or has a demonstrated history of successfully resolving disputes, as determined by the board. A person who mediates in a particular appeal may not participate in a hearing on that appeal and

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may not write the decision and order in the appeal. The mediator may not communicate with board members regarding the mediation other than to inform them of the pendency of the mediation and whether the case settled. Mediation provided by the environmental hearings boards must be conducted pursuant to the provisions of the uniform mediation act, chapter 7.07 RCW. [2010 c 210 § 9.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

43.21B.180 Judicial review—Right of review of decisions pursuant to RCW 43.21B.110. Any party aggrieved by a final decision and order of the pollution control hearings board may obtain judicial review of the final decision and order as provided in RCW 34.05.510 through 34.05.598. The state or local agency that issued the decision appealed to the board shall have the same right of review from a decision made pursuant to RCW 43.21B.110 as does any person. [2010 c 210 § 10; 1994 c 253 § 6; 1989 c 175 § 104; 1970 ex.s. c 62 § 48.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Additional notes found at www.leg.wa.gov

43.21B.230 Appeals of agency actions. (1) Unless otherwise provided by law, any person with standing may commence an appeal to the pollution control hearings board by filing a notice of appeal with the board within thirty days from the date of receipt of the decision being appealed.

(2) The appeal is timely if it is filed with the board and served upon the state or local agency whose action is being appealed within the same thirty-day period. Proof of service must be filed with the clerk of the hearings board to perfect the appeal.

(3) The appeal must contain the following in accordance with the rules of the hearings board:

- (a) The appellant's name and address;
- (b) The date and docket number of the order, permit, license, or decision appealed;
- (c) A copy of the order, permit, license, or decision that is the subject of the appeal;
- (d) A clear, separate, and concise statement of every error alleged to have been committed;
- (e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and
- (f) A statement setting forth the relief sought. [2010 c 210 § 11; 2004 c 204 § 3; 1997 c 125 § 2; 1994 c 253 § 8; 1990 c 65 § 6; 1970 ex.s. c 62 § 53.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

43.21B.240 Department—Air authorities—Adjudicative proceedings, may not conduct. The department and air authorities shall not have authority to hold adjudicative proceedings pursuant to the Administrative Procedure Act, chapter 34.05 RCW. Such hearings shall be held by the pollution control hearings board. [1989 c 175 § 105; 1987 c 109 § 9; 1970 ex.s. c 62 § 54.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Additional notes found at www.leg.wa.gov

43.21B.250 Challenges to consistency of rules adopted pursuant to RCW 43.21C.110 and 43.21C.120—Procedure—Finality. (1) All challenges in regard to the consistency of the rules adopted pursuant to RCW 43.21C.120 and with the rules and guidelines adopted pursuant to RCW 43.21C.110 shall be initiated by filing a petition for review with the pollution control hearings board in accordance with rules of practice and procedures promulgated by the hearings board.

(2) All challenges to the hearings board provided under this section shall be decided on the basis of conformance of rules, with the applicable rules and guidelines adopted pursuant to RCW 43.21C.110. The board may in its discretion require briefs, testimony, and oral arguments.

(3) The decisions of the hearings board authorized under this section shall be final. [1974 ex.s. c 179 § 9.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

Additional notes found at www.leg.wa.gov

43.21B.260 Regulations and amendments of activated air pollution control authorities—Filing with hearings board authorized—Evidence. Activated air pollution control authorities, established under chapter 70.94 RCW, may file certified copies of their regulations and amendments thereto with the pollution control hearings board of the state of Washington, and the hearings board shall take judicial note of the copies so filed and the said regulations and amendments shall be received and admitted, by reference, in all hearings before the board, as prima facie evidence that such regulations and amendments on file are in full force and effect. [1974 ex.s. c 69 § 5.]

43.21B.300 Penalty procedures (as amended by 2010 c 84). (1) Any civil penalty provided in RCW 18.104.155, 70.94.431, 70.95.315, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, ~~((and))~~ 90.56.330, and 90.64.102 and chapter 90.76 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. Within thirty days after the notice is received, the person incurring the penalty may apply in writing to the department or the authority for the remission or mitigation of the penalty. Upon receipt of the application, the department or authority may remit or mitigate the penalty upon whatever terms the department or the authority in its discretion deems proper. The department or the authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority thirty days after the date of receipt by the person penalized of the notice imposing the penalty or thirty days after the date of receipt of the notice of disposition of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) Thirty days after receipt of the notice imposing the penalty;

(b) Thirty days after receipt of the notice of disposition on application for relief from penalty, if such an application is made; or

(c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within thirty days after it becomes due and

payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431, the disposition of which shall be governed by that provision, RCW 70.105.080, which shall be credited to the hazardous waste control and elimination account created by RCW 70.105.180, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 90.76.080, which shall be credited to the underground storage tank account created by RCW 90.76.100. [2010 c 84 § 4. Prior: 2009 c 456 § 17; 2009 c 178 § 2; 2007 c 147 § 9; 2004 c 204 § 4; 2001 c 36 § 2; 1993 c 387 § 23; 1992 c 73 § 2; 1987 c 109 § 5.]

43.21B.300 Penalty procedures (as amended by 2010 c 210). (1)

Any civil penalty provided in RCW 18.104.155, 70.94.431, 70.95.315, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, and 90.56.330 and chapter 90.76 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within thirty days after the notice is received, the person incurring the penalty may apply in writing to ((the department or)) the authority for the remission or mitigation of the penalty. Upon receipt of the application, the ((department or)) authority may remit or mitigate the penalty upon whatever terms ((the department or)) the authority in its discretion deems proper. The ((department or the)) authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority thirty days after the date of receipt by the person penalized of the notice imposing the penalty or thirty days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) Thirty days after receipt of the notice imposing the penalty;

(b) Thirty days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or

(c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within thirty days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431, the disposition of which shall be governed by that provision, RCW 70.105.080, which shall be credited to the hazardous waste control and elimination account created by RCW 70.105.180, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 90.76.080, which shall be credited to the underground storage tank account created by RCW 90.76.100. [2010 c 210 § 12. Prior: 2009 c 456 § 17; 2009 c 178 § 2; 2007 c 147 § 9; 2004 c 204 § 4; 2001 c 36 § 2; 1993 c 387 § 23; 1992 c 73 § 2; 1987 c 109 § 5.]

Reviser's note: RCW 43.21B.300 was amended twice during the 2010 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Additional notes found at www.leg.wa.gov

43.21B.305 Appeals involving penalties of fifteen thousand dollars or less. In an appeal that involves a penalty of fifteen thousand dollars or less, the appeal may be heard by one member of the board, whose decision shall be the final decision of the board. The board shall define by rule alternative procedures to expedite appeals involving penalties of fifteen thousand dollars or less. These alternatives may include: Mediation, upon agreement of all parties; submission of testimony by affidavit; or other forms that may lead to less formal and faster resolution of appeals. [2005 c 34 § 2; 1994 c 253 § 5.]

43.21B.310 Appeal of orders. (1) The issuing agency in its discretion may stay the effectiveness of any order that has been appealed to the board during the pendency of such an appeal.

(2) At any time during the pendency of an appeal of such an order to the board, the appellant may apply pursuant to RCW 43.21B.320 to the hearings board for a stay of the order or for the removal thereof.

(3) Upon failure to comply with any final order of the department, the attorney general, on request of the department, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary, including injunctive relief, to ensure compliance with the order. The air authorities may bring similar actions to enforce their orders.

(4) An appealable decision or order shall be identified as such and shall contain a conspicuous notice to the recipient that it may be appealed only by filing an appeal with the hearings board and serving it on the issuing agency within thirty days of the date of receipt. [2010 c 210 § 13. Prior: 2009 c 456 § 18; 2009 c 178 § 3; 2004 c 204 § 5; prior: 2001 c 220 § 4; 2001 c 36 § 3; 1992 c 73 § 3; 1989 c 2 § 14 (Initiative Measure No. 97, approved November 8, 1988); (1987 3rd ex.s. c 2 § 49 repealed by 1989 c 2 § 24, effective March 1, 1989); 1987 c 109 § 6.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Intent—Construction—Effective date—2001 c 220: See notes following RCW 43.21B.110.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Additional notes found at www.leg.wa.gov

43.21B.320 Stays of orders. (1) A person appealing to the hearings board an order, not stayed by the issuing agency, may obtain a stay of the effectiveness of that order only as set forth in this section.

(2) An appealing party may request a stay by including such a request in the appeal document, in a subsequent motion, or by such other means as the rules of the hearings board shall prescribe. The request must be accompanied by a statement of grounds for the stay and evidence setting forth the factual basis upon which request is based. The hearings

board shall hear the request for a stay as soon as possible. The hearing on the request for stay may be consolidated with the hearing on the merits.

(3) The applicant may make a prima facie case for stay if the applicant demonstrates either a likelihood of success on the merits of the appeal or irreparable harm. Upon such a showing, the hearings board shall grant the stay unless the issuing agency demonstrates either (a) a substantial probability of success on the merits or (b) likelihood of success on the merits and an overriding public interest which justifies denial of the stay.

(4) Unless otherwise stipulated by the parties, the hearings board, after granting or denying an application for a stay, shall expedite the hearing and decision on the merits.

(5) Any party or other person aggrieved by the grant or denial of a stay by the hearings board may petition the superior court for Thurston county for review of that decision pursuant to chapter 34.05 RCW pending the appeal on the merits before the board. The superior court shall expedite its review of the decision of the hearings board. [2010 c 210 § 14; 1987 c 109 § 7.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.330 Summary procedures. The hearings board shall develop procedures for summary procedures, consistent with the rules of civil procedure for superior court on summary judgment, to decide cases before it. Such procedures may include provisions for determinations without an oral hearing or hearing by telephonic means. [1987 c 109 § 8.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.900 Savings—Other powers and duties not affected—Permits, standards not affected—Severability—Effective date—1970 ex.s. c 62. See notes following RCW 43.21A.010.

Chapter 43.21C RCW

STATE ENVIRONMENTAL POLICY

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- 43.21C.914 Effective dates—1983 c 117.

Economic policy: Chapter 43.21H RCW.

43.21C.010 Purposes. The purposes of this chapter are:

(1) To declare a state policy which will encourage productive and enjoyable harmony between humankind and the environment; (2) to promote efforts which will prevent or eliminate damage to the environment and biosphere; (3) and [to] stimulate the health and welfare of human beings; and (4) to enrich the understanding of the ecological systems and natural resources important to the state and nation. [2009 c 549 § 5095; 1971 ex.s. c 109 § 1.]

43.21C.020 Legislative recognitions—Declaration—Responsibility. (1) The legislature, recognizing that a

human being depends on biological and physical surroundings for food, shelter, and other needs, and for cultural enrichment as well; and recognizing further the profound impact of a human being's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource utilization and exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of human beings, declares that it is the continuing policy of the state of Washington, in cooperation with federal and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to: (a) Foster and promote the general welfare; (b) create and maintain conditions under which human beings and nature can exist in productive harmony; and (c) fulfill the social, economic, and other requirements of present and future generations of Washington citizens.

(2) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the state of Washington and all agencies of the state to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(b) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(d) Preserve important historic, cultural, and natural aspects of our national heritage;

(e) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(3) The legislature recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment. [2009 c 549 § 5096; 1971 ex.s. c 109 § 2.]

43.21C.030 Guidelines for state agencies, local governments—Statements—Reports—Advice—Information. The legislature authorizes and directs that, to the fullest extent possible: (1) The policies, regulations, and laws of the state of Washington shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all branches of government of this state, including state agencies, municipal and public corporations, and counties shall:

(a) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in

decision making which may have an impact on the environment;

(b) Identify and develop methods and procedures, in consultation with the department of ecology and the ecological commission, which will insure that presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations;

(c) Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the environment, a detailed statement by the responsible official on:

- (i) the environmental impact of the proposed action;
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;
- (iii) alternatives to the proposed action;
- (iv) the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity; and
- (v) any irreversible and ir retrievable commitments of resources which would be involved in the proposed action should it be implemented;

(d) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any public agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, province, state, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the governor, the department of ecology, the ecological commission, and the public, and shall accompany the proposal through the existing agency review processes;

(e) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(f) Recognize the worldwide and long-range character of environmental problems and, where consistent with state policy, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment;

(g) Make available to the federal government, other states, provinces of Canada, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(h) Initiate and utilize ecological information in the planning and development of natural resource-oriented projects. [2010 c 8 § 7002; 1971 ex.s. c 109 § 3.]

43.21C.031 Significant impacts. (1) An environmental impact statement (the detailed statement required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for legislation and other major actions having a probable significant, adverse environmental impact. The environmental impact statement may be combined with the recommendation or report on the proposal or issued as a separate document. The substantive decisions or recommendations shall be clearly identifiable in the combined document. Actions categorically exempt under RCW 43.21C.110(1)(a) do not require environ-

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mental review or the preparation of an environmental impact statement under this chapter. In a county, city, or town planning under RCW 36.70A.040, a planned action, as provided for in subsection (2) of this section, does not require a threshold determination or the preparation of an environmental impact statement under this chapter, but is subject to environmental review and mitigation as provided in this chapter.

An environmental impact statement is required to analyze only those probable adverse environmental impacts which are significant. Beneficial environmental impacts may be discussed. The responsible official shall consult with agencies and the public to identify such impacts and limit the scope of an environmental impact statement. The subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate sections of an environmental impact statement. Discussions of significant short-term and long-term environmental impacts, significant irrevocable commitments of natural resources, significant alternatives including mitigation measures, and significant environmental impacts which cannot be mitigated should be consolidated or included, as applicable, in those sections of an environmental impact statement where the responsible official decides they logically belong.

(2)(a) For purposes of this section, a planned action means one or more types of project action that:

(i) Are designated planned actions by an ordinance or resolution adopted by a county, city, or town planning under RCW 36.70A.040;

(ii) Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with (A) a comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or (B) a fully contained community, a master planned resort, a master planned development, or a phased project;

(iii) Are subsequent or implementing projects for the proposals listed in (a)(ii) of this subsection;

(iv) Are located within an urban growth area, as defined in RCW 36.70A.030;

(v) Are not essential public facilities, as defined in RCW 36.70A.200; and

(vi) Are consistent with a comprehensive plan adopted under chapter 36.70A RCW.

(b) A county, city, or town shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the county, city, or town and may limit a planned action to a time period identified in the environmental impact statement or the ordinance or resolution adopted under this subsection. [1995 c 347 § 203; 1983 c 117 § 1.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

43.21C.033 Threshold determination to be made within ninety days after application is complete. (1) Except as provided in subsection (2) of this section, the responsible official shall make a threshold determination on a completed application within ninety days after the application and supporting documentation are complete. The applicant may request an additional thirty days for the threshold determination. The governmental entity responsible for making the threshold determination shall by rule, resolution, or ordinance adopt standards, consistent with rules adopted by

the department to implement this chapter, for determining when an application and supporting documentation are complete.

(2) This section shall not apply to a city, town, or county that:

(a) By ordinance adopted prior to April 1, 1992, has adopted procedures to integrate permit and land use decisions with the requirements of this chapter; or

(b) Is planning under RCW 36.70A.040 and is subject to the requirements of *RCW 36.70B.090. [1995 c 347 § 422; 1992 c 208 § 1.]

***Reviser's note:** RCW 36.70B.090 expired June 30, 2000, pursuant to 1998 c 286 § 8.

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Additional notes found at www.leg.wa.gov

43.21C.034 Use of existing documents. Lead agencies are authorized to use in whole or in part existing environmental documents for new project or nonproject actions, if the documents adequately address environmental considerations set forth in RCW 43.21C.030. The prior proposal or action and the new proposal or action need not be identical, but must have similar elements that provide a basis for comparing their environmental consequences such as timing, types of impacts, alternatives, or geography. The lead agency shall independently review the content of the existing documents and determine that the information and analysis to be used is relevant and adequate. If necessary, the lead agency may require additional documentation to ensure that all environmental impacts have been adequately addressed. [1993 c 23 § 1.]

43.21C.035 Certain irrigation projects decisions exempt from RCW 43.21C.030(2)(c). Decisions pertaining to applications for appropriation of fifty cubic feet of water per second or less for irrigation projects promulgated by any person, private firm, private corporation or private association without resort to subsidy by either state or federal government pursuant to RCW 90.03.250 through 90.03.340, as now or hereafter amended, to be used for agricultural irrigation shall not be subject to the requirements of RCW 43.21C.030(2)(c), as now or hereafter amended. [1974 ex.s. c 150 § 1.]

43.21C.036 Hazardous substance remedial actions—Procedural requirements and documents to be integrated. In conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or if conducted by the department of ecology, the department of ecology to the maximum extent practicable shall integrate the procedural requirements and documents of this chapter with the procedures and documents under chapter 70.105D RCW. Such integration shall at a minimum include the public participation procedures of chapter 70.105D RCW and the public notice and review requirements of this chapter. [1994 c 257 § 21.]

Additional notes found at www.leg.wa.gov

43.21C.037 Application of RCW 43.21C.030(2)(c) to forest practices. (1) Decisions pertaining to applications for Class I, II, and III forest practices, as defined by rule of the forest practices board under RCW 76.09.050, are not subject to the requirements of RCW 43.21C.030(2)(c) as now or hereafter amended.

(2) When the applicable county, city, or town requires a license in connection with any proposal involving forest practices (a) on lands platted after January 1, 1960, as provided in chapter 58.17 RCW, (b) on lands that have or are being converted to another use, or (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, then the local government, rather than the department of natural resources, is responsible for any detailed statement required under RCW 43.21C.030(2)(c).

(3) Those forest practices determined by rule of the forest practices board to have a potential for a substantial impact on the environment, and thus to be Class IV practices, require an evaluation by the department of natural resources as to whether or not a detailed statement must be prepared pursuant to this chapter. The evaluation shall be made within ten days from the date the department receives the application. A Class IV forest practice application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. This section shall not be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action regarding a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. [1997 c 173 § 6; 1983 c 117 § 2; 1981 c 290 § 1.]

43.21C.038 Application of RCW 43.21C.030(2)(c) to school closures. Nothing in RCW 43.21C.030(2)(c) shall be construed to require the preparation of an environmental impact statement or the making of a threshold determination for any decision or any action commenced subsequent to September 1, 1982, pertaining to a plan, program, or decision for the closure of a school or schools or for the school closure portion of any broader policy, plan or program by a school district board of directors. [1983 c 109 § 1.]

43.21C.0381 Application of RCW 43.21C.030(2)(c) to decisions pertaining to air operating permits. Decisions pertaining to the issuance, renewal, reopening, or revision of an air operating permit under RCW 70.94.161 are not subject to the requirements of RCW 43.21C.030(2)(c). [1995 c 172 § 1.]

43.21C.0382 Application of RCW 43.21C.030(2)(c) to watershed restoration projects—Fish habitat enhancement projects. Decisions pertaining to watershed restora-

tion projects as defined in RCW 89.08.460 are not subject to the requirements of RCW 43.21C.030(2)(c). Decisions pertaining to fish habitat enhancement projects meeting the criteria of *RCW 77.55.290(1) and being reviewed and approved according to the provisions of *RCW 77.55.290 are not subject to the requirements of RCW 43.21C.030(2)(c). [2003 c 39 § 23; 1998 c 249 § 12; 1995 c 378 § 12.]

***Reviser's note:** RCW 77.55.290 was recodified as RCW 77.55.181 pursuant to 2005 c 146 § 1001.

Findings—Purpose—Report—Effective date—1998 c 249: See notes following RCW 77.55.181.

43.21C.0383 Application of RCW 43.21C.030(2)(c) to waste discharge permits. The following waste discharge permit actions are not subject to the requirements of RCW 43.21C.030(2)(c):

(1) For existing discharges, the issuance, reissuance, or modification of a waste discharge permit that contains conditions no less stringent than federal effluent limitations and state rules;

(2) The issuance of a construction storm water general permit under chapter 90.48 RCW for a proposal disturbing less than five acres. The exemption in this subsection does not apply if, under rules adopted by the department of ecology, the proposal would otherwise be subject to the requirements of RCW 43.21C.030(2)(c). [2008 c 37 § 2; 1996 c 322 § 1.]

Intent—2008 c 37: "The legislature intends that the revised threshold adopted in 2005 for the department of ecology's construction storm water general permit should not increase the scope of projects subject to state environmental policy act review. The department of ecology should pursue rule making to achieve the intent of this act." [2008 c 37 § 1.]

43.21C.0384 Application of RCW 43.21C.030(2)(c) to personal wireless services facilities. (1) Decisions pertaining to applications to site personal wireless service facilities are not subject to the requirements of RCW 43.21C.030(2)(c), if those facilities meet the following requirements:

(a)(i) The facility to be sited is a microcell and is to be attached to an existing structure that is not a residence or school and does not contain a residence or a school; or (ii) the facility includes personal wireless service antennas, other than a microcell, and is to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or a school, and the existing structure to which it is to be attached is located in a commercial, industrial, manufacturing, forest, or agricultural zone; or (iii) the siting project involves constructing a personal wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone; and

(b) The project is not in a designated environmentally sensitive area; and

(c) The project does not consist of a series of actions: (i) Some of which are not categorically exempt; or (ii) that together may have a probable significant adverse environmental impact.

(2) The department of ecology shall adopt rules to create a categorical exemption for microcells and other personal

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wireless service facilities that meet the conditions set forth in subsection (1) of this section.

(3) For the purposes of this section:

(a) "Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(b) "Personal wireless service facilities" means facilities for the provision of personal wireless services.

(c) "Microcell" means a wireless communication facility consisting of an antenna that is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length. [1996 c 323 § 2.]

Findings—1996 c 323: See note following RCW 43.70.600.

43.21C.039 Metals mining and milling operations—Environmental impact statements required. Notwithstanding any provision in RCW 43.21C.030 and 43.21C.031 to the contrary, an environmental impact statement shall be prepared for any proposed metals mining and milling operation as required by RCW 78.56.050. [1994 c 232 § 25.]

Disclosures required with SEPA checklist, metals mining and milling operations: RCW 78.56.040.

Additional notes found at www.leg.wa.gov

43.21C.040 Examination of laws, regulations, policies by state agencies and local authorities—Report of deficiencies and corrective measures. All branches of government of this state, including state agencies, municipal and public corporations, and counties shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the governor not later than January 1, 1972, such measures as may be necessary to bring their authority and policies in conformity with the intent, purposes, and procedures set forth in this chapter. [1971 ex.s. c 109 § 4.]

43.21C.050 Specific statutory obligations not affected. Nothing in RCW 43.21C.030 or 43.21C.040 shall in any way affect the specific statutory obligations of any agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other public agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other public agency. [1971 ex.s. c 109 § 5.]

43.21C.060 Chapter supplementary—Conditioning or denial of governmental action. The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of all branches of government of this state, including state agencies, municipal and public corporations, and counties. Any governmental action may be conditioned or denied pursuant to this chapter: PROVIDED, That such conditions or denials shall be based upon policies identified by the appropriate governmental authority and incorpo-

rated into regulations, plans, or codes which are formally designated by the agency (or appropriate legislative body, in the case of local government) as possible bases for the exercise of authority pursuant to this chapter. Such designation shall occur at the time specified by RCW 43.21C.120. Such action may be conditioned only to mitigate specific adverse environmental impacts which are identified in the environmental documents prepared under this chapter. These conditions shall be stated in writing by the decisionmaker. Mitigation measures shall be reasonable and capable of being accomplished. In order to deny a proposal under this chapter, an agency must find that: (1) The proposal would result in significant adverse impacts identified in a final or supplemental environmental impact statement prepared under this chapter; and (2) reasonable mitigation measures are insufficient to mitigate the identified impact. Except for permits and variances issued pursuant to chapter 90.58 RCW, when such a governmental action, not requiring a legislative decision, is conditioned or denied by a nonelected official of a local governmental agency, the decision shall be appealable to the legislative authority of the acting local governmental agency unless that legislative authority formally eliminates such appeals. Such appeals shall be in accordance with procedures established for such appeals by the legislative authority of the acting local governmental agency. [1983 c 117 § 3; 1977 ex.s. c 278 § 2; 1971 ex.s. c 109 § 6.]

43.21C.065 Impact fees and fees for system improvements. A person required to pay an impact fee for system improvements pursuant to RCW 82.02.050 through 82.02.090 shall not be required to pay a fee pursuant to RCW 43.21C.060 for those same system improvements. [1992 c 219 § 1.]

43.21C.075 Appeals. (1) Because a major purpose of this chapter is to combine environmental considerations with public decisions, any appeal brought under this chapter shall be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of this chapter. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action.

(2) Unless otherwise provided by this section:

(a) Appeals under this chapter shall be of the governmental action together with its accompanying environmental determinations.

(b) Appeals of environmental determinations made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to environmental review.

(3) If an agency has a procedure for appeals of agency environmental determinations made under this chapter, such procedure:

(a) Shall allow no more than one agency appeal proceeding on each procedural determination (the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement);

(b) Shall consolidate an appeal of procedural issues and of substantive determinations made under this chapter (such

as a decision to require particular mitigation measures or to deny a proposal) with a hearing or appeal on the underlying governmental action by providing for a single simultaneous hearing before one hearing officer or body to consider the agency decision or recommendation on a proposal and any environmental determinations made under this chapter, with the exception of:

(i) An appeal of a determination of significance;

(ii) An appeal of a procedural determination made by an agency when the agency is a project proponent, or is funding a project, and chooses to conduct its review under this chapter, including any appeals of its procedural determinations, prior to submitting an application for a project permit;

(iii) An appeal of a procedural determination made by an agency on a nonproject action; or

(iv) An appeal to the local legislative authority under RCW 43.21C.060 or other applicable state statutes;

(c) Shall provide for the preparation of a record for use in any subsequent appeal proceedings, and shall provide for any subsequent appeal proceedings to be conducted on the record, consistent with other applicable law. An adequate record consists of findings and conclusions, testimony under oath, and taped or written transcript. An electronically recorded transcript will suffice for purposes of review under this subsection; and

(d) Shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

(4) If a person aggrieved by an agency action has the right to judicial appeal and if an agency has an administrative appeal procedure, such person shall, prior to seeking any judicial review, use such agency procedure if any such procedure is available, unless expressly provided otherwise by state statute.

(5) Some statutes and ordinances contain time periods for challenging governmental actions which are subject to review under this chapter, such as various local land use approvals (the "underlying governmental action"). RCW 43.21C.080 establishes an optional "notice of action" procedure which, if used, imposes a time period for appealing decisions under this chapter. This subsection does not modify any such time periods. In this subsection, the term "appeal" refers to a judicial appeal only.

(a) If there is a time period for appealing the underlying governmental action, appeals under this chapter shall be commenced within such time period. The agency shall give official notice stating the date and place for commencing an appeal.

(b) If there is no time period for appealing the underlying governmental action, and a notice of action under RCW 43.21C.080 is used, appeals shall be commenced within the time period specified by RCW 43.21C.080.

(6)(a) Judicial review under subsection (5) of this section of an appeal decision made by an agency under subsection (3) of this section shall be on the record, consistent with other applicable law.

(b) A taped or written transcript may be used. If a taped transcript is to be reviewed, a record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to designate only those portions of the testimony necessary to present the issues raised

on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence relevant to the disputed finding. Any other party may designate additional portions of the taped transcript relating to issues raised on review. A party may provide a written transcript of portions of the testimony at the party's own expense or apply to that court for an order requiring the party seeking review to pay for additional portions of the written transcript.

(c) Judicial review under this chapter shall without exception be of the governmental action together with its accompanying environmental determinations.

(7) Jurisdiction over the review of determinations under this chapter in an appeal before an agency or superior court shall upon consent of the parties be transferred in whole or part to the shorelines hearings board. The shorelines hearings board shall hear the matter and sign the final order expeditiously. The superior court shall certify the final order of the shorelines hearings board and the certified final order may only be appealed to an appellate court. In the case of an appeal under this chapter regarding a project or other matter that is also the subject of an appeal to the shorelines hearings board under chapter 90.58 RCW, the shorelines hearings board shall have sole jurisdiction over both the appeal under this section and the appeal under chapter 90.58 RCW, shall consider them together, and shall issue a final order within one hundred eighty days as provided in RCW 90.58.180.

(8) For purposes of this section and RCW 43.21C.080, the words "action", "decision", and "determination" mean substantive agency action including any accompanying procedural determinations under this chapter (except where the word "action" means "appeal" in RCW 43.21C.080(2)). The word "action" in this section and RCW 43.21C.080 does not mean a procedural determination by itself made under this chapter. The word "determination" includes any environmental document required by this chapter and state or local implementing rules. The word "agency" refers to any state or local unit of government. Except as provided in subsection (5) of this section, the word "appeal" refers to administrative, legislative, or judicial appeals.

(9) The court in its discretion may award reasonable attorneys' fees of up to one thousand dollars in the aggregate to the prevailing party, including a governmental agency, on issues arising out of this chapter if the court makes specific findings that the legal position of a party is frivolous and without reasonable basis. [1997 c 429 § 49; 1995 c 347 § 204; 1994 c 253 § 4; 1983 c 117 § 4.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Additional notes found at www.leg.wa.gov

43.21C.080 Notice of action by governmental agency—How publicized—Time limitation for commencing challenge to action. (1) Notice of any action taken by a governmental agency may be publicized by the acting governmental agency, the applicant for, or the proponent of such action, in substantially the form as set forth in rules adopted under RCW 43.21C.110:

(a) By publishing notice on the same day of each week for two consecutive weeks in a legal newspaper of general (2010 Ed.)

circulation in the area where the property which is the subject of the action is located;

(b) By filing notice of such action with the department of ecology at its main office in Olympia prior to the date of the last newspaper publication; and

(c) Except for those actions which are of a nonproject nature, by one of the following methods which shall be accomplished prior to the date of first newspaper publication;

(i) Mailing to the latest recorded real property owners, as shown by the records of the county treasurer, who share a common boundary line with the property upon which the project is proposed through United States mail, first class, postage prepaid.

(ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed.

(2)(a) Except as otherwise provided in RCW 43.21C.075(5)(a), any action to set aside, enjoin, review, or otherwise challenge any such governmental action or subsequent governmental action for which notice is given as provided in subsection (1) of this section on grounds of noncompliance with the provisions of this chapter shall be commenced within twenty-one days from the date of last newspaper publication of the notice pursuant to subsection (1) of this section, or be barred.

(b) Any subsequent governmental action on the proposal for which notice has been given as provided in subsection (1) of this section shall not be set aside, enjoined, reviewed, or otherwise challenged on grounds of noncompliance with the provisions of RCW 43.21C.030(2)(a) through (h) unless there has been a substantial change in the proposal between the time of the first governmental action and the subsequent governmental action that is likely to have adverse environmental impacts beyond the range of impacts previously analyzed, or unless the action now being considered was identified in an earlier detailed statement or declaration of nonsignificance as being one which would require further environmental evaluation. [1995 c 347 § 205; 1977 ex.s. c 278 § 1; 1974 ex.s. c 179 § 2; 1973 1st ex.s. c 179 § 2.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Purpose—1974 ex.s. c 179: "The purpose of this 1974 amendatory act is to establish methods and means of providing for full implementation of chapter 43.21C RCW (the state environmental policy act of 1971) in a manner which reduces duplicative and wasteful practices, establishes effective and uniform procedures, encourages public involvement, and promotes certainty with respect to the requirements of the act." [1974 ex.s. c 179 § 1.]

Additional notes found at www.leg.wa.gov

43.21C.087 List of filings required by RCW 43.21C.080. The department of ecology shall prepare a list of all filings required by RCW 43.21C.080 each week and shall make such list available to any interested party. The list of filings shall include a brief description of the governmental action and the project involved in such action, along with the location of where information on the project or action may be obtained. Failure of the department to include any project or action shall not affect the running of the statute of limitations provided in RCW 43.21C.080. [1974 ex.s. c 179 § 14.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.090 Decision of governmental agency to be accorded substantial weight. In any action involving an attack on a determination by a governmental agency relative to the requirement or the absence of the requirement, or the adequacy of a "detailed statement", the decision of the governmental agency shall be accorded substantial weight. [1973 1st ex.s. c 179 § 3.]

Additional notes found at www.leg.wa.gov

43.21C.095 State environmental policy act rules to be accorded substantial deference. The rules promulgated under RCW 43.21C.110 shall be accorded substantial deference in the interpretation of this chapter. [1983 c 117 § 5.]

43.21C.110 Content of state environmental policy act rules. It shall be the duty and function of the department of ecology:

(1) To adopt and amend thereafter rules of interpretation and implementation of this chapter, subject to the requirements of chapter 34.05 RCW, for the purpose of providing uniform rules and guidelines to all branches of government including state agencies, political subdivisions, public and municipal corporations, and counties. The proposed rules shall be subject to full public hearings requirements associated with rule promulgation. Suggestions for modifications of the proposed rules shall be considered on their merits, and the department shall have the authority and responsibility for full and appropriate independent promulgation and adoption of rules, assuring consistency with this chapter as amended and with the preservation of protections afforded by this chapter. The rule-making powers authorized in this section shall include, but shall not be limited to, the following phases of interpretation and implementation of this chapter:

(a) Categories of governmental actions which are not to be considered as potential major actions significantly affecting the quality of the environment, including categories pertaining to applications for water right permits pursuant to chapters 90.03 and 90.44 RCW. The types of actions included as categorical exemptions in the rules shall be limited to those types which are not major actions significantly affecting the quality of the environment. The rules shall provide for certain circumstances where actions which potentially are categorically exempt require environmental review. An action that is categorically exempt under the rules adopted by the department may not be conditioned or denied under this chapter.

(b) Rules for criteria and procedures applicable to the determination of when an act of a branch of government is a major action significantly affecting the quality of the environment for which a detailed statement is required to be prepared pursuant to RCW 43.21C.030.

(c) Rules and procedures applicable to the preparation of detailed statements and other environmental documents, including but not limited to rules for timing of environmental review, obtaining comments, data and other information, and providing for and determining areas of public participation which shall include the scope and review of draft environmental impact statements.

(d) Scope of coverage and contents of detailed statements assuring that such statements are simple, uniform, and as short as practicable; statements are required to analyze

only reasonable alternatives and probable adverse environmental impacts which are significant, and may analyze beneficial impacts.

(e) Rules and procedures for public notification of actions taken and documents prepared.

(f) Definition of terms relevant to the implementation of this chapter including the establishment of a list of elements of the environment. Analysis of environmental considerations under RCW 43.21C.030(2) may be required only for those subjects listed as elements of the environment (or portions thereof). The list of elements of the environment shall consist of the "natural" and "built" environment. The elements of the built environment shall consist of public services and utilities (such as water, sewer, schools, fire and police protection), transportation, environmental health (such as explosive materials and toxic waste), and land and shoreline use (including housing, and a description of the relationships with land use and shoreline plans and designations, including population).

(g) Rules for determining the obligations and powers under this chapter of two or more branches of government involved in the same project significantly affecting the quality of the environment.

(h) Methods to assure adequate public awareness of the preparation and issuance of detailed statements required by RCW 43.21C.030(2)(c).

(i) To prepare rules for projects setting forth the time limits within which the governmental entity responsible for the action shall comply with the provisions of this chapter.

(j) Rules for utilization of a detailed statement for more than one action and rules improving environmental analysis of nonproject proposals and encouraging better interagency coordination and integration between this chapter and other environmental laws.

(k) Rules relating to actions which shall be exempt from the provisions of this chapter in situations of emergency.

(l) Rules relating to the use of environmental documents in planning and decision making and the implementation of the substantive policies and requirements of this chapter, including procedures for appeals under this chapter.

(m) Rules and procedures that provide for the integration of environmental review with project review as provided in RCW 43.21C.240. The rules and procedures shall be jointly developed with the *department of community, trade, and economic development and shall be applicable to the preparation of environmental documents for actions in counties, cities, and towns planning under RCW 36.70A.040. The rules and procedures shall also include procedures and criteria to analyze planned actions under RCW 43.21C.031(2) and revisions to the rules adopted under this section to ensure that they are compatible with the requirements and authorizations of chapter 347, Laws of 1995, as amended by chapter 429, Laws of 1997. Ordinances or procedures adopted by a county, city, or town to implement the provisions of chapter 347, Laws of 1995 prior to the effective date of rules adopted under this subsection (1)(m) shall continue to be effective until the adoption of any new or revised ordinances or procedures that may be required. If any revisions are required as a result of rules adopted under this subsection (1)(m), those revisions shall be made within the time limits specified in RCW 43.21C.120.

(2) In exercising its powers, functions, and duties under this section, the department may:

(a) Consult with the state agencies and with representatives of science, industry, agriculture, labor, conservation organizations, state and local governments, and other groups, as it deems advisable; and

(b) Utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals, in order to avoid duplication of effort and expense, overlap, or conflict with similar activities authorized by law and performed by established agencies.

(3) Rules adopted pursuant to this section shall be subject to the review procedures of chapter 34.05 RCW. [1997 c 429 § 47; 1995 c 347 § 206; 1983 c 117 § 7; 1974 ex.s. c 179 § 6.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

Additional notes found at www.leg.wa.gov

43.21C.120 Rules, ordinances, resolutions and regulations—Adoption—Effective dates. (1) All agencies of government of this state are directed, consistent with rules and guidelines adopted under RCW 43.21C.110, including any revisions, to adopt rules pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Designation of polices [policies] under RCW 43.21C.060 and adoption of rules required under this section shall take place not later than one hundred eighty days after the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110, or after the establishment of an agency, whichever shall occur later.

(2) Rules adopted by state agencies under subsection (1) of this section shall be adopted in accordance with the provisions of chapter 34.05 RCW and shall be subject to the review procedures of RCW *34.05.538 and 34.05.240.

(3) All public and municipal corporations, political subdivisions, and counties of this state are directed, consistent with rules and guidelines adopted under RCW 43.21C.110, including any revisions, to adopt rules, ordinances, or resolutions pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Designation of policies under RCW 43.21C.060 and adoption of the rules required under this section shall take place not later than one hundred eighty days after the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110, or after the establishment of the governmental entity, whichever shall occur later.

(4) Ordinances or regulations adopted prior to the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110 shall continue to be effective until the adoptions of any new or revised ordinances or regulations which may be required: PROVIDED, That revisions required by this section as a result of rule changes under RCW 43.21C.110 are made within the time limits specified by this section. [1983 c 117 § 8; 1974 ex.s. c 179 § 8.]

(2010 Ed.)

***Reviser's note:** RCW 34.05.538 was repealed by 1989 c 175 § 185, effective July 1, 1989.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.130 Model ordinances. The department of ecology, in consultation with concerned state agencies, shall with the assistance of the associations of county prosecutors and city attorneys, the association of county elected officials, the Washington state association of counties, and the association of cities, draft model ordinances for use by counties, cities and towns in drafting their ordinances under this chapter. [1974 ex.s. c 179 § 10.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.135 Authority of local governmental units to adopt rules, guidelines and model ordinances by reference. (1) All public and municipal corporations, political subdivisions, and counties of the state are authorized to adopt rules, ordinances, and resolutions which incorporate any of the following by reference to the appropriate sections of the Washington Administrative Code:

(a) Rules and guidelines adopted under RCW 43.21C.110(1) in accordance with the administrative procedure act, chapter 34.05 RCW;

(b) Model ordinances adopted by the department of ecology under RCW 43.21C.130 in accordance with the administrative procedure act, chapter 34.05 RCW.

(2) If any rule, ordinance, or resolution is adopted by reference pursuant to subsection (1) of this section, any publication of such rule, ordinance, or resolution shall be accompanied by a summary of the contents of the sections of the Washington Administrative Code referred to. Such summaries shall be provided to the adopting units of local government by the department of ecology: PROVIDED, That any proposal for a rule, ordinance or resolution which would adopt by reference rules and guidelines or model ordinances pursuant to this section shall be accompanied by the full text of the material to be adopted which need not be published but shall be maintained on file for public use and examination.

(3) Whenever any rule, ordinance, or resolution is adopted by reference pursuant to subsection (1) of this section, the corporation, political subdivision, or county of the state adopting the rule, ordinance, or resolution shall maintain on file for public use and examination not less than three copies of the sections of the Washington Administrative Code referred to. [1975-'76 2nd ex.s. c 99 § 1.]

43.21C.150 RCW 43.21C.030(2)(c) inapplicable when statement previously prepared pursuant to national environmental policy act. The requirements of RCW 43.21C.030(2)(c) pertaining to the preparation of a detailed statement by branches of government shall not apply when an adequate detailed statement has been previously prepared pursuant to the national environmental policy act of 1969, in which event said prepared statement may be utilized in lieu of a separately prepared statement under RCW 43.21C.030(2)(c). [1975 1st ex.s. c 206 § 1; 1974 ex.s. c 179 § 12.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.160 Utilization of statement prepared under RCW 43.21C.030 to implement *chapter 90.62 RCW—Utilization of *chapter 90.62 RCW procedures to satisfy RCW 43.21C.030(2)(c). In the implementation of *chapter 90.62 RCW (the Environmental Coordination Procedures Act of 1973), the department of ecology, consistent with guidelines adopted by the council shall adopt rules which insure that one detailed statement prepared under RCW 43.21C.030 may be utilized by all branches of government participating in the processing of a master application. Whenever the procedures established pursuant to *chapter 90.62 RCW are used, those procedures shall be utilized wherever possible to satisfy the procedural requirements of RCW 43.21C.030(2)(c). The time limits for challenges provided for in RCW 43.21C.080(2) shall be applicable when such procedures are so utilized. [1974 ex.s. c 179 § 13.]

***Reviser's note:** Chapter 90.62 RCW was repealed by 1995 c 347 § 619.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.165 Challenges to consistency of rules adopted pursuant to RCW 43.21C.110 and 43.21C.160—Procedure—Finality. See RCW 43.21B.250.

43.21C.170 Council on environmental policy. The legislature may establish a council on environmental policy to review and assist in the implementation of this chapter. [1983 c 117 § 6; 1974 ex.s. c 179 § 4. Formerly RCW 43.21C.100.]

43.21C.175 Council on environmental policy—Personnel. The council may employ such personnel as are necessary for the performances of its duties. [1974 ex.s. c 179 § 5. Formerly RCW 43.21C.105.]

43.21C.210 Certain actions during state of emergency exempt from chapter. This chapter does not apply to actions authorized by RCW 43.37.215 and 43.37.220 which are undertaken during a state of emergency declared by the governor under RCW 43.06.210. [1981 c 278 § 4.]

43.21C.220 Incorporation of city or town exempt from chapter. The incorporation of a city or town is exempted from compliance with this chapter. [1982 c 220 § 6.]

Incorporation proceedings exempt from chapter: RCW 36.93.170.

Additional notes found at www.leg.wa.gov

43.21C.222 Annexation by city or town exempt from chapter. Annexation of territory by a city or town is exempted from compliance with this chapter. [1994 c 216 § 19.]

Additional notes found at www.leg.wa.gov

43.21C.225 Consolidation and annexation of cities and towns exempt from chapter. Consolidations of cities or towns, and the annexations of all of a city or town by another city or town, are exempted from compliance with this chapter. [1985 c 281 § 29.]

Additional notes found at www.leg.wa.gov

43.21C.227 Disincorporation of a city or town or reduction of city or town limits exempt from chapter. (1) The disincorporation of a city or town is exempt from compliance with this chapter.

(2) The reduction of city or town limits is exempt from compliance with this chapter. [2002 c 93 § 2.]

Intent—2002 c 93: "Incorporations and annexations are exempt from the state environmental policy act. However, there are no comparable exemptions for reductions of city limits or disincorporations. It is the legislature's intent to provide that a reduction in city limits or disincorporation is not subject to the state environmental policy act." [2002 c 93 § 1.]

43.21C.229 Infill development—Categorical exemptions from chapter. (1) In order to accommodate infill development and thereby realize the goals and policies of comprehensive plans adopted according to chapter 36.70A RCW, a city or county planning under RCW 36.70A.040 is authorized by this section to establish categorical exemptions from the requirements of this chapter. An exemption adopted under this section applies even if it differs from the categorical exemptions adopted by rule of the department under RCW 43.21C.110(1)(a). An exemption may be adopted by a city or county under this section if it meets the following criteria:

(a) It categorically exempts government action related to development that is new residential or mixed-use development proposed to fill in an urban growth area designated according to RCW 36.70A.110, where current density and intensity of use in the area is lower than called for in the goals and policies of the applicable comprehensive plan;

(b) It does not exempt government action related to development that would exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan; and

(c) The city or county's applicable comprehensive plan was previously subjected to environmental analysis through an environmental impact statement under the requirements of this chapter prior to adoption.

(2) Any categorical exemption adopted by a city or county under this section shall be subject to the rules of the department adopted according to RCW 43.21C.110(1)(a) that provide exceptions to the use of categorical exemptions adopted by the department. [2003 c 298 § 1.]

Severability—2003 c 298: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2003 c 298 § 3.]

43.21C.230 Development and adoption of plan under chapter 43.180 RCW exempt from chapter. This chapter does not apply to the development or adoption of the plan required to be developed and adopted under chapter 43.180 RCW. [1983 c 161 § 29.]

Additional notes found at www.leg.wa.gov

43.21C.240 Project review under the growth management act. (1) If the requirements of subsection (2) of this section are satisfied, a county, city, or town reviewing a project action shall determine that the requirements for environmental analysis, protection, and mitigation measures in the county, city, or town's development regulations and comprehensive plans adopted under chapter 36.70A RCW, and in

other applicable local, state, or federal laws and rules provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action to which the requirements apply. Rules adopted by the department according to RCW 43.21C.110 regarding project specific impacts that may not have been adequately addressed apply to any determination made under this section. In these situations, in which all adverse environmental impacts will be mitigated below the level of significance as a result of mitigation measures included by changing, clarifying, or conditioning of the proposed action and/or regulatory requirements of development regulations adopted under chapter 36.70A RCW or other local, state, or federal laws, a determination of nonsignificance or a mitigated determination of nonsignificance is the proper threshold determination.

(2) A county, city, or town shall make the determination provided for in subsection (1) of this section if:

(a) In the course of project review, including any required environmental analysis, the local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, or other local, state, or federal rules or laws; and

(b) The local government bases or conditions its approval on compliance with these requirements or mitigation measures.

(3) If a county, city, or town's comprehensive plans, subarea plans, and development regulations adequately address a project's probable specific adverse environmental impacts, as determined under subsections (1) and (2) of this section, the county, city, or town shall not impose additional mitigation under this chapter during project review. Project review shall be integrated with environmental analysis under this chapter.

(4) A comprehensive plan, subarea plan, or development regulation shall be considered to adequately address an impact if the county, city, or town, through the planning and environmental review process under chapter 36.70A RCW and this chapter, has identified the specific adverse environmental impacts and:

(a) The impacts have been avoided or otherwise mitigated; or

(b) The legislative body of the county, city, or town has designated as acceptable certain levels of service, land use designations, development standards, or other land use planning required or allowed by chapter 36.70A RCW.

(5) In deciding whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the county, city, or town shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the county, city, or town shall base or condition its project approval on compliance with these other existing rules or laws.

(6) Nothing in this section limits the authority of an agency in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by this chapter.

(7) This section shall apply only to a county, city, or town planning under RCW 36.70A.040. [2003 c 298 § 2; 1995 c 347 § 202.]

Severability—2003 c 298: See note following RCW 43.21C.229.

Findings—Intent—1995 c 347 § 202: "(1) The legislature finds in adopting RCW 43.21C.240 that:

(a) Comprehensive plans and development regulations adopted by counties, cities, and towns under chapter 36.70A RCW and environmental laws and rules adopted by the state and federal government have addressed a wide range of environmental subjects and impacts. These plans, regulations, rules, and laws often provide environmental analysis and mitigation measures for project actions without the need for an environmental impact statement or further project mitigation.

(b) Existing plans, regulations, rules, or laws provide environmental analysis and measures that avoid or otherwise mitigate the probable specific adverse environmental impacts of proposed projects should be integrated with, and should not be duplicated by, environmental review under chapter 43.21C RCW.

(c) Proposed projects should continue to receive environmental review, which should be conducted in a manner that is integrated with and does not duplicate other requirements. Project-level environmental review should be used to: (i) Review and document consistency with comprehensive plans and development regulations; (ii) provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level; and (iii) ensure accountability by local government to applicants and the public for requiring and implementing mitigation measures.

(d) When a project permit application is filed, an agency should analyze the proposal's environmental impacts, as required by applicable regulations and the environmental review process required by this chapter, in one project review process. The project review process should include land use, environmental, public, and governmental review, as provided by the applicable regulations and the rules adopted under this chapter, so that documents prepared under different requirements can be reviewed together by the public and other agencies. This project review will provide an agency with the information necessary to make a decision on the proposed project.

(e) Through this project review process: (i) If the applicable regulations require studies that adequately analyze all of the project's specific probable adverse environmental impacts, additional studies under this chapter will not be necessary on those impacts; (ii) if the applicable regulations require measures that adequately address such environmental impacts, additional measures would likewise not be required under this chapter; and (iii) if the applicable regulations do not adequately analyze or address a proposal's specific probable adverse environmental impacts, this chapter provides the authority and procedures for additional review.

(2) The legislature intends that a primary role of environmental review under chapter 43.21C RCW is to focus on the gaps and overlaps that may exist in applicable laws and requirements related to a proposed action. The review of project actions conducted by counties, cities, and towns planning under RCW 36.70A.040 should integrate environmental review with project review. Chapter 43.21C RCW should not be used as a substitute for other land use planning and environmental requirements." [1995 c 347 § 201.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

43.21C.250 Forest practices board—Emergency rules—Exempt from chapter. The duration and process for adopting emergency rules by the forest practices board pertaining to forest practices and the protection of aquatic resources as provided in RCW 76.09.055 are exempt from the procedural requirements of this chapter. [1999 sp.s. c 4 § 203.]

Additional notes found at www.leg.wa.gov

43.21C.260 Certain actions not subject to RCW 43.21C.030(2)(c)—Threshold determination on a watershed analysis. (1) Decisions pertaining to the following kinds of actions under chapter 4, Laws of 1999 sp. sess. are not subject to any procedural requirements implementing

RCW 43.21C.030(2)(c): (a) Approval of forest road maintenance and abandonment plans under chapter 76.09 RCW and *RCW 77.55.100; (b) approval by the department of natural resources of future timber harvest schedules involving east-side clear cuts under rules implementing chapter 76.09 RCW; (c) acquisitions of forest lands in stream channel migration zones under RCW 76.09.040; and (d) acquisitions of conservation easements pertaining to forest lands in riparian zones under RCW 76.13.120.

(2) For purposes of the department's threshold determination on a watershed analysis, the department shall not make a determination of significance unless the prescriptions themselves, compared to rules or prescriptions in place prior to the analysis, will cause probable significant adverse impact on elements of the environment other than those addressed in the watershed analysis process. Nothing in this subsection shall be construed to effect the outcome of pending litigation regarding the department's authority in making a threshold determination on a watershed analysis. [2003 c 39 § 24; 1999 sp.s. c 4 § 1201.]

*Reviser's note: RCW 77.55.100 was repealed by 2005 c 146 § 1006. Additional notes found at www.leg.wa.gov

43.21C.300 Workshops—Handbook. The department of ecology shall conduct annual statewide workshops and publish an annual state environmental policy act handbook or supplement to assist persons in complying with the provisions of this chapter and the implementing rules. The workshops and handbook shall include, but not be limited to, measures to assist in preparation, processing, and review of environmental documents, relevant court decisions affecting this chapter or rules adopted under this chapter, legislative changes to this chapter, administrative changes to the rules, and any other information which will assist in orderly implementation of this chapter and rules.

The department shall develop the handbook and conduct the workshops in cooperation with, but not limited to, state agencies, the association of Washington cities, the Washington association of counties, educational institutions, and other groups or associations interested in the state environmental policy act. [1983 c 117 § 9.]

43.21C.400 Unfinished nuclear power projects—Council action exempt from this chapter. Council actions pursuant to the transfer of the site or portions of the site under RCW 80.50.300 are exempt from the provisions of this chapter. [1996 c 4 § 4.]

Energy facility site evaluation council: RCW 80.50.030.

Additional notes found at www.leg.wa.gov

43.21C.410 Battery charging and exchange station installation. (1) The installation of individual battery charging stations and battery exchange stations, which individually are categorically exempt under the rules adopted under RCW 43.21C.110, may not be disqualified from such categorically exempt status as a result of their being parts of a larger proposal that includes other such facilities and related utility networks under the rules adopted under RCW 43.21C.110.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540. [2009 c 459 § 8.]

Finding—Purpose—2009 c 459: See note following RCW 47.80.090. *Regional transportation planning organizations—Electric vehicle infrastructure: RCW 47.80.090.*

43.21C.420 Comprehensive plans and development regulations—Optional elements—Nonproject environmental impact statements—Subarea plans—Transfer of development rights program—Recovery of expenses. (1) Cities with a population greater than five thousand, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within specified subareas of the cities, that are either:

(a) Areas designated as mixed-use or urban centers in a land use or transportation plan adopted by a regional transportation planning organization; or

(b) Areas within one-half mile of a major transit stop that are zoned to have an average minimum density of fifteen dwelling units or more per gross acre.

(2) Cities located on the east side of the Cascade mountains and located in a county with a population of two hundred thirty thousand or less, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within the mixed-use or urban centers. The optional elements of their comprehensive plans and optional development regulations must enhance pedestrian, bicycle, transit, or other non-vehicular transportation methods.

(3) A major transit stop is defined as:

(a) A stop on a high capacity transportation service funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems, including transitways;

(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(e) Stops for a bus or other transit mode providing fixed route service at intervals of at least thirty minutes during the peak hours of operation.

(4)(a) A city that elects to adopt such an optional comprehensive plan element and optional development regulations shall prepare a nonproject environmental impact statement, pursuant to RCW 43.21C.030, assessing and disclosing

the probable significant adverse environmental impacts of the optional comprehensive plan element and development regulations and of future development that is consistent with the plan and regulations.

(b) At least one community meeting must be held on the proposed subarea plan before the scoping notice for such a nonproject environmental impact statement is issued. Notice of scoping for such a nonproject environmental impact statement and notice of the community meeting required by this section must be mailed to all property owners of record within the subarea to be studied, to all property owners within one hundred fifty feet of the boundaries of such a subarea, to all affected federally recognized tribal governments whose ceded area is within one-half mile of the boundaries of the subarea, and to agencies with jurisdiction over the future development anticipated within the subarea.

(c) In cities with over five hundred thousand residents, notice of scoping for such a nonproject environmental impact statement and notice of the community meeting required by this section must be mailed to all small businesses as defined in RCW 19.85.020, and to all community preservation and development authorities established under chapter 43.167 RCW, located within the subarea to be studied or within one hundred fifty feet of the boundaries of such subarea. The process for community involvement must have the goal of fair treatment and meaningful involvement of all people with respect to the development and implementation of the subarea planning process.

(d) The notice of the community meeting must include general illustrations and descriptions of buildings generally representative of the maximum building envelope that will be allowed under the proposed plan and indicate that future appeals of proposed developments that are consistent with the plan will be limited. Notice of the community meeting must include signs located on major travel routes in the subarea. If the building envelope increases during the process, another notice complying with the requirements of this section must be issued before the next public involvement opportunity.

(e) Any person that has standing to appeal the adoption of this subarea plan or the implementing regulations under RCW 36.70A.280 has standing to bring an appeal of the nonproject environmental impact statement required by this subsection.

(f) Cities with over five hundred thousand residents shall prepare a study that accompanies or is appended to the nonproject environmental impact statement, but must not be part of that statement, that analyzes the extent to which the proposed subarea plan may result in the displacement or fragmentation of existing businesses, existing residents, including people living with poverty, families with children, and intergenerational households, or cultural groups within the proposed subarea plan. The city shall also discuss the results of the analysis at the community meeting.

(g) As an incentive for development authorized under this section, a city shall consider establishing a transfer of development rights program in consultation with the county where the city is located, that conserves county-designated agricultural and forest land of long-term commercial significance. If the city decides not to establish a transfer of development rights program, the city must state in the record the

reasons for not adopting the program. The city's decision not to establish a transfer of development rights program is not subject to appeal. Nothing in this subsection (4)(g) may be used as a basis to challenge the optional comprehensive plan or subarea plan policies authorized under this section.

(5)(a) Until July 1, 2018, a proposed development that is consistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) or (2) of this section and that is environmentally reviewed under subsection (4) of this section may not be challenged in administrative or judicial appeals for noncompliance with this chapter as long as a complete application for such a development that vests the application or would later lead to vested status under city or state law is submitted to the city within a time frame established by the city, but not to exceed ten years from the date of issuance of the final environmental impact statement.

(b) After July 1, 2018, the immunity from appeals under this chapter of any application that vests or will vest under this subsection or the ability to vest under this subsection is still valid, provided that the final subarea environmental impact statement is issued by July 1, 2018. After July 1, 2018, a city may continue to collect reimbursement fees under subsection (6) of this section for the proportionate share of a subarea environmental impact statement issued prior to July 1, 2018.

(6) It is recognized that a city that prepares a nonproject environmental impact statement under subsection (4) of this section must endure a substantial financial burden. A city may recover its reasonable expenses of preparation of a nonproject environmental impact statement prepared under subsection (4) of this section through access to financial assistance under RCW 36.70A.490 or funding from private sources. In addition, a city is authorized to recover a portion of its reasonable expenses of preparation of such a nonproject environmental impact statement by the assessment of reasonable and proportionate fees upon subsequent development that is consistent with the plan and development regulations adopted under subsection (5) of this section, as long as the development makes use of and benefits [from], as described in subsection (5) of this section, from the nonproject environmental impact statement prepared by the city. Any assessment fees collected from subsequent development may be used to reimburse funding received from private sources. In order to collect such fees, the city must enact an ordinance that sets forth objective standards for determining how the fees to be imposed upon each development will be proportionate to the impacts of each development and to the benefits accruing to each development from the nonproject environmental impact statement. Any disagreement about the reasonableness or amount of the fees imposed upon a development may not be the basis for delay in issuance of a project permit for that development. The fee assessed by the city may be paid with the written stipulation "paid under protest" and if the city provides for an administrative appeal of its decision on the project for which the fees are imposed, any dispute about the amount of the fees must be resolved in the same administrative appeal process.

(7) If a proposed development is inconsistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) of this

section, the city shall require additional environmental review in accordance with this chapter. [2010 c 153 § 2.]

Intent—2010 c 153: "It is the intent of the legislature to encourage high-density, compact, in-fill development and redevelopment within existing urban areas in order to further existing goals of chapter 36.70A RCW, the growth management act, to promote the use of public transit and encourage further investment in transit systems, and to contribute to the reduction of greenhouse gas emissions by: (1) Encouraging local governments to adopt plans and regulations that authorize compact, high-density urban development as defined in section 2 of this act; (2) providing for the funding and preparation of environmental impact statements that comprehensively examine the impacts of such development at the time that the plans and regulations are adopted; and (3) encouraging development that is consistent with such plans and regulations by precluding appeals under chapter 43.21C RCW." [2010 c 153 § 1.]

43.21C.900 Short title. This chapter shall be known and may be cited as the "State Environmental Policy Act" or "SEPA". [1995 c 347 § 207; 1971 ex.s. c 109 § 7.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

43.21C.910 Severability—1974 ex.s. c 179. If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 179 § 16.]

43.21C.911 Section headings not part of law—1983 c 117. Section headings as used in this act do not constitute any part of the law. [1983 c 117 § 14.]

43.21C.912 Applicability—1983 c 117. Sections 3 and 4 of this act apply to agency decisions and to appeal proceedings prospectively only and not retrospectively. Sections 1, 5, 6, 7, and 8 of this act may be applied by agencies retrospectively. [1983 c 117 § 15.]

43.21C.913 Severability—1983 c 117. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 c 117 § 16.]

43.21C.914 Effective dates—1983 c 117. (1) Sections 1, 2, and 4 through 16 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [April 23, 1983].

(2) Section 3 of this act shall take effect one hundred eighty days after the remainder of this act goes into effect under subsection (1) of this section. [1983 c 117 § 17.]

Chapter 43.21E RCW

GRASS BURNING RESEARCH ADVISORY COMMITTEE

Sections

43.21E.010	Committee created—Members.
43.21E.020	Duties of committee.
43.21E.030	Travel expenses.
43.21E.900	Termination and dissolution of committee.
43.21E.905	Reactivation of committee—Application of chapter.
43.21E.910	Severability—1975 1st ex.s. c 44.

Grass burning permits, etc.: RCW 70.94.6528 through 70.94.6532 and 70.94.6544.

43.21E.010 Committee created—Members. Within thirty days of May 15, 1975 the director of the Washington state department of ecology shall appoint a grass burning research advisory committee consisting of five voting members.

Two members shall be grass growers selected from the area of the state east of the Cascade mountain range, one representing irrigated and one representing dryland growing areas. One member shall be a grass grower selected from the area of the state west of the Cascade mountain range. One member shall be a representative of the Washington state department of agriculture, and one member shall represent the public, and may be selected at large. The committee shall select its own chair. The state department of ecology shall provide an ex officio, nonvoting member to the committee to act as secretary. [2009 c 549 § 5097; 1975 1st ex.s. c 44 § 1.]

43.21E.020 Duties of committee. The grass burning research advisory committee as provided for in RCW 43.21E.010 shall solicit and review research proposals for reducing or to develop alternates to open burning of grass fields. The committee shall advise and make recommendations to the director of the Washington state department of ecology regarding research priorities and the expenditure of mandatory research permit fees and such other grass burning research funds that may be provided by the legislature or from any other sources. [1975 1st ex.s. c 44 § 2.]

43.21E.030 Travel expenses. Travel expenses shall be paid to the grass burning research advisory committee members not otherwise employed by the state for meetings called by the director of the department of ecology in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended upon vouchers approved by said director and paid from funds budgeted for operation purposes of the state department of ecology. [1975-'76 2nd ex.s. c 34 § 102; 1975 1st ex.s. c 44 § 3.]

Additional notes found at www.leg.wa.gov

43.21E.900 Termination and dissolution of committee. It is the intent and purpose of this chapter that as soon as an alternative means of grass burning is developed for the state, or by January 1, 1980, whichever is sooner the grass burning research advisory committee shall be dissolved and its actions terminated, and the director of the state department of ecology shall see that such purpose is so carried out. [1975 1st ex.s. c 44 § 4.]

43.21E.905 Reactivation of committee—Application of chapter. Notwithstanding RCW 43.21E.900, within thirty days or after June 30, 1982, the director shall reactivate the grass burning research advisory committee by appointing new members to the committee. The provisions of this chapter, other than RCW 43.21E.900, shall apply to the reactivated committee. [1982 c 163 § 15.]

Additional notes found at www.leg.wa.gov

43.21E.910 Severability—1975 1st ex.s. c 44. If any provision of this 1975 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 44 § 6.]

**Chapter 43.21F RCW
STATE ENERGY OFFICE**

Sections

43.21F.010	Legislative findings and declaration.
43.21F.025	Definitions.
43.21F.045	Duties of department—Transfer of powers and duties relating to energy education, applied research, technology transfer, and energy efficiency in public buildings.
43.21F.055	Intervention in certain regulatory proceedings prohibited—Application to energy facility site evaluation council—Avoidance of duplication of activity.
43.21F.060	Additional duties and authority of department—Obtaining information—Confidentiality, penalty—Receiving and expending funds.
43.21F.062	Renewable energy facilities in coastal and estuarine marine waters—Guidance.
43.21F.088	State energy strategy—Principles—Implementation.
43.21F.090	State energy strategy—Review and report to legislature.
43.21F.400	Western interstate nuclear compact—Entered into—Terms.
43.21F.405	Western interstate nuclear compact—State board member—Appointment, term—May designate representative.
43.21F.410	Western interstate nuclear compact—State and local agencies and officers to cooperate.
43.21F.415	Western interstate nuclear compact—Bylaws, amendments to, filed with secretary of state.
43.21F.420	Western interstate nuclear compact—Application of state laws, benefits, when persons dispatched to another state.

43.21F.010 Legislative findings and declaration. (1) The legislature finds that the state needs to implement a comprehensive energy planning process that:

(a) Is based on high quality, unbiased analysis;

(b) Engages public agencies and stakeholders in a thoughtful, deliberative process that creates a cohesive plan that earns sustained support of the public and organizations and institutions that will ultimately be responsible for implementation and execution of the plan; and

(c) Establishes policies and practices needed to ensure the effective implementation of the strategy.

(2) The legislature further finds that energy drives the entire modern economy from petroleum for vehicles to electricity to light homes and power businesses. The legislature further finds that the nation and the world have started the transition to a clean energy economy, with significant improvements in energy efficiency and investments in new clean and renewable energy resources and technologies. The legislature further finds this transition may increase or decrease energy costs and efforts should be made to mitigate cost increases.

(3) The legislature finds and declares that it is the continuing purpose of state government, consistent with other essential considerations of state policy, to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources, the general welfare, and the protection of environmental quality.

(4) The legislature further declares that a successful state energy strategy must balance three goals to:

(2010 Ed.)

(a) Maintain competitive energy prices that are fair and reasonable for consumers and businesses and support our state's continued economic success;

(b) Increase competitiveness by fostering a clean energy economy and jobs through business and workforce development; and

(c) Meet the state's obligations to reduce greenhouse gas emissions. [2010 c 271 § 401; 1975-'76 2nd ex.s. c 108 § 1.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Additional notes found at www.leg.wa.gov

43.21F.025 Definitions. (1) "Assistant director" means the assistant director of the department of commerce responsible for energy policy activities;

(2) "Department" means the department of commerce;

(3) "Director" means the director of the department of commerce;

(4) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state;

(5) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or improved efficiency in the usage of any of the sources described in this subsection;

(6) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency, or any other entity, public or private, however organized; and

(7) "State energy strategy" means the document developed and updated by the department as allowed in RCW 43.21F.090. [2010 c 271 § 402. Prior: 2009 c 565 § 27; 1996 c 186 § 102; 1994 c 207 § 2; 1987 c 330 § 501; 1981 c 295 § 2.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—1994 c 207: "The legislature finds that the state energy strategy presented to the legislature in 1993 was developed by a dedicated and talented committee of hard-working representatives of the industries and people of this state and that the strategy document should serve to guide energy-related policy decisions by the legislature and other entities within this region." [1994 c 207 § 1.]

Additional notes found at www.leg.wa.gov

43.21F.045 Duties of department—Transfer of powers and duties relating to energy education, applied research, technology transfer, and energy efficiency in public buildings. (1) The department shall supervise and administer energy-related activities as specified in RCW 43.330.904 and shall advise the governor and the legislature with respect to energy matters affecting the state.

[Title 43 RCW—page 175]

(2) In addition to other powers and duties granted to the department, the department shall have the following powers and duties:

(a) Prepare and update contingency plans for implementation in the event of energy shortages or emergencies. The plans shall conform to chapter 43.21G RCW and shall include procedures for determining when these shortages or emergencies exist, the state officers and agencies to participate in the determination, and actions to be taken by various agencies and officers of state government in order to reduce hardship and maintain the general welfare during these emergencies. The department shall coordinate the activities undertaken pursuant to this subsection with other persons. The components of plans that require legislation for their implementation shall be presented to the legislature in the form of proposed legislation at the earliest practicable date. The department shall report to the governor and the legislature on probable, imminent, and existing energy shortages, and shall administer energy allocation and curtailment programs in accordance with chapter 43.21G RCW.

(b) Establish and maintain a central repository in state government for collection of existing data on energy resources, including:

(i) Supply, demand, costs, utilization technology, projections, and forecasts;

(ii) Comparative costs of alternative energy sources, uses, and applications; and

(iii) Inventory data on energy research projects in the state conducted under public and/or private auspices, and the results thereof.

(c) Coordinate federal energy programs appropriate for state-level implementation, carry out such energy programs as are assigned to it by the governor or the legislature, and monitor federally funded local energy programs as required by federal or state regulations.

(d) Develop energy policy recommendations for consideration by the governor and the legislature.

(e) Provide assistance, space, and other support as may be necessary for the activities of the state's two representatives to the Pacific northwest electric power and conservation planning council. To the extent consistent with federal law, the director shall request that Washington's council members request the administrator of the Bonneville power administration to reimburse the state for the expenses associated with the support as provided in the Pacific Northwest Electric Power Planning and Conservation Act (P.L. 96-501).

(f) Cooperate with state agencies, other governmental units, and private interests in the prioritization and implementation of the state energy strategy elements and on other energy matters.

(g) Serve as the official state agency responsible for coordinating implementation of the state energy strategy.

(h) No later than December 1, 1982, and by December 1st of each even-numbered year thereafter, prepare and transmit to the governor and the appropriate committees of the legislature a report on the implementation of the state energy strategy and other important energy issues, as appropriate.

(i) Provide support for increasing cost-effective energy conservation, including assisting in the removal of impediments to timely implementation.

(j) Provide support for the development of cost-effective energy resources including assisting in the removal of impediments to timely construction.

(k) Adopt rules, under chapter 34.05 RCW, necessary to carry out the powers and duties enumerated in this chapter.

(l) Provide administrative assistance, space, and other support as may be necessary for the activities of the energy facility site evaluation council, as provided for in RCW 80.50.030.

(m) Appoint staff as may be needed to administer energy policy functions and manage energy facility site evaluation council activities. These employees are exempt from the provisions of chapter 41.06 RCW.

(3) To the extent the powers and duties set out under this section relate to energy education, applied research, and technology transfer programs they are transferred to Washington State University.

(4) To the extent the powers and duties set out under this section relate to energy efficiency in public buildings they are transferred to the department of general administration. [1996 c 186 § 103; 1994 c 207 § 4; 1990 c 12 § 2; 1987 c 505 § 29; 1981 c 295 § 4.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—1994 c 207: See note following RCW 43.21F.025.

Additional notes found at www.leg.wa.gov

43.21F.055 Intervention in certain regulatory proceedings prohibited—Application to energy facility site evaluation council—Avoidance of duplication of activity. The department shall not intervene in any regulatory proceeding before the Washington utilities and transportation commission or proceedings of utilities not regulated by the commission. Nothing in this chapter abrogates or diminishes the functions, powers, or duties of the energy facility site evaluation council pursuant to chapter 80.50 RCW, the utilities and transportation commission pursuant to Title 80 RCW, or other state or local agencies established by law.

The department shall avoid duplication of activity with other state agencies and officers and other persons. [1996 c 186 § 104; 1981 c 295 § 5.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

43.21F.060 Additional duties and authority of department—Obtaining information—Confidentiality, penalty—Receiving and expending funds. In addition to the duties prescribed in RCW 43.21F.045, the department shall have the authority to:

(1) Obtain all necessary and existing information from energy producers, suppliers, and consumers, doing business within the state of Washington, from political subdivisions in this state, or any person as may be necessary to carry out the provisions of chapter 43.21G RCW: PROVIDED, That if the information is available in reports made to another state agency, the department shall obtain it from that agency: PROVIDED FURTHER, That, to the maximum extent practicable, informational requests to energy companies regulated by the utilities and transportation commission shall be channeled through the commission and shall be accepted in the

format normally used by the companies. Such information may include but not be limited to:

- (a) Sales volume;
- (b) Forecasts of energy requirements; and
- (c) Energy costs.

Notwithstanding any other provision of law to the contrary, information furnished under this subsection shall be confidential and maintained as such, if so requested by the person providing the information, if the information is proprietary.

It shall be unlawful to disclose such information except as hereinafter provided. A violation shall be punishable, upon conviction, by a fine of not more than one thousand dollars for each offense. In addition, any person who wilfully or with criminal negligence, as defined in RCW 9A.08.010, discloses confidential information in violation of this subsection may be subject to removal from office or immediate dismissal from public employment notwithstanding any other provision of law to the contrary.

Nothing in this subsection prohibits the use of confidential information to prepare statistics or other general data for publication when it is so presented as to prevent identification of particular persons or sources of confidential information.

(2) Receive and expend funds obtained from the federal government or other sources by means of contracts, grants, awards, payments for services, and other devices in support of the duties enumerated in this chapter. [1996 c 186 § 105; 1981 c 295 § 6; 1975-'76 2nd ex.s. c 108 § 6.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

43.21F.062 Renewable energy facilities in coastal and estuarine marine waters—Guidance. (1) In addition to the duties prescribed in RCW 43.21F.045, the department must develop guidance applicable to all state agencies for achieving a unified state position upon matters involving the siting and operation of renewable energy facilities in the state's coastal and estuarine marine waters. The guidance must provide procedures for coordinating the views and responsibilities of any state agency with jurisdiction or expertise over the matter under consideration, which may include federal policy proposals, activities, permits, licenses, or the extension of funding for activities in or affecting the state's marine waters. In developing the guidance, the director must consult with agencies with primary responsibilities for permitting and management of marine waters and bedlands, including the departments of natural resources, ecology, transportation, and fish and wildlife, and the state parks and recreation commission, the Puget Sound partnership, and the energy facility site evaluation council. The director must also consult and incorporate relevant information from the regional activities related to renewable energy siting in marine waters, including those under the west coast governors' agreement on ocean health.

(2) The director may not commence development of the guidance until federal, private, or other nonstate funding is secured for this activity. The director must adopt the guidance within one year of securing such funds.

(3) This section is intended to promote consistency and multiple agency coordination in developing positions and

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exercising jurisdiction in matters involving the siting and operation of renewable energy facilities and does not diminish or abrogate the authority or jurisdiction of any state agency over such matters established under any other law. [2010 c 145 § 9.]

43.21F.088 State energy strategy—Principles—Implementation. (1) The state shall use the following principles to guide development and implementation of the state's energy strategy and to meet the goals of RCW 43.21F.010:

(a) Pursue all cost-effective energy efficiency and conservation as the state's preferred energy resource, consistent with state law;

(b) Ensure that the state's energy system meets the health, welfare, and economic needs of its citizens with particular emphasis on meeting the needs of low-income and vulnerable populations;

(c) Maintain and enhance economic competitiveness by ensuring an affordable and reliable supply of energy resources and by supporting clean energy technology innovation, access to clean energy markets worldwide, and clean energy business and workforce development;

(d) Reduce dependence on fossil fuel energy sources through improved efficiency and development of cleaner energy sources, such as bioenergy, low-carbon energy sources, and natural gas, and leveraging the indigenous resources of the state for the production of clean energy;

(e) Improve efficiency of transportation energy use through advances in vehicle technology, increased system efficiencies, development of electricity, biofuels, and other clean fuels, and regional transportation planning to improve transportation choices;

(f) Meet the state's statutory greenhouse gas limits and environmental requirements as the state develops and uses energy resources;

(g) Build on the advantage provided by the state's clean regional electrical grid by expanding and integrating additional carbon-free and carbon-neutral generation, and improving the transmission capacity serving the state;

(h) Make state government a model for energy efficiency, use of clean and renewable energy, and greenhouse gas-neutral operations; and

(i) Maintain and enhance our state's existing energy infrastructure.

(2) The department shall:

(a) During energy shortage emergencies, give priority in the allocation of energy resources to maintaining the public health, safety, and welfare of the state's citizens and industry in order to minimize adverse impacts on their physical, social, and economic well-being;

(b) Develop and disseminate impartial and objective energy information and analysis, while taking full advantage of the capabilities of the state's institutions of higher education, national laboratory, and other organizations with relevant expertise and analytical capabilities;

(c) Actively seek to maximize federal and other nonstate funding and support to the state for energy efficiency, renewable energy, emerging energy technologies, and other activities of benefit to the state's overall energy future; and

(d) Monitor the actions of all agencies of the state for consistent implementation of the state's energy policy including applicable statutory policies and goals relating to energy supply and use. [2010 c 271 § 403.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

43.21F.090 State energy strategy—Review and report to legislature. The department shall review the state energy strategy as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws of 1991. Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. Any advisory committee established under this section shall be dissolved within three months after their written report is conveyed. [1996 c 186 § 106; 1994 c 207 § 5.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—1994 c 207: See note following RCW 43.21F.025.

43.21F.400 Western interstate nuclear compact—Entered into—Terms. The western interstate nuclear compact is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and any other states joining therein in accordance with the terms of the compact, which compact is substantially as follows:

ARTICLE I. POLICY AND PURPOSE

The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the West and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance, and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the West and contribute to the individual and community well-being of the region's people.

ARTICLE II. THE BOARD

(a) There is hereby created an agency of the party states to be known as the "Western Interstate Nuclear Board" (hereinafter called the Board). The Board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and

serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) The Board members of the party states shall each be entitled to one vote on the Board. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the Board are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Board shall appoint and fix the compensation of an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, and such other personnel as the Board may direct, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The Board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to paragraph (g) of this Article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Board.

(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The

Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The Board annually shall make to the governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

ARTICLE III. FINANCES

(a) The Board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the Board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II(h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II(h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) Any expenses and any other costs for each member of the Board in attending Board meetings shall be met by the Board.

(e) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the Board.

(f) The accounts of the Board shall be open at any reasonable time for inspection to persons authorized by the Board, and duly designated representatives of governments contributing to the Board's support.

ARTICLE IV. ADVISORY COMMITTEES

The Board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, State and Federal Government, and may cooperate with and use the services of

any such committees and the organizations which they represent in furthering any of its activities under this compact.

ARTICLE V. POWERS

The Board shall have power to—

(a) Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields.

(b) Ascertain and analyze on a continuing basis the position of the West with respect to the employment in industry of nuclear and related scientific findings and technologies.

(c) Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, by-products, and all other appropriate adaptations of scientific and technological advances and discoveries.

(d) Collect, correlate, and disseminate information relating to the peaceful uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology.

(e) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy.

(f) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

1. Nuclear industry, medicine, or education, or the promotion or regulation thereof.

2. Applying nuclear scientific advances or discoveries, and any industrial commercial or other processes resulting therefrom.

3. The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, by-products, installations, or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.

(g) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological or industrial fields to which this compact relates.

(h) Undertake such nonregulatory functions with respect to non-nuclear sources of radiation as may promote the economic development and general welfare of the West.

(i) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.

(j) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states or their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(k) Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, by-products, wastes, and any other nuclear or related substances, in such manner and under such conditions

as will make their availability or disposal practicable on an economic and efficient basis.

(l) Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields.

(m) Advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields.

(n) Cooperate with the Atomic Energy Commission, the National Aeronautics and Space Administration, the Office of Science and Technology, or any agencies successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

(o) Act as licensee, contractor or sub-contractor of the United States Government or any party state with respect to the conduct of any research activity requiring such license or contract and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the Board by this compact.

(p) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other materials as it deems appropriate.

(q) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents.

The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to Article VI of this compact and the furnishing of aid in response thereto.

Unless the party states concerned expressly otherwise agree, the Board shall not administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states.

However, the plan or plans of the Board in force pursuant to this paragraph shall provide for reports to the Board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances.

From time to time, the Board shall analyze the information gathered from reports of aid pursuant to Article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

(r) Prepare, maintain, and implement a regional plan or regional plans for carrying out the duties, powers, or functions conferred upon the Board by this compact.

(s) Undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

ARTICLE VI. MUTUAL AID

(a) Whenever a party state, or any state or local governmental authorities therein, request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

(b) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

(c) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(d) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(e) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of officers, employees and equipment incurred in connection with such requests: PROVIDED, That nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

(f) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

ARTICLE VII. SUPPLEMENTARY AGREEMENTS

(a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or pur-

poses; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate.

No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(d) The provisions of this Article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

ARTICLE VIII. OTHER LAWS AND RELATIONS

Nothing in this compact shall be construed to—

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress; nor limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the Board to own or operate any facility, reactor, or installation for industrial or commercial purposes.

ARTICLE IX. ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL

(a) Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law: PROVIDED, That it shall not become initially effective until enacted into law by five states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal

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shall take effect until two years after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by the Board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to Article VI, unless that Article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the Board, unless it has become a full party to the compact.

ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the Constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof. [1969 c 9 § 1. Formerly RCW 43.31.400.]

Additional notes found at www.leg.wa.gov

43.21F.405 Western interstate nuclear compact—State board member—Appointment, term—May designate representative. The board member from Washington shall be appointed by and shall serve at the pleasure of the governor. The board member may designate another person as his or her representative to attend meetings of the board. [2009 c 549 § 5098; 1969 c 9 § 2. Formerly RCW 43.31.405.]

Additional notes found at www.leg.wa.gov

43.21F.410 Western interstate nuclear compact—State and local agencies and officers to cooperate. All departments, agencies and officers of this state and its subdivisions are directed to cooperate with the board in the furtherance of any of its activities pursuant to the compact. [1969 c 9 § 3. Formerly RCW 43.31.410.]

Additional notes found at www.leg.wa.gov

43.21F.415 Western interstate nuclear compact—Bylaws, amendments to, filed with secretary of state. Pursuant to Article II(j) of the compact, the western interstate nuclear board shall file copies of its bylaws and any amend-

ments thereto with the secretary of state of the state of Washington. [1969 c 9 § 4. Formerly RCW 43.31.415.]

Additional notes found at www.leg.wa.gov

43.21F.420 Western interstate nuclear compact—Application of state laws, benefits, when persons dispatched to another state. The laws of the state of Washington and any benefits payable thereunder shall apply and be payable to any persons dispatched to another state pursuant to Article VI of the compact. If the aiding personnel are officers or employees of the state of Washington or any subdivisions thereof, they shall be entitled to the same workers' compensation or other benefits in case of injury or death to which they would have been entitled if injured or killed while engaged in coping with a nuclear incident in their jurisdictions of regular employment. [1987 c 185 § 15; 1969 c 9 § 5. Formerly RCW 43.31.420.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Additional notes found at www.leg.wa.gov

Chapter 43.21G RCW

ENERGY SUPPLY EMERGENCIES, ALERTS

Sections

- 43.21G.010 Legislative finding—Intent.
- 43.21G.020 Definitions.
- 43.21G.030 Intent in developing energy production, allocation, and consumption programs.
- 43.21G.040 Governor's energy emergency powers—Energy supply alert—Construction of chapter.
- 43.21G.050 Duty of executive authority of state and local governmental agencies to carry out supply alert or emergency measures—Liability for actions.
- 43.21G.060 Consideration of actions, orders, etc., of federal authorities.
- 43.21G.070 Compliance by affected persons.
- 43.21G.080 Compliance by distributors—Fair and just reimbursement.
- 43.21G.090 Petition for exception or modification—Appeals.
- 43.21G.100 Penalty.
- 43.21G.900 Severability—Effective date—1975-'76 2nd ex.s. c 108.

Governor's powers to declare energy emergency, etc.: RCW 43.06.200, 43.06.210.

43.21G.010 Legislative finding—Intent. The legislature finds that energy in various forms is increasingly subject to possible shortages and supply disruptions, to the point that there may be foreseen an emergency situation, and that without the ability to institute appropriate emergency measures to regulate the production, distribution, and use of energy, a severe impact on the public health, safety, and general welfare of our state's citizens may occur. The prevention or mitigation of such energy shortages or disruptions and their effects is necessary for preservation of the public health, safety, and general welfare of the citizens of this state.

It is the intent of this chapter to:

(1) Establish necessary emergency powers for the governor and define the situations under which such powers are to be exercised;

(2) Provide penalties for violations of this chapter.

It is further the intent of the legislature that in developing proposed orders under the powers granted in RCW 43.21G.040 as now or hereafter amended the governor may utilize, on a temporary or ad hoc basis, the knowledge and expertise of persons experienced in the technical aspects of

energy supply, distribution, or use. Such utilization shall be in addition to support received by the governor from the *department of community, trade, and economic development under RCW 43.21F.045 and **43.21F.065 and from other state agencies. [1996 c 186 § 507; 1981 c 295 § 11; 1977 ex.s. c 328 § 1; 1975-'76 2nd ex.s. c 108 § 15.]

Reviser's note: *(1) The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

** (2) RCW 43.21F.065 was repealed by 1996 c 186 § 524, effective July 1, 1996.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Additional notes found at www.leg.wa.gov

43.21G.020 Definitions. As used in this chapter:

(1) "Energy supply facility" means a facility which produces, extracts, converts, transports, or stores energy.

(2) "Energy" means any of the following, individually or in combination: Petroleum fuels; other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material, or electricity.

(3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency or any other entity, public or private, however organized.

(4) "Committee" means the *joint committee on energy and utilities created by RCW 44.39.010 as now or hereafter amended.

(5) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, joint operating agencies, municipal utility, public utility district, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state.

(6) "Regulated distributor" means a public service company as defined in chapter 80.04 RCW which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state.

(7) "Energy supply alert" means a situation which threatens to disrupt or diminish the supply of energy to the extent that the public health, safety, and general welfare may be jeopardized.

(8) "Energy emergency" means a situation in which the unavailability or disruption of the supply of energy poses a clear and foreseeable danger to the public health, safety, and general welfare.

(9) "State or local governmental agency" means any county, city, town, municipal corporation, political subdivision of the state, or state agency. [1977 ex.s. c 328 § 2; 1975-'76 2nd ex.s. c 108 § 16.]

***Reviser's note:** The "joint committee on energy and utilities" was changed to the "joint committee on energy supply" by 2001 c 214 § 30. The "joint committee on energy supply" was changed to the "joint committee on energy supply and energy conservation" by 2005 c 299 § 1.

Additional notes found at www.leg.wa.gov

43.21G.030 Intent in developing energy production, allocation, and consumption programs. It is the intent of the legislature that the governor shall, in developing plans for

the production, allocation, and consumption of energy, give high priority to supplying vital public services including, but not limited to, essential governmental operations, public health and safety functions, emergency services, public mass transportation systems, fish production, food production and processing facilities, including the provision of water to irrigated agriculture, and energy supply facilities, during a condition of energy supply alert or energy emergency. In developing any such plans, provisions should be made for the equitable distribution of energy among the geographic areas of the state.

It is further the intent of the legislature that the governor shall, to the extent possible, encourage and rely upon voluntary programs and local and regional programs for the production, allocation, and consumption of energy and that involvement of energy users and producers be secured in implementing such programs. [1977 ex.s. c 328 § 3; 1975-'76 2nd ex.s. c 108 § 17.]

Additional notes found at www.leg.wa.gov

43.21G.040 Governor's energy emergency powers—Energy supply alert—Construction of chapter. (1) The governor may subject to the definitions and limitations provided in this chapter:

(a) Upon finding that an energy supply alert exists within this state or any part thereof, declare a condition of energy supply alert; or

(b) Upon finding that an energy emergency exists within this state or any part thereof, declare a condition of energy emergency. A condition of energy emergency shall terminate thirty consecutive days after the declaration of such condition if the legislature is not in session at the time of such declaration and if the governor fails to convene the legislature pursuant to Article III, section 7 of the Constitution of the state of Washington within thirty consecutive days of such declaration. If the legislature is in session or convened, in accordance with this subsection, the duration of the condition of energy emergency shall be limited in accordance with subsection (3) of this section.

Upon the declaration of a condition of energy supply alert or energy emergency, the governor shall present to the committee any proposed plans for programs, controls, standards, and priorities for the production, allocation, and consumption of energy during any current or anticipated condition of energy emergency, any proposed plans for the suspension or modification of existing rules of the Washington Administrative Code, and any other relevant matters the governor deems desirable. The governor shall review any recommendations of the committee concerning such plans and matters.

Upon the declaration of a condition of energy supply alert or energy emergency, the emergency powers as set forth in this chapter shall become effective only within the area described in the declaration.

(2) A condition of energy supply alert shall terminate ninety consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy supply alert continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy supply alert.

An initial extension of an energy supply alert approved and implemented under this subsection shall be for a specified period of time not to exceed ninety consecutive days after the expiration of the original declaration. Any subsequent extensions shall be for a specified period of time not to exceed one hundred twenty consecutive days after the expiration of the previous extension.

(3) A condition of energy emergency shall terminate forty-five consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy emergency continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy emergency.

An initial extension of an energy emergency approved and implemented under this subsection shall be for a specified period of time not to exceed forty-five consecutive days after the expiration of the original declaration. Any subsequent extensions shall be for a specified period of time not to exceed sixty consecutive days after the expiration of the previous extension.

(4) A condition of energy supply alert or energy emergency shall cease to exist upon a declaration to that effect by either of the following: (a) The governor; or (b) the legislature, by concurrent resolution, if in regular or special session: PROVIDED, That the governor shall terminate a condition of energy supply alert or energy emergency when the energy supply situation upon which the declaration of a condition of energy supply alert or energy emergency was based no longer exists.

(5) In a condition of energy supply alert, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such energy supply alert, issue orders to: (a) Suspend or modify existing rules of the Washington Administrative Code of any state agency relating to the consumption of energy by such agency or to the production of energy, and (b) direct any state or local governmental agency to implement programs relating to the consumption of energy by the agency which have been developed by the governor or the agency and reviewed by the committee.

(6) In addition to the powers in subsection (5) of this section, in a condition of energy emergency, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such an emergency, issue orders to: (a) Implement programs, controls, standards, and

priorities for the production, allocation, and consumption of energy; (b) suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air or water quality control; and (c) establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states and localities.

(7) The governor shall make a reasonable, good faith effort to provide the committee with notice when the governor is considering declaring a condition of energy supply alert or energy emergency. The governor shall immediately transmit the declaration of a condition of energy supply alert or energy emergency and the findings upon which the declaration is based and any orders issued under the powers granted in this chapter to the committee. The governor shall provide the committee with at least fourteen days' notice when requesting an extension of a condition of energy supply alert or energy emergency, unless such notice is waived by the committee.

(8) Nothing in this chapter shall be construed to mean that any program, control, standard, priority or other policy created under the authority of the emergency powers authorized by this chapter shall have any continuing legal effect after the cessation of the condition of energy supply alert or energy emergency.

(9) If any provision of this chapter is in conflict with any other provision, limitation, or restriction which is now in effect under any other law of this state, including, but not limited to, chapter 34.05 RCW, this chapter shall govern and control, and such other law or rule issued thereunder shall be deemed superseded for the purposes of this chapter.

(10) Because of the emergency nature of this chapter, all actions authorized or required hereunder, or taken pursuant to any order issued by the governor, shall be exempted from any and all requirements and provisions of the state environmental policy act of 1971, chapter 43.21C RCW, including, but not limited to, the requirement for environmental impact statements.

(11) Except as provided in this section nothing in this chapter shall exempt a person from compliance with the provisions of any other law, rule, or directive unless specifically ordered by the governor. [2002 c 192 § 2; 1987 c 505 § 83; 1985 c 308 § 1; 1981 c 281 § 1; 1980 c 87 § 23; 1979 ex.s. c 158 § 1; 1977 ex.s. c 328 § 4; 1975-'76 2nd ex.s. c 108 § 18.]

Additional notes found at www.leg.wa.gov

43.21G.050 Duty of executive authority of state and local governmental agencies to carry out supply alert or emergency measures—Liability for actions. To protect the public welfare during a condition of energy supply alert or energy emergency, the executive authority of each state or local governmental agency is hereby authorized and directed to take action to carry out the orders issued by the governor pursuant to this chapter as now or hereafter amended. A local governmental agency shall not be liable for any lawful actions consistent with RCW 43.21G.030 as now or hereafter amended taken in good faith in accordance with such orders

issued by the governor. [1981 c 281 § 2; 1977 ex.s. c 328 § 5; 1975-'76 2nd ex.s. c 108 § 19.]

Additional notes found at www.leg.wa.gov

43.21G.060 Consideration of actions, orders, etc., of federal authorities. In order to attain uniformity, as far as is practicable throughout the United States, in measures taken to aid in energy crisis management, all action taken under this chapter as now or hereafter amended, and all orders and rules made pursuant hereto, shall be taken or made with due consideration for and consistent when practicable with the orders, rules, regulations, actions, recommendations, and requests of federal authorities. [1977 ex.s. c 328 § 6; 1975-'76 2nd ex.s. c 108 § 20.]

Additional notes found at www.leg.wa.gov

43.21G.070 Compliance by affected persons. Notwithstanding any provision of law or contract to the contrary, all persons who are affected by an order issued or action taken pursuant to this chapter as now or hereafter amended shall comply therewith immediately. [1977 ex.s. c 328 § 7; 1975-'76 2nd ex.s. c 108 § 21.]

Additional notes found at www.leg.wa.gov

43.21G.080 Compliance by distributors—Fair and just reimbursement. The governor may order any distributor to take such action on his or her behalf as may be required to implement orders issued pursuant to this chapter as now or hereafter amended: PROVIDED, That orders to regulated distributors shall be issued by the Washington utilities and transportation commission in conformance with orders of the governor. No distributor shall be liable for actions taken in accordance with such orders issued by the governor or the Washington utilities and transportation commission.

All allocations of energy from one distributor to another distributor pursuant to orders issued or as a result of actions taken under this chapter as now or hereafter amended are subject to fair and just reimbursement. Such reimbursement for any allocation of energy between regulated distributors shall be subject to the approval of the Washington utilities and transportation commission. A distributor is authorized to enter into agreements with another distributor for the purpose of determining financial or commodity reimbursement. [2009 c 549 § 5099; 1977 ex.s. c 328 § 8; 1975-'76 2nd ex.s. c 108 § 22.]

Additional notes found at www.leg.wa.gov

43.21G.090 Petition for exception or modification—Appeals. (1) Any person aggrieved by an order issued or action taken pursuant to this chapter as now or hereafter amended may petition the governor and request an exception from or modification of such order or action. The governor may grant, modify, or deny such petition as the public interest may require.

(2) An appeal from any order issued or action taken pursuant to this chapter as now or hereafter amended may be taken to the state supreme court. Such an appeal shall take the form of a petition for a writ of mandamus or prohibition under Article IV, section 4 of the state Constitution, and the supreme court shall have exclusive jurisdiction to hear and

act upon such an appeal. Notwithstanding the provisions of chapter 7.16 RCW, or any other applicable statute, the superior courts of this state shall have no jurisdiction to entertain an action or suit relating to any order issued or action taken pursuant to this chapter as now or hereafter amended, nor to hear and determine any appeal from any such order. The provisions of Rule 16.2, Rules of Appellate Procedure, shall apply to any proceedings in the supreme court brought pursuant to this chapter as now or hereafter amended. [1977 ex.s. c 328 § 9; 1975-'76 2nd ex.s. c 108 § 23.]

Additional notes found at www.leg.wa.gov

43.21G.100 Penalty. Any person wilfully violating any provision of an order issued by the governor pursuant to this chapter shall be guilty of a gross misdemeanor. [1975-'76 2nd ex.s. c 108 § 24.]

43.21G.900 Severability—Effective date—1975-'76 2nd ex.s. c 108. See notes following RCW 43.21F.010.

Chapter 43.21H RCW STATE ECONOMIC POLICY

Sections

- 43.21H.010 Purpose.
43.21H.020 State and local authorities to insure that economic values be given appropriate consideration in rule-making process.
43.21H.030 Statutory obligations of agencies not affected.
43.21H.900 Severability—1975-'76 2nd ex.s. c 117.

43.21H.010 Purpose. The purpose of this chapter is to assert that it is the intent of the legislature that economic values are given appropriate consideration along with environmental, social, health, and safety considerations in the promulgation of rules by state and local government. [1975-'76 2nd ex.s. c 117 § 1.]

43.21H.020 State and local authorities to insure that economic values be given appropriate consideration in rule-making process. All state agencies and local government entities with rule-making authority under state law or local ordinance shall adopt methods and procedures which will insure that economic values will be given appropriate consideration in the rule-making process along with environmental, social, health, and safety considerations. [1975-'76 2nd ex.s. c 117 § 2.]

43.21H.030 Statutory obligations of agencies not affected. Nothing in this chapter shall in any way affect the specific statutory obligations of any agency:

- (1) To comply with environmental, social, health, safety, or other standards prescribed by law;
- (2) To coordinate or consult with any other public agency; or
- (3) To act, or refrain from acting, where required by law, upon the recommendations or certification of another public agency. [1975-'76 2nd ex.s. c 117 § 3.]

43.21H.900 Severability—1975-'76 2nd ex.s. c 117. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the

application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 117 § 4.]

Chapter 43.21I RCW OIL SPILL PREVENTION PROGRAM (Formerly: Office of marine safety)

Sections

- 43.211.010 Program created—Powers and duties—Definitions.
43.211.030 Director's powers.
43.211.040 Authority to administer oaths and issue subpoenas.
43.211.900 Effective dates—Severability—1991 c 200.

Abolishment of office: RCW 88.46.921.

43.211.010 Program created—Powers and duties—Definitions. (1) There is hereby created within the department of ecology an oil spill prevention program. For the program, the department shall be vested with all powers and duties transferred to it from the *office of marine safety and such other powers and duties as may be authorized by law. The main administrative office for the program shall be located in the city of Olympia. The director may establish administrative facilities in other locations, if deemed necessary for the efficient operation of the program, and if consistent with the principles set forth in subsection (2) of this section.

(2) The oil spill prevention program shall be organized consistent with the goals of providing state government with a focus in marine transportation and serving the people of this state. The legislature recognizes that the director needs sufficient organizational flexibility to carry out the program's various duties. To the extent practical, the director shall consider the following organizational principles:

- (a) Clear lines of authority which avoid functional duplication within and between subelements of the program;
- (b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public; and
- (c) Maximum span of control without jeopardizing adequate supervision.

(3) The department, through the program, shall provide leadership and coordination in identifying and resolving threats to the safety of marine transportation and the impact of marine transportation on the environment:

- (a) Working with other state agencies and local governments to strengthen the state and local governmental partnership in providing public protection;
- (b) Providing expert advice to the executive and legislative branches of state government;
- (c) Providing active and fair enforcement of rules;
- (d) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing marine safety measures;
- (e) Providing information to the public; and
- (f) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the department shall ensure an opportunity for consultation, review, and comment before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the director may create such administrative divisions, offices, bureaus, and programs within the program as the director deems necessary. The director shall have complete charge of and supervisory powers over the program, except where the director's authority is specifically limited by law.

(6) The director shall appoint such personnel as are necessary to carry out the duties of the program. In addition to exemptions set forth in RCW 41.06.070, up to four professional staff members shall be exempt from the provisions of chapter 41.06 RCW. All other employees of the program shall be subject to the provisions of chapter 41.06 RCW.

(7) The definitions in this section apply throughout this chapter.

(a) "Department" means the department of ecology.

(b) "Director" means the director of the department. [2000 c 69 § 27; 1992 c 73 § 4; (1995 2nd sp.s. c 14 § 515 expired June 30, 1997); 1991 c 200 § 402. Formerly RCW 43.21A.710.]

***Reviser's note:** The office of marine safety was abolished and its powers, duties, and functions transferred to the department of ecology by 1991 c 200 § 430, effective July 1, 1997.

Additional notes found at www.leg.wa.gov

43.211.030 Director's powers. In addition to any other powers granted the director, the director may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of this chapter and chapter 88.46 RCW. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The director shall review each advisory committee within the jurisdiction of the program and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed. The criteria specified in *RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(4) Delegate powers, duties, and functions of the program to employees of the department as the director deems necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(5) Enter into contracts on behalf of the department to carry out the purposes of this chapter and chapter 88.46 RCW;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program for the purposes of this chapter and chapter 88.46 RCW; or

(7) Accept gifts, grants, or other funds. [2000 c 69 § 28; 1992 c 73 § 11; (1995 2nd sp.s. c 14 § 516 expired June 30, 1997); 1991 c 200 § 405. Formerly RCW 43.21A.715.]

***Reviser's note:** RCW 43.131.070 was repealed by 2000 c 189 § 11.

Additional notes found at www.leg.wa.gov

43.211.040 Authority to administer oaths and issue subpoenas. (1) The director shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the director together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings shall be governed by chapter 34.05 RCW.

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by chapter 34.05 RCW. [2000 c 69 § 29; 1991 c 200 § 407; (1995 2nd sp.s. c 14 § 517 expired June 30, 1997). Formerly RCW 43.21A.720.]

Additional notes found at www.leg.wa.gov

43.211.900 Effective dates—Severability—1991 c 200. See RCW 90.56.901 and 90.56.904.

Chapter 43.21J RCW

ENVIRONMENTAL AND FOREST RESTORATION PROJECTS

Sections

43.21J.005	Legislative findings.
43.21J.010	Intent—Purpose—Definitions.
43.21J.030	Environmental enhancement and job creation task force.
43.21J.040	Environmental enhancement and restoration project proposals—Evaluation—Award of funds.
43.21J.050	Training or employment.
43.21J.060	Unemployment compensation benefits—Training.
43.21J.070	Unemployment compensation benefits—Special base year and benefit year.
43.21J.800	Joint legislative audit and review committee report.
43.21J.900	Short title—1993 c 516.
43.21J.901	Section captions and part headings—1993 c 516.
43.21J.902	Severability—1993 c 516.
43.21J.903	Conflict with federal requirements—1993 c 516.
43.21J.904	Effective date—1993 c 516.

43.21J.005 Legislative findings. (1) The legislature finds that the long-term health of the economy of Washington state depends on the sustainable management of its natural resources. Washington's forests, estuaries, waterways, and watersheds provide a livelihood for thousands of citizens of Washington state and millions of dollars of income and tax revenues every year from forests, fisheries, shellfisheries, recreation, tourism, and other water-dependent industries.

(2) The legislature further finds that the livelihoods and revenues produced by Washington's forests, estuaries, waterways, and watersheds would be enhanced by immediate investments in clean water infrastructure and habitat restoration.

(3) The legislature further finds that an insufficiency in financial resources, especially in timber-dependent communities, has resulted in investments in clean water and habitat restoration too low to ensure the long-term economic and environmental health of Washington's forests, estuaries, waterways, and watersheds.

(4) The legislature further finds that unemployed workers and Washington's economically distressed communities,

especially timber-dependent areas, can benefit from opportunities for employment in environmental restoration projects.

(5) The legislature therefore declares that immediate investments in a variety of environmental restoration projects, based on sound principles of watershed management and environmental and forest restoration, are necessary to rehabilitate damaged watersheds and to assist dislocated workers and the unemployed gain job skills necessary for long-term employment. [1993 c 516 § 1.]

43.21J.010 Intent—Purpose—Definitions. (1) It is the intent of this chapter to provide financial resources to make substantial progress toward: (a) Implementing the Puget Sound water quality management plan and other watershed-based management strategies and plans; (b) ameliorating degradation to watersheds; and (c) keeping and creating stable, environmentally sound, good wage employment in Washington state. The legislature intends that employment under this chapter is not to result in the displacement or partial displacement, whether by the reduction of hours of non-overtime work, wages, or other employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services.

(2) It is the purpose of this chapter to:

(a) Implement clean water, forest, and habitat restoration projects that will produce measurable improvements in water and habitat quality, that rate highly when existing environmental ranking systems are applied, and that provide economic stability.

(b) Facilitate the coordination and consistency of federal, state, tribal, local, and private water and habitat protection and enhancement programs in the state's watersheds.

(c) Fund necessary projects for which a public planning process has been completed.

(d) Provide immediate funding to create jobs and training for environmental restoration and enhancement jobs for unemployed workers and displaced workers in impact areas, especially rural natural resources-dependent communities.

(3) For purposes of this chapter "impact areas" means: (a) Distressed counties as defined in *RCW 43.168.020; and (b) areas that the task force determines are likely to experience dislocations in the near future from downturns in natural resource-based industries.

(4) For purposes of this chapter, "high-risk youth" means youth eligible for Washington conservation corps programs under chapter 43.220 RCW or Washington service corps programs under chapter 50.65 RCW.

(5) For purposes of this chapter, "dislocated forest products worker" has the meaning set forth in **RCW 50.70.010.

(6) For purposes of this chapter, "task force" means the environmental enhancement and job creation task force created under RCW 43.21J.030. [2005 c 136 § 1; 1995 c 226 § 26; 1993 c 516 § 2.]

Reviser's note: *(1) RCW 43.168.020 defines "distressed area."

** (2) RCW 50.70.010 was repealed by 1995 c 226 § 35, effective June 30, 2001.

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

Additional notes found at www.leg.wa.gov

(2010 Ed.)

43.21J.030 Environmental enhancement and job creation task force. (1) There is created the environmental enhancement and job creation task force within the office of the governor. The purpose of the task force is to provide a coordinated and comprehensive approach to implementation of chapter 516, Laws of 1993. The task force shall consist of the commissioner of public lands, the director of the department of fish and wildlife, the director of the department of ecology, the director of the parks and recreation commission, the timber team coordinator, the executive director of the workforce training and education coordinating board, and the executive director of the Puget Sound partnership, or their designees. The task force may seek the advice of the following agencies and organizations: The *department of community, trade, and economic development, the conservation commission, the employment security department, the recreation and conservation office, appropriate federal agencies, appropriate special districts, the Washington state association of counties, the association of Washington cities, labor organizations, business organizations, timber-dependent communities, environmental organizations, and Indian tribes. The governor shall appoint the task force chair. Members of the task force shall serve without additional pay. Participation in the work of the committee by agency members shall be considered in performance of their employment. The governor shall designate staff and administrative support to the task force and shall solicit the participation of agency personnel to assist the task force.

(2) The task force shall have the following responsibilities:

(a) Soliciting and evaluating, in accordance with the criteria set forth in RCW 43.21J.040, requests for funds from the **environmental and forest restoration account and making distributions from the account. The task force shall award funds for projects and training programs it approves and may allocate the funds to state agencies for disbursement and contract administration;

(b) Coordinating a process to assist state agencies and local governments to implement effective environmental and forest restoration projects funded under this chapter;

(c) Considering unemployment profile data provided by the employment security department.

(3) Beginning July 1, 1994, the task force shall have the following responsibilities:

(a) To solicit and evaluate proposals from state and local agencies, private nonprofit organizations, and tribes for environmental and forest restoration projects;

(b) To rank the proposals based on criteria developed by the task force in accordance with RCW 43.21J.040; and

(c) To determine funding allocations for projects to be funded from the account created in **RCW 43.21J.020 and for projects or programs as designated in the omnibus operating and capital appropriations acts. [2007 c 341 § 62; 2007 c 241 § 4; 1998 c 245 § 60; 1994 c 264 § 17; 1993 c 516 § 5.]

Reviser's note: *(1) The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

** (2) The "environmental and forest restoration account" was created in RCW 43.21J.020 which was repealed by 2000 c 150 § 2, effective July 1, 2001.

(3) This section was amended by 2007 c 241 § 4 and by 2007 c 341 § 62, each without reference to the other. Both amendments are incorporated

in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

43.21J.040 Environmental enhancement and restoration project proposals—Evaluation—Award of funds.

(1) Subject to the limitations of *RCW 43.21J.020, the task force shall award funds from the *environmental and forest restoration account on a competitive basis. The task force shall evaluate and rate environmental enhancement and restoration project proposals using the following criteria:

(a) The ability of the project to produce measurable improvements in water and habitat quality;

(b) The cost-effectiveness of the project based on: (i) Projected costs and benefits of the project; (ii) past costs and environmental benefits of similar projects; and (iii) the ability of the project to achieve cost efficiencies through its design to meet multiple policy objectives;

(c) The inclusion of the project as a high priority in a federal, state, tribal, or local government plan relating to environmental or forest restoration, including but not limited to a local watershed action plan, storm water management plan, capital facility plan, growth management plan, or a flood control plan; or the ranking of the project by conservation districts as a high priority for water quality and habitat improvements;

(d) The number of jobs to be created by the project for dislocated forest products workers, high-risk youth, and residents of impact areas;

(e) Participation in the project by environmental businesses to provide training, cosponsor projects, and employ or jointly employ project participants;

(f) The ease with which the project can be administered from the community the project serves;

(g) The extent to which the project will either augment existing efforts by organizations and governmental entities involved in environmental and forest restoration in the community or receive matching funds, resources, or in-kind contributions; and

(h) The capacity of the project to produce jobs and job-related training that will pay market rate wages and impart marketable skills to workers hired under this chapter.

(2) The following types of projects and programs shall be given top priority in the first fiscal year after July 1, 1993:

(a) Projects that are highly ranked in and implement adopted or approved watershed action plans, such as those developed pursuant to rules adopted by the agency then known as the **Puget Sound water quality authority for local planning and management of nonpoint source pollution;

(b) Conservation district projects that provide water quality and habitat improvements;

(c) Indian tribe projects that provide water quality and habitat improvements; or

(d) Projects that implement actions approved by a shell-fish protection district under chapter 100, Laws of 1992.

(3) Funds shall not be awarded for the following activities:

(a) Administrative rule making;

(b) Planning; or

(c) Public education. [2007 c 341 § 63; 1993 c 516 § 4.]

Reviser's note: *(1) The "environmental and forest restoration account" was created in RCW 43.21J.020 which was repealed by 2000 c 150 § 2, effective July 1, 2001.

***(2) The Puget Sound water quality authority and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1995, and repealed June 30, 1996. See 1990 c 115 §§ 11 and 12. Powers, duties, and functions of the Puget Sound water quality authority pertaining to cleanup and protection of Puget Sound transferred to the Puget Sound action team by 1996 c 138 § 11. See RCW 90.71.903. For later enactment regarding the Puget Sound partnership, see chapter 90.71 RCW.

Severability—Effective date—2007 c 341: See RCW 90.71.906 and 90.71.907.

43.21J.050 Training or employment. (1) Eligibility for training or employment in projects funded through the *environmental and forest restoration account shall, to the extent practicable, be for workers who are currently unemployed.

(2) To the greatest extent practicable, the following groups of individuals shall be given preference for training or employment in projects funded through the *environmental and forest restoration account:

(a) Dislocated workers who are receiving unemployment benefits or have exhausted unemployment benefits; and

(b) High-risk youth.

(3) Projects funded for forest restoration shall be for workers whose employment was terminated in the Washington forest products industry within the previous four years.

(4) The task force shall submit a list to private industry councils and the employment security department of projects receiving funds under the provisions of this chapter. The list shall include the number, location, and types of jobs expected to be provided by each project. The employment security department shall recruit workers for these jobs by:

(a) Notifying dislocated forest workers who meet the definitions in chapter 50.70 RCW, who are receiving unemployment benefits or who have exhausted unemployment benefits, of their eligibility for the programs;

(b) Notifying other unemployed workers;

(c) Developing a pool of unemployed workers including high-risk youth eligible to enroll in the program; and

(d) Establishing procedures for workers to apply to the programs.

(5) The employment security department shall refer eligible workers to employers hiring under the *environmental and forest restoration account programs. Recipients of funds shall consider the list of eligible workers developed by the employment security department before conducting interviews or making hiring decisions. Recipients of funds shall ensure that workers are aware of whatever opportunities for vocational training, job placement, and remedial education are available from the employment security department.

(6) An individual is eligible for applicable employment security benefits while participating in training related to this chapter. Eligibility shall be confirmed by the commissioner of employment security by submitting a commissioner-approved training waiver.

(7) Persons receiving funds from the *environmental and forest restoration account shall not be considered state employees for the purposes of existing provisions of law with respect to hours of work, sick leave, vacation, and civil service but shall receive health benefits. Persons receiving funds from this account who are hired by a state agency, except for

Washington conservation and service corps enrollees, shall receive medical and dental benefits as provided under chapter 41.05 RCW and industrial insurance coverage under Title 51 RCW, but are exempt from the provisions of chapter 41.06 RCW.

(8) Compensation for employees, except for Washington conservation and service corps enrollees, hired under the program established by this chapter shall be based on market rates in accordance with the required skill and complexity of the jobs created. Remuneration paid to employees under this chapter shall be considered covered employment for purposes of chapter 50.04 RCW.

(9) Employment under this program shall not result in the displacement or partial displacement, whether by the reduction of hours of nonovertime work, wages, or other employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services. [1993 c 516 § 8.]

***Reviser's note:** The "environmental and forest restoration account" was created in RCW 43.21J.020 which was repealed by 2000 c 150 § 2, effective July 1, 2001.

43.21J.060 Unemployment compensation benefits—Training. An individual shall be considered to be in training with the approval of the commissioner as defined in RCW 50.20.043, and be eligible for applicable unemployment insurance benefits while participating in and making satisfactory progress in training related to this chapter. [1993 c 516 § 9.]

43.21J.070 Unemployment compensation benefits—Special base year and benefit year. For the purpose of providing the protection of the unemployment compensation system to individuals at the conclusion of training or employment obtained as a result of this chapter, a special base year and benefit year are established.

(1) Only individuals who have entered training or employment provided by the *environmental and forest restoration account, and whose employment or training under such account was not considered covered under chapter 50.04 RCW, shall be allowed the special benefit provisions of this chapter.

(2) An application for initial determination made under this chapter must be filed in writing with the employment security department within twenty-six weeks following the week in which the individual commenced employment or training obtained as a result of this chapter. Notice from the individual, from the employing entity, or notice of hire from employment security department administrative records shall satisfy this requirement.

(3) For the purpose of this chapter, a special base year is established for an individual consisting of the first four of the last five completed calendar quarters, or if a benefit year is not established using the first four of the last five completed calendar quarters as the base year, the last four completed calendar quarters immediately prior to the first day of the calendar week in which the individual began employment or training provided by the *environmental and forest restoration account.

(4) A special individual benefit year is established consisting of the entire period of training or employment pro-

vided by the *environmental and forest restoration account and a fifty-two consecutive week period commencing with the first day of the calendar week in which the individual last participated in such employment or training. No special benefit year shall have a duration in excess of three hundred twelve calendar weeks. Such special benefit year will not be established unless the criteria contained in RCW 50.04.030 has been met, except that an individual meeting the requirements of this chapter and who has an unexpired benefit year established which would overlap the special benefit year may elect to establish a special benefit year under this chapter, notwithstanding the provisions in RCW 50.04.030 relating to establishment of a subsequent benefit year, and RCW 50.40.010 relating to waiver of rights. Such unexpired benefit year shall be terminated with the beginning of the special benefit year if the individual elects to establish a special benefit year under this chapter.

(5) The individual's weekly benefit amount and maximum amount payable during the special benefit year shall be governed by the provisions contained in RCW 50.20.120. The individual's basic and continuing right to benefits shall be governed by the general laws and rules relating to the payment of unemployment compensation benefits to the extent that they are not in conflict with the provisions of this chapter.

(6) The fact that wages, hours, or weeks worked during the special base year may have been used in computation of a prior valid claim for unemployment compensation shall not affect a claim for benefits made under the provisions of this chapter. However, wages, hours, and weeks worked used in computing entitlement on a claim filed under this chapter shall not be available or used for establishing entitlement or amount of benefits in any succeeding benefit year.

(7) Benefits paid to an individual filing under the provisions of this section shall not be charged to the experience rating account of any contribution paying employer. [1993 c 516 § 10.]

***Reviser's note:** The "environmental and forest restoration account" was created in RCW 43.21J.020 which was repealed by 2000 c 150 § 2, effective July 1, 2001.

43.21J.800 Joint legislative audit and review committee report. On or before June 30, 1998, the joint legislative audit and review committee shall prepare a report to the legislature evaluating the implementation of the environmental restoration jobs act of 1993, chapter 516, Laws of 1993. [1996 c 288 § 36; 1993 c 516 § 11.]

43.21J.900 Short title—1993 c 516. This act shall be known as the environmental restoration jobs act of 1993. [1993 c 516 § 15.]

43.21J.901 Section captions and part headings—1993 c 516. Section captions and part headings as used in this act constitute no part of the law. [1993 c 516 § 16.]

43.21J.902 Severability—1993 c 516. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 516 § 17.]

43.21J.903 Conflict with federal requirements—1993 c 516. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state. [1993 c 516 § 19.]

43.21J.904 Effective date—1993 c 516. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993. [1993 c 516 § 20.]

Chapter 43.21K RCW ENVIRONMENTAL EXCELLENCE PROGRAM AGREEMENTS

Sections

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43.21K.170	Environmental excellence account.

43.21K.005 Purpose—1997 c 381. The purpose of chapter 381, Laws of 1997 is to create a voluntary program authorizing environmental excellence program agreements with persons regulated under the environmental laws of the state of Washington, and to direct agencies of the state of Washington to solicit and support the development of agreements that use innovative environmental measures or strategies to achieve environmental results more effectively or efficiently.

Agencies shall encourage environmental excellence program agreements that favor or promote pollution prevention, source reduction, or improvements in practices that are transferable to other interested entities or that can achieve better overall environmental results than required by otherwise applicable rules and requirements.

In enacting chapter 381, Laws of 1997 it is not the intent of the legislature that state environmental standards be applied in a manner that could result in these state standards

being waived under section 121 of the federal comprehensive environmental response, compensation, and liability act (42 U.S.C. Sec. 9261). [1997 c 381 § 1.]

43.21K.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "State, regional, or local agency" means an agency, board, department, authority, or commission that administers environmental laws.

(2) "Coordinating agency" means the state, regional, or local agency with the primary regulatory responsibility for the proposed environmental excellence program agreement. If multiple agencies have jurisdiction to administer state environmental laws affected by an environmental excellence agreement, the department of ecology shall designate or act as the coordinating agency.

(3) "Director" means the individual or body of individuals in whom the ultimate legal authority of an agency is vested by any provision of law. If the agency head is a body of individuals, a majority of those individuals constitutes the director.

(4) "Environmental laws" means chapters 43.21A, 70.94, 70.95, 70.105, 70.119A, 77.55, 90.48, 90.52, 90.58, 90.64, and 90.71 RCW, and RCW 90.54.020(3)(b) and rules adopted under those chapters and section. The term environmental laws as used in this chapter does not include any provision of the Revised Code of Washington, or of any municipal ordinance or enactment, that regulates the selection of a location for a new facility.

(5) "Facility" means a site or activity that is regulated under any of the provisions of the environmental laws.

(6) "Legal requirement" includes any provision of an environmental law, rule, order, or permit.

(7) "Sponsor" means the owner or operator of a facility, including a municipal corporation, subject to regulation under the environmental laws of the state of Washington, or an authorized representative of the owner or operator, that submits a proposal for an environmental excellence program agreement.

(8) "Stakeholder" means a person who has a direct interest in the proposed environmental excellence program agreement or who represents a public interest in the proposed environmental excellence program agreement. Stakeholders may include communities near the project, local or state governments, permittees, businesses, environmental and other public interest groups, employees or employee representatives, or other persons. [2003 c 39 § 25; 1997 c 381 § 2.]

43.21K.020 Agreements—Environmental results. An environmental excellence program agreement entered into under this chapter must achieve more effective or efficient environmental results than the results that would be otherwise achieved. The basis for comparison shall be a reasonable estimate of the overall impact of the participating facility on the environment in the absence of an environmental excellence program agreement. More effective environmental results are results that are better overall than those that would be achieved under the legal requirements superseded or replaced by the agreement. More efficient environmental

results are results that are achieved at reduced cost but do not decrease the overall environmental results achieved by the participating facility. An environmental excellence program agreement may not authorize either (1) the release of water pollutants that will cause to be exceeded, at points of compliance in the ambient environment established pursuant to law, numeric surface water or groundwater quality criteria or numeric sediment quality criteria adopted as rules under chapter 90.48 RCW; or (2) the emission of any air contaminants that will cause to be exceeded any air quality standard as defined in RCW 70.94.030(3); or (3) a decrease in the overall environmental results achieved by the participating facility compared with results achieved over a representative period before the date on which the agreement is proposed by the sponsor. However, an environmental excellence program agreement may authorize reasonable increases in the release of pollutants to permit increases in facility production or facility expansion and modification. [1997 c 381 § 3.]

43.21K.030 Authority for agreements—Restrictions.

(1) The director of a state, regional, or local agency may enter into an environmental excellence program agreement with any sponsor, even if one or more of the terms of the environmental excellence program agreement would be inconsistent with an otherwise applicable legal requirement. An environmental excellence program agreement must meet the requirements of RCW 43.21K.020. Otherwise applicable legal requirements identified according to RCW 43.21K.060(1) shall be superseded and replaced in accordance with RCW 43.21K.080.

(2) The director of a state, regional, or local agency may enter into an environmental excellence program agreement only to the extent the state, regional, or local agency has jurisdiction to administer state environmental laws either directly or indirectly through the adoption of rules.

(3) Where a sponsor proposes an environmental excellence program agreement that would affect legal requirements applicable to the covered facility that are administered by more than one state, regional, or local agency, the coordinating agency shall take the lead in developing the environmental excellence program agreement with the sponsor and other agencies administering legal requirements applicable to the covered facility and affected by the agreement. The environmental excellence program agreement does not become effective until the agreement is approved by the director of each agency administering legal requirements identified according to RCW 43.21K.060(1).

(4) No director may enter into an environmental excellence program agreement applicable to a remedial action conducted under the Washington model toxics control act, chapter 70.105D RCW, or the federal comprehensive environmental response, compensation and liability act (42 U.S.C. Sec. 9601 et seq.). No action taken under this chapter shall be deemed a waiver of any applicable, relevant, or appropriate requirements for any remedial action conducted under the Washington model toxics control act or the federal comprehensive environmental response, compensation and liability act.

(5) The directors of state, regional, or local agencies shall not enter into an environmental excellence program agreement or a modification of an environmental excellence

program agreement containing terms affecting legal requirements adopted to comply with provisions of a federal regulatory program and to which the responsible federal agency objects after notice under the terms of RCW 43.21K.070(4).

(6) The directors of regional or local governments may not enter into an environmental excellence program agreement or a modification of an environmental excellence program agreement containing terms affecting legal requirements that are subject to review or appeal by a state agency, including but not limited to chapters 70.94, 70.95, and 90.58 RCW, and to which the responsible state agency objects after notice is given under the terms of RCW 43.21K.070(4). [1997 c 381 § 4.]

43.21K.040 Proposals for agreements. (1) A sponsor may propose an environmental excellence program agreement. A trade association or other authorized representative of a sponsor or sponsors may propose a programmatic environmental excellence program agreement for multiple facilities.

(2) A sponsor must submit, at a minimum, the following information and other information that may be requested by the director or directors required to sign the agreement:

(a) A statement that describes how the proposal is consistent with the purpose of this chapter and the project approval criteria in RCW 43.21K.020;

(b)(i) For a site-specific proposal, a comprehensive description of the proposed environmental excellence project that includes the nature of the facility and the operations that will be affected, how the facility or operations will achieve results more effectively or efficiently, and the nature of the results anticipated; or

(ii) For a programmatic proposal, a comprehensive description of the proposed environmental excellence project that identifies the facilities and the operations that are expected to participate, how participating facilities or operations will achieve environmental results more effectively or efficiently, the nature of the results anticipated, and the method to identify and document the commitments made by individual participants;

(c) An environmental checklist, containing sufficient information to reasonably inform the public of the nature of the proposed environmental excellence program agreement and describing probable significant adverse environmental impacts and environmental benefits expected from implementation of the proposal;

(d) A draft environmental excellence program agreement;

(e) A description of the stakeholder process as provided in RCW 43.21K.050;

(f) A preliminary identification of the permit amendments or modifications that may be necessary to implement the proposed environmental excellence program agreement. [1997 c 381 § 5.]

43.21K.050 Stakeholder participation. (1) Stakeholder participation in and support for an environmental excellence program agreement is vital to the integrity of the environmental excellence program agreement and helps to

inform the decision whether an environmental excellence program agreement can be approved.

(2) A proposal for an environmental excellence program agreement shall include the sponsor's plan to identify and contact stakeholders, to advise stakeholders of the facts and nature of the project, and to request stakeholder participation and review. Stakeholder participation and review shall occur during the development, consideration, and implementation stages of the proposed environmental excellence program agreement. The plan shall include notice to the employees of the facility to be covered by the proposed environmental excellence program agreement and public notice in the area of the covered facility.

(3) The coordinating agency shall extend an invitation to participate in the development of the proposal to a broad and representative sector of the public likely to be affected by the environmental excellence program agreement, including representatives of local community, labor, environmental, and neighborhood advocacy groups. The coordinating agency shall select participants to be included in the stakeholder process that are representative of the diverse sectors of the public that are interested in the agreement. The stakeholder process shall include the opportunity for discussion and comment at multiple stages of the process and access to the information relied upon by the directors in approving the agreement.

(4) The coordinating agency will identify any additional provisions for the stakeholder process that the director of the coordinating agency, in the director's sole discretion, considers appropriate to the success of the stakeholder process, and provide for notice to the United States environmental protection agency or other responsible federal agency of each proposed environmental excellence program agreement that may affect legal requirements of any program administered by that agency. [1997 c 381 § 6.]

43.21K.060 Terms and conditions of agreements. An environmental excellence program agreement must contain the following terms and conditions:

(1) An identification of all legal requirements that are superseded or replaced by the environmental excellence program agreement;

(2) A description of all legal requirements that are enforceable as provided in RCW 43.21K.110(1) that are different from those legal requirements applicable in the absence of the environmental excellence program agreement;

(3) A description of the voluntary goals that are or will be pursued by the sponsor;

(4) A statement describing how the environmental excellence program agreement will achieve the purposes of this chapter;

(5) A statement describing how the environmental excellence program agreement will be implemented, including a list of steps and an implementation schedule;

(6) A statement that the proposed environmental excellence program agreement will not increase overall worker safety risks or cause an unjust or disproportionate and inequitable distribution of environmental risks among diverse economic and cultural communities;

(7) A summary of the stakeholder process that was followed in the development of the environmental excellence program agreement;

(8) A statement describing how any participating facility shall measure and demonstrate its compliance with the environmental excellence program agreement including, without limitation, a description of the methods to be used to monitor performance, criteria that represent acceptable performance, and the method of reporting performance to the public and local communities. The facility's compliance with the agreement must be independently verifiable;

(9) A description of and plan for public participation in the implementation of the environmental excellence program agreement and for public access to information needed to assess the benefits of the environmental excellence program agreement and the sponsor's compliance with the environmental excellence program agreement;

(10) A schedule of periodic performance review of the environmental excellence program agreement by the directors that signed the agreement;

(11) Provisions for voluntary and involuntary termination of the agreement;

(12) The duration of the environmental excellence program agreement and provisions for renewal;

(13) Statements approving the environmental excellence program agreement made by the sponsor and by or on behalf of directors of each state, regional, or local agency administering legal requirements that are identified according to subsection (1) of this section;

(14) Additional terms as requested by the directors signing the environmental excellence program agreement and consistent with this chapter;

(15) Draft permits or permit modifications as needed to implement the environmental excellence program agreement;

(16) With respect to a programmatic environmental excellence program agreement, a statement of the method with which to identify and document the specific commitments to be made by individual participants. [1997 c 381 § 7.]

43.21K.070 Public comment—Notice—Responsiveness summary—Copy to federal agency. (1) The coordinating agency shall provide at least thirty days after notice has been published in a newspaper under subsection (2) of this section for public comment on a proposal to enter into or modify an environmental excellence program agreement.

The coordinating agency may provide for an additional period of public comment if required by the complexity of the proposed environmental excellence program agreement and the degree of public interest. Before the start of the comment period, the coordinating agency shall prepare a proposed agreement, a public notice and a fact sheet. The fact sheet shall: (a) Briefly describe the principal facts and the significant factual, legal, methodological and policy questions considered by the directors signing the agreement, and the directors' proposed decisions; and (b) briefly describe how the proposed action meets the requirements of RCW 43.21K.020.

(2) The coordinating agency shall publish notice of the proposed agreement in the Washington State Register and in a newspaper of general circulation in the vicinity of the facility or facilities covered by the proposed environmental excellence program agreement. The notice shall generally describe the agreement or modification; the facilities to be covered;

summarize the changes in legal requirements that will result from the agreement; summarize the reasons for approving the agreement or modifications; identify an agency person to contact for additional information; state that the proposed agreement or modification and fact sheet are available on request; and state that comments may be submitted to the agency during the comment period. The coordinating agency shall order a public informational meeting or a public hearing to receive oral comments if the written comments during the comment period demonstrate considerable public interest in the proposed agreement.

(3) The coordinating agency shall prepare and make available a responsiveness summary indicating the agencies' actions taken in response to comments and the reasons for those actions.

(4) With respect to an environmental excellence program agreement that affects legal requirements adopted to comply with provisions of a federal regulatory program, the coordinating agency shall provide a copy of the environmental excellence program agreement, and a copy of the notice required by subsection (1) of this section, to the federal agency that is responsible for administering that program at least thirty days before entering into or modifying the environmental excellence program agreement, and shall afford the federal agency the opportunity to object to those terms of the environmental excellence program agreement or modification of an environmental excellence program agreement affecting the legal requirements. The coordinating agency shall provide similar notice to state agencies that have statutory review or appeal responsibilities regarding provisions of the environmental excellence program agreement. [1997 c 381 § 8.]

43.21K.080 Effect of agreements on legal requirements and permits—Permit revisions—Programmatic agreements. (1) Notwithstanding any other provision of law, any legal requirement identified under RCW 43.21K.060(1) shall be superseded or replaced in accordance with the terms of the environmental excellence program agreement. Legal requirements contained in a permit that are affected by an environmental excellence program agreement will continue to be enforceable until such time as the permit is revised in accordance with subsection (2) of this section. With respect to any other legal requirements, the legal requirements contained in the environmental excellence program agreement are effective as provided by the environmental excellence program agreement, and the facility or facilities covered by an environmental excellence program agreement shall comply with the terms of the environmental excellence program agreement in lieu of the legal requirements that are superseded and replaced by the approved environmental excellence program agreement.

(2) Any permits affected by an environmental excellence program agreement shall be revised to conform to the environmental excellence program agreement by the agency with jurisdiction. The permit revisions will be completed within one hundred twenty days of the effective date of the agreement in accordance with otherwise applicable procedural requirements, including, where applicable, public notice and the opportunity for comment, and the opportunity for review and objection by federal agencies.

(3) Other than as superseded or replaced as provided in an approved environmental excellence program agreement, any existing permit requirements remain in effect and are enforceable.

(4) A programmatic environmental excellence program agreement shall become applicable to an individual facility when all directors entering into the programmatic agreement approve the owner or operator's commitment to comply with the agreement. A programmatic agreement may not take effect, however, until notice and an opportunity to comment for the individual facility has been provided in accordance with the requirements of RCW 43.21K.070 (1) through (3). [1997 c 381 § 9.]

43.21K.090 Judicial review. (1) A decision by the directors of state, regional, or local agencies to approve a proposed environmental excellence program agreement, or to terminate or modify an approved environmental excellence program agreement, is subject to judicial review in superior court. For purposes of judicial review, the court may grant relief from the decision to approve or modify an environmental excellence program agreement only if it determines that the action: (a) Violates constitutional provisions; (b) exceeds the statutory authority of the agency; (c) was arbitrary and capricious; or (d) was taken without compliance with the procedures provided by this chapter. However, the decision of the director or directors shall be accorded substantial deference by the court. A decision not to enter into or modify an environmental excellence program agreement and a decision not to accept a commitment under RCW 43.21K.080(4) to comply with the terms of a programmatic environmental excellence [program] agreement are within the sole discretion of the directors of the state, regional, or local agencies and are not subject to review.

(2) An appeal from a decision to approve or modify a facility specific or a programmatic environmental excellence program agreement is not timely unless filed with the superior court and served on the parties to the environmental excellence program agreement within thirty days of the date on which the agreement or modification is signed by the director. For an environmental excellence program agreement or modification signed by more than one director, there is only one appeal, and the time for appeal shall run from the last date on which the agreement or modification is signed by a director.

(3) A decision to accept the commitment of a specific facility to comply with the terms of a programmatic environmental excellence program agreement, or to modify the application of an agreement to a specific facility, is subject to judicial review as described in subsection (1) of this section. An appeal is not timely unless filed with the superior court and served on the directors signing the agreement, the sponsor, and the owner or operator of the specific facility within thirty days of the date the director or directors that signed the programmatic agreement approve the owner or operator's commitment to comply with the agreement. For a programmatic environmental excellence program agreement or modification signed by more than one director, there shall be only one appeal and the time for appeal shall run from the last date on which a director approves the commitment.

(4) The issuance of permits and permit modifications is subject to review under otherwise applicable law.

(5) An appeal of a decision by a director under *section 11 of this act to terminate in whole or in part a facility specific or programmatic environmental excellence program agreement is not timely unless filed with the superior court and served on the director within thirty days of the date on which notice of the termination is issued under *section 11(2) of this act. [1997 c 381 § 10.]

*Reviser's note: Section 11 of this act was vetoed by the governor.

43.21K.100 Continued effect of agreements and permits—Modification of affected permit or approval. After a termination under *section 11 of this act is final and no longer subject to judicial review, the sponsor has sixty days in which to apply for any permit or approval affected by any terminated portion of the environmental excellence program agreement. An application filed during the sixty-day period shall be deemed a timely application for renewal of a permit under the terms of any applicable law. Except as provided in *section 11(4) of this act, the terms and conditions of the environmental excellence program agreement and of permits issued will continue in effect until a final permit or approval is issued. If the sponsor fails to submit a timely or complete application, any affected permit or approval may be modified at any time that is consistent with applicable law. [1997 c 381 § 12.]

*Reviser's note: Section 11 of this act was vetoed by the governor.

43.21K.110 Enforceable and voluntary commitments—Enforcement actions. (1) The legal requirements contained in the environmental excellence program agreement in accordance with RCW 43.21K.060(2) are enforceable commitments of the facility covered by the agreement. Any violation of these legal requirements is subject to penalties and remedies to the same extent as the legal requirements that they superseded or replaced.

(2) The voluntary goals stated in the environmental excellence program agreement in accordance with RCW 43.21K.060(3) are voluntary commitments of the facility covered by the agreement. If the facility fails to meet these goals, it shall not be subject to any form of enforcement action, including penalties, orders, or any form of injunctive relief. The failure to make substantial progress in meeting these goals may be a basis on which to terminate the environmental excellence program agreement under *section 11 of this act.

(3) Nothing in this chapter limits the authority of an agency, the attorney general, or a prosecuting attorney to initiate an enforcement action for violation of any applicable legal requirement. However, no civil, criminal, or administrative action may be brought with respect to any legal requirement that is superseded or replaced under the terms of an environmental excellence program agreement.

(4) This chapter does not create any new authority for citizen suits, and does not alter or amend other statutory provisions authorizing citizen suits. [1997 c 381 § 13.]

*Reviser's note: Section 11 of this act was vetoed by the governor.

43.21K.120 Reduced fee schedule. An environmental excellence program agreement may contain a reduced fee schedule with respect to a program applicable to the covered facility or facilities. [1997 c 381 § 14.]

43.21K.130 Rule-making authority. Any state, regional, or local agency administering programs under an environmental law may adopt rules or ordinances to implement this chapter. However, it is not necessary that an agency adopt rules or ordinances in order to consider or enter into environmental excellence program agreements. [1997 c 381 § 16.]

43.21K.140 Advisory committee. The director of the department of ecology shall appoint an advisory committee to review the effectiveness of the environmental excellence program agreement program and to make a recommendation to the legislature concerning the continuation, termination, or modification of the program. The committee also may make recommendations it considers appropriate for revision of any regulatory program that is affected by an environmental excellence program agreement. The committee shall be composed of one representative each from two state agencies, two representatives of the regulated community, and two representatives of environmental organizations or other public interest groups. The committee must submit a report and its recommendation to the legislature not later than October 31, 2001. The department of ecology shall provide the advisory committee with such support as they may require. [1997 c 381 § 17.]

43.21K.150 Costs of processing proposals—Fees—Voluntary contributions. (1) Agencies authorized to enter into environmental excellence program agreements may assess and collect a fee to recover the costs of processing environmental excellence program agreement proposals. The amount of the fee may not exceed the direct and indirect costs of processing the environmental excellence program agreement proposal. Processing includes, but is not limited to: Working with the sponsor to develop the agreement, meeting with stakeholder groups, conducting public meetings and hearings, preparing a record of the decision to enter into or modify an agreement, and defending any appeal from a decision to enter into or modify an agreement. Fees also may include, to the extent specified by the agreement, the agencies' direct costs of monitoring compliance with those specific terms of an agreement not covered by permits issued to the participating facility.

(2) Agencies assessing fees may graduate the initial fees for processing an environmental excellence program agreement proposal to account for the size of the sponsor and to make the environmental excellence program agreement program more available to small businesses. An agency may exercise its discretion to waive all or any part of the fees.

(3) Sponsors may voluntarily contribute funds to the administration of an agency's environmental excellence program agreement program. [1997 c 381 § 18.]

43.21K.160 Termination of authority to enter into agreements. The authority of a director to enter into a new

environmental excellence program agreement program shall be terminated June 30, 2002. Environmental excellence program agreements entered into before June 30, 2002, shall remain in force and effect subject to the provisions of this chapter. [1997 c 381 § 19.]

43.21K.170 Environmental excellence account. The environmental excellence account is hereby created in the state treasury. All fees and voluntary contributions collected by state agencies under RCW 43.21K.150 shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for purposes consistent with the environmental excellence program created under this chapter. Moneys in the account may be appropriated to each agency in an amount equal to the amount each agency collects and deposits into the account. [1997 c 381 § 32.]

Chapter 43.21M RCW INTEGRATED CLIMATE CHANGE RESPONSE STRATEGY

Sections

- 43.21M.010 Development of strategy—Central clearinghouse—Collaboration.
43.21M.020 Requirements of strategy—Initial climate change response strategy.
43.21M.030 Assistance with developing strategy.
43.21M.040 Incorporation of adaptation plans of action by state agencies.
43.21M.900 Findings—2009 c 519.

43.21M.010 Development of strategy—Central clearinghouse—Collaboration. (1) The departments of ecology, agriculture, *community, trade, and economic development, fish and wildlife, natural resources, and transportation shall develop an integrated climate change response strategy to better enable state and local agencies, public and private businesses, nongovernmental organizations, and individuals to prepare for, address, and adapt to the impacts of climate change. The integrated climate change response strategy should be developed, where feasible and consistent with the direction of the strategy, in collaboration with local government agencies with climate change preparation and adaptation plans.

(2) The department of ecology shall serve as a central clearinghouse for relevant scientific and technical information about the impacts of climate change on Washington's ecology, economy, and society, as well as serve as a central convener for the development of vital programs and necessary policies to help the state adapt to a rapidly changing climate.

(3) The department of ecology shall consult and collaborate with the departments of fish and wildlife, agriculture, *community, trade, and economic development, natural resources, and transportation in developing an integrated climate change response strategy and plans of action to prepare for and adapt to climate change impacts. [2009 c 519 § 10.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.21M.020 Requirements of strategy—Initial climate change response strategy. (1) The integrated climate

change response strategy should address the impact of and adaptation to climate change, as well as the regional capacity to undertake actions, existing ecosystem and resource management concerns, and health and economic risks. In addition, the departments of ecology, agriculture, *community, trade, and economic development, fish and wildlife, natural resources, and transportation should include a range of scenarios for the purposes of planning in order to assess project vulnerability and, to the extent feasible, reduce expected risks and increase resiliency to the impacts of climate change.

(2)(a) By December 1, 2011, the department of ecology shall compile an initial climate change response strategy, including information and data from the departments of fish and wildlife, agriculture, *community, trade, and economic development, natural resources, and transportation that: Summarizes the best known science on climate change impacts to Washington; assesses Washington's vulnerability to the identified climate change impacts; prioritizes solutions that can be implemented within and across state agencies; and identifies recommended funding mechanisms and technical and other essential resources for implementing solutions.

(b) The initial strategy must include:

(i) Efforts to identify priority planning areas for action, based on vulnerability and risk assessments;

(ii) Barriers challenging state and local governments to take action, such as laws, policies, regulations, rules, and procedures that require revision to adequately address adaptation to climate change;

(iii) Opportunities to integrate climate science and projected impacts into planning and decision making; and

(iv) Methods to increase public awareness of climate change, its projected impacts on the community, and to build support for meaningful adaptation policies and strategies. [2009 c 519 § 11.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.21M.030 Assistance with developing strategy. The departments of ecology, agriculture, *community, trade, and economic development, fish and wildlife, natural resources, and transportation may consult with qualified nonpartisan experts from the scientific community as needed to assist with developing an integrated climate change response strategy. The qualified nonpartisan experts from the scientific community may assist the department of ecology on the following components:

(1) Identifying the timing and extent of impacts from climate change;

(2) Assessing the effects of climate variability and change in the context of multiple interacting stressors or impacts;

(3) Developing forecasting models;

(4) Determining the resilience of the environment, natural systems, communities, and organizations to deal with potential or actual impacts of climate change and the vulnerability to which a natural or social system is susceptible to sustaining damage from climate change impacts; and

(5) Identifying other issues, as determined by the department of ecology, necessary to develop policies and actions for the integrated climate change response strategy. [2009 c 519 § 12.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.21M.040 Incorporation of adaptation plans of action by state agencies. State agencies shall strive to incorporate adaptation plans of action as priority activities when planning or designing agency policies and programs. Agencies shall consider: The integrated climate change response strategy when designing, planning, and funding infrastructure projects; and incorporating natural resource adaptation actions and alternative energy sources when designing and planning infrastructure projects. [2009 c 519 § 13.]

43.21M.900 Findings—2009 c 519. The legislature finds that in chapter 14, Laws of 2008, the legislature established greenhouse gas emission reduction limits for Washington state, including a reduction of overall emissions by 2020 to emission levels in 1990, a reduction by 2035 to levels twenty-five percent below 1990 levels, and by 2050 a further reduction below 1990 levels. Based upon estimated 2006 emission levels in Washington, this will require a reduction from present emission levels of over twenty-five percent in the next eleven years. The legislature further finds that state government activities are a significant source of emissions, and that state government should meet targets for reducing emissions from its buildings, vehicles, and all operations that demonstrate that these reductions are achievable, cost-effective, and will help to promote innovative energy efficiency technologies and practices. [2009 c 519 § 1.]

Chapter 43.22 RCW

DEPARTMENT OF LABOR AND INDUSTRIES

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Boiler inspections: Chapter 70.79 RCW.

Department created: RCW 43.17.010.

Director

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board of pilotage commissioners, ex officio chairman: RCW 88.16.010.

chief assistants: RCW 43.17.040.

oath: RCW 43.17.030.

powers and duties: RCW 43.17.030.

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Displaced homemaker act, departmental participation: RCW 28B.04.080.

Electrical apparatus use and construction rules, change of, enforcement: RCW 19.29.040.

Electrical installations

adoption of standards: RCW 19.28.031.

electrical inspectors: RCW 19.28.321.

enforcement duties: RCW 19.28.321.
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Explosives, duties: Chapter 70.74 RCW.

Farm labor contractors, duties: Chapter 19.30 RCW.

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Labor disputes, arbitration: Chapter 49.08 RCW.

Occupational forecast—Agency consultation: RCW 50.38.030.

Office located at state capital: RCW 43.17.050.

Prevailing wages on public works—Director of labor and industries to arbitrate disputes: RCW 39.12.060.

Public employees collective bargaining, powers and duties: Chapter 41.56 RCW.

Rules and regulations: RCW 43.17.060.

Seasonal laborers: Chapter 49.40 RCW.

State building code: Chapter 19.27 RCW.

Underground work: Chapter 49.24 RCW.

Victims of crimes, compensation, duties of department: Chapter 7.68 RCW.

Wage collection: Chapter 49.48 RCW.

Wages, minimum: Chapter 49.46 RCW.

43.22.005 Deputy directors. The director of labor and industries may appoint and deputize two assistant directors to be known as deputy directors. The director shall designate one deputy director who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director. [1985 c 325 § 1; 1969 ex.s. c 32 § 2.]

43.22.010 Divisions of department—Personnel. The department of labor and industries shall be organized into divisions that promote efficient and effective performance of the duties the agency is charged by statute to administer.

The director may appoint such clerical and other assistants as may be necessary for the general administration of the department. [1994 c 164 § 2; 1974 ex.s. c 27 § 1. Prior: 1973 1st ex.s. c 153 § 8; 1973 1st ex.s. c 52 § 2; 1971 c 66 § 2; 1969 ex.s. c 32 § 1; 1965 c 8 § 43.22.010; prior: (i) 1927 c 306 § 1, part; 1917 c 36 § 2, part; RRS § 8637, part. (ii) 1921 c 7 § 74; RRS § 10832.]

Additional notes found at www.leg.wa.gov

43.22.020 Supervisor of industrial insurance—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial insurance, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such adjusters, medical and other examiners, auditors, inspectors, clerks, and other assistants as may be necessary to the administration of workers' compensation and medical aid in this state. [1994 c 164 § 3; 1965 c 8 § 43.22.020. Prior: 1921 c 7 § 75; RRS § 10833.]

Industrial insurance: Title 51 RCW.

43.22.030 Powers and duties. The director of labor and industries shall:

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(1) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of workers' compensation and medical aid in this state;

(2) Have the custody of all property acquired by the state at execution sales upon judgments obtained for delinquent industrial insurance premiums or medical aid contributions, and penalties and costs; sell and dispose of the same at private sales for the sale purchase price, and pay the proceeds into the state treasury to the credit of the accident fund, or medical aid fund, as the case may be. In case of the sale of real estate the director shall execute the deed in the name of the state. [1994 c 164 § 4; 1987 c 185 § 16; 1965 c 8 § 43.22.030. Prior: 1921 c 7 § 78, part; RRS § 10836, part.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Workers' compensation: Title 51 RCW.

43.22.035 Printed materials—Department's duties.

When an employer initially files a master application under chapter 19.02 RCW for the purpose, in whole or in part, of registering to pay industrial insurance taxes, the department shall send to the employer any printed material the department recommends or requires the employer to post. Any time the printed material has substantive changes in the information, the department shall send a copy to each employer. [2007 c 287 § 2.]

43.22.040 Supervisor of industrial safety and health—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial safety and health, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such inspectors, clerks, and other assistants as may be necessary to carry on the industrial safety and health work of the department. [1994 c 164 § 5; 1973 1st ex.s. c 52 § 3; 1965 c 8 § 43.22.040. Prior: 1921 c 7 § 76; RRS § 10834.]

Administrative expenses: RCW 51.16.105.

Additional notes found at www.leg.wa.gov

43.22.050 Powers and duties. The director of labor and industries shall:

(1) Exercise all the powers and perform all the duties prescribed by law in relation to the inspection of factories, mills, workshops, storehouses, warerooms, stores and buildings, and the machinery and apparatus therein contained, and steam vessels, and other vessels operated by machinery, and in relation to the administration and enforcement of all laws and safety standards providing for the protection of employees in mills, factories, workshops, and in employments subject to the provisions of Title 51 RCW, and in relation to the enforcement, inspection, certification, and promulgation of safe places and safety device standards in all industries: PROVIDED, HOWEVER, This section shall not apply to railroads;

(2) Exercise all the powers and perform all the duties prescribed by law in relation to the inspection of tracks, bridges, structures, machinery, equipment, and apparatus of street railways, gas plants, electrical plants, water systems,

[Title 43 RCW—page 197]

telephone lines, telegraph lines, and other public utilities, with respect to the safety of employees, and the administration and enforcement of all laws providing for the protection of employees of street railways, gas plants, electrical plants, water systems, telephone lines, telegraph lines, and other public utilities;

(3) Exercise all the powers and perform all the duties prescribed by law in relation to the enforcement, amendment, alteration, change, and making additions to, rules and regulations concerning the operation, placing, erection, maintenance, and use of electrical apparatus, and the construction thereof. [1994 c 164 § 6; 1973 1st ex.s. c 52 § 4; 1971 ex.s. c 239 § 9; 1965 c 8 § 43.22.050. Prior: 1955 c 173 § 1; 1921 c 7 § 80; RRS § 10838.]

Boilers and steam vessels: Chapter 70.79 RCW.

Electrical apparatus: Chapters 19.28, 19.29 RCW.

Elevators, escalators and dumbwaiters: Chapter 70.87 RCW.

Industrial safety and health: Chapter 49.17 RCW.

Additional notes found at www.leg.wa.gov

43.22.051 Rule making restricted. For rules adopted after July 27, 1997, the director of the department of labor and industries may not rely solely on a statute's statement of intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of those provisions, for statutory authority to adopt any rule. This section does not apply to rules adopted under chapter 39.12 RCW. [1997 c 409 § 103.]

Additional notes found at www.leg.wa.gov

43.22.053 Supervisor of building and construction safety inspection services—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of building and construction safety inspection services, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such inspectors, clerks, and other assistants as may be necessary to carry on building and construction safety inspection services subject to the provisions of chapter 41.06 RCW. [1994 c 164 § 7; 1969 ex.s. c 32 § 3.]

43.22.260 Supervisor of industrial relations—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial relations, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint an assistant to be known as the industrial statistician, and an assistant to be known as the supervisor of employment standards and may appoint and employ experts, clerks, and other assistants as may be necessary to carry on the industrial relations work of the department. [1994 c 164 § 10; 1975 1st ex.s. c 296 § 31; 1973 2nd ex.s. c 16 § 11; 1973 1st ex.s. c 154 § 82; 1965 c 8 § 43.22.260. Prior: 1921 c 7 § 77; RRS § 10835.]

Additional notes found at www.leg.wa.gov

43.22.270 Powers and duties. The director of labor and industries shall have the power, and it shall be the director's duty:

(1) To study and keep in touch with problems of industrial relations and, from time to time, make public reports and recommendations to the legislature;

(2) To, with the assistance of the industrial statistician, exercise all the powers and perform all the duties in relation to collecting, assorting, and systematizing statistical details relating to labor within the state and systematizing such statistical information to, as far as possible, conform to the plans and reports of the United States department of labor;

(3) To, with the assistance of the industrial statistician, make such special investigations and collect such special statistical information as may be needed for use by the department or division of the state government having need of industrial statistics;

(4) To, with the assistance of the supervisor of employment standards, supervise the administration and enforcement of all laws respecting the employment and relating to the health, sanitary conditions, surroundings, hours of labor, and wages of employees employed in business and industry in accordance with the provisions of chapter 49.12 RCW;

(5) To exercise all the powers and perform all the duties, not specifically assigned to the department of labor and industries, now vested in, and required to be performed by, the commissioner of labor;

(6) To exercise such other powers and perform such other duties as may be provided by law. [1994 c 164 § 11; 1977 c 75 § 48; 1975 1st ex.s. c 296 § 32; 1973 2nd ex.s. c 16 § 12; 1973 1st ex.s. c 154 § 83; 1965 c 8 § 43.22.270. Prior: 1921 c 7 § 81; RRS 10839.]

Apprenticeships: Chapter 49.04 RCW.

Arbitration of disputes: Chapter 49.08 RCW.

Public employees' collective bargaining, arbitration of disputes: RCW 41.56.100.

Public employment labor relations: Chapter 41.58 RCW.

Wage collection for aggrieved employees: RCW 49.48.040.

Additional notes found at www.leg.wa.gov

43.22.282 Industrial welfare committee abolished—Transfer of powers, duties, and functions. The industrial welfare committee established by this chapter is abolished. All powers, duties, and functions of the committee are transferred to the director of labor and industries. [1982 c 163 § 16.]

Additional notes found at www.leg.wa.gov

43.22.290 Reports by employers. Every owner, operator, or manager of a factory, workshop, mill, mine, or other establishment where labor is employed, shall make to the department, upon blanks furnished by it, such reports and returns as the department may require, for the purpose of compiling such labor statistics as are authorized by this chapter, and the owner or business manager shall make such reports and returns within the time prescribed therefor by the director, and shall certify to the correctness thereof.

In the reports of the department no use shall be made of the names of individuals, firms, or corporations supplying the information called for by this section, such information being

deemed confidential, and not for the purpose of disclosing personal affairs, and any officer, agent, or employee of the department violating this provision shall be fined a sum not exceeding five hundred dollars, or be imprisoned for not more than one year. [1965 c 8 § 43.22.290. Prior: 1901 c 74 § 3; RRS § 7588.]

43.22.300 Compelling attendance of witnesses and testimony—Penalty. (1) The director may issue subpoenas, administer oaths and take testimony in all matters relating to the duties herein required, such testimony to be taken in some suitable place in the vicinity to which testimony is applicable.

(2) Witnesses subpoenaed and testifying before any officer of the department shall be paid the same fees as witnesses before a superior court, such payment to be made from the funds of the department.

(3) Any person duly subpoenaed under the provisions of this section who willfully neglects or refuses to attend or testify at the time and place named in the subpoena, is guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not exceeding thirty days. [2003 c 53 § 227; 1965 c 8 § 43.22.300. Prior: 1901 c 74 § 4; RRS § 7589.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

43.22.310 Access to plants—Penalty for refusal. The director or any employee of the department of labor and industries may enter any factory, mill, office, workshop, or public or private works at any time for the purpose of gathering facts and statistics as provided by this chapter, and examine into the methods of protection from danger to employees, and the sanitary conditions in and around such buildings and places and make a record thereof, and any owner or occupant of such factory, mill, office or workshop, or public or private works, or his or her agent who refuses to allow an inspector or employee of the department to enter, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned in the county jail not to exceed ninety days. [2009 c 549 § 5100; 1965 c 8 § 43.22.310. Prior: 1901 c 74 § 5; RRS § 7590.]

43.22.330 Annual report. The director of labor and industries shall submit to the governor each year a report of business transacted by the department during the preceding fiscal year together with such statistics and information as the governor deems of public interest and such recommendations as the director believes merit consideration in the interest of improved administration. [1977 c 75 § 49; 1965 c 8 § 43.22.330. Prior: (i) 1901 c 74 § 2; RRS § 7587. (ii) 1901 c 74 § 7; RRS § 7592.]

43.22.331 Annual report on workers' compensation fraud. The department shall annually compile a comprehensive report on workers' compensation fraud in Washington. The report shall include the department's activities related to the prevention, detection, and prosecution of worker, employer, and provider fraud and the cost of such activities,

(2010 Ed.)

as well as the actual and estimated cost savings of such activities. The report shall be submitted to the appropriate committees of the legislature prior to the start of the legislative session in January. [1995 c 160 § 7.]

43.22.335 Manufactured homes, mobile homes, recreational vehicles—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.22.340 through 43.22.434, 43.22.442, and 43.22.495.

(1) "Conversion vendor units" means a motor vehicle or recreational vehicle that has been converted or built for the purpose of being used for commercial sales at temporary locations. The units must be less than eight feet six inches wide in the set-up position and the inside working area must be less than forty feet in length.

(2) "Indigent" means a person receiving an annual income, after taxes, of one hundred twenty-five percent or less of the current federally established poverty level.

(3) "Manufactured home" means a single-family dwelling required to be built in accordance with regulations adopted under the national manufactured housing construction and safety standards act of 1974 (42 U.S.C. 5401 et seq.).

(4) "Medical unit" means a self-propelled unit used to provide medical examinations, treatments, and medical and dental services or procedures, not including emergency response vehicles.

(5) "Mobile home" means a factory-built dwelling built before June 15, 1976, to standards other than the national manufactured housing construction and safety standards act of 1974 (42 U.S.C. 5401 et seq.), and acceptable under applicable state codes in effect at the time of construction or introduction of the home into this state.

(6) "Park trailer" means a park trailer as defined in the American national standards institute A119.5 standard for park trailers.

(7) "Recreational vehicle" means a vehicular-type unit primarily designed for recreational camping or travel use that has its own motive power or is mounted on or towed by another vehicle. The units include travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, and motor homes. [2002 c 268 § 9; 2001 c 335 § 1; 1999 c 22 § 1; 1995 c 280 § 1.]

Purpose—Finding—Effective dates—2002 c 268: See notes following RCW 43.22.434.

Application—2001 c 335: "This act applies to manufactured homes without regard to the date such homes may have been altered." [2001 c 335 § 10.]

43.22.340 Manufactured homes, mobile homes, recreational vehicles—Safety rules—Compliance—Penalty.

(1) The director shall adopt specific rules for conversion vending units and medical units. The rules for conversion vending units and medical units shall be established to protect the occupants from fire; to address other life safety issues; and to ensure that the design and construction are capable of supporting any concentrated load of five hundred pounds or more. Also, the director shall adopt specific rules concerning safety standards as necessary to implement subsection (3) of this section by January 1, 2006.

(2) The director of labor and industries shall adopt rules governing safety of body and frame design, and the installation of plumbing, heating, and electrical equipment in mobile homes, commercial coaches, recreational vehicles, and/or park trailers: PROVIDED, That the director shall not prescribe or enforce rules governing the body and frame design of recreational vehicles and park trailers until after the American National Standards Institute shall have published standards and specifications upon this subject. The rules shall be reasonably consistent with recognized and accepted principles of safety for body and frame design and plumbing, heating, and electrical installations, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe body and frame design, construction, plumbing, heating, electrical, and other equipment and shall correlate with and, so far as practicable, conform to the then current standards and specifications of the American National Standards Institute standards A119.1 for mobile homes and commercial coaches, A119.2 for recreational vehicles, and A119.5 for park trailers.

(3) Except as provided in RCW 43.22.436, it shall be unlawful for any person to lease, sell or offer for sale, within this state, any mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers manufactured after January 1, 1968, containing plumbing, heating, electrical, or other equipment, and after July 1, 1970, body and frame design or construction, unless such equipment, design, or construction meets the requirements of the rules provided for in this section.

(4) Any person violating this section is guilty of a misdemeanor. Each day upon which a violation occurs shall constitute a separate violation. [2005 c 399 § 2; 2003 c 53 § 228; 2002 c 268 § 6; 1999 c 22 § 2; 1995 c 280 § 2; 1970 ex.s. c 27 § 1; 1969 ex.s. c 229 § 1; 1967 c 157 § 1.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Purpose—Finding—Effective dates—2002 c 268: See notes following RCW 43.22.434.

43.22.350 Mobile homes, recreational or commercial vehicles—Compliance insignia—Fee schedule—Out-of-state sales—Waiver of provisions during state of emergency. (1) In compliance with any applicable provisions of this chapter, the director of the department of labor and industries shall establish a schedule of fees, whether on the basis of plan approval or inspection, for the issuance of an insigne which indicates that the mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and/or park trailer complies with the provisions of RCW 43.22.340 through 43.22.410 or for any other purpose specifically authorized by any applicable provision of this chapter.

(2) Insignia are not required on mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers manufactured within this state for sale outside this state which are sold to persons outside this state.

(3) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the collection of fees under this section or any portion of this section or under any administrative rule, and issue any orders to

facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 181 § 202; 1999 c 22 § 3; 1995 c 280 § 4; 1977 ex.s. c 21 § 6; 1970 ex.s. c 27 § 2; 1967 c 157 § 2.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

Additional notes found at www.leg.wa.gov

43.22.355 Mobile homes, recreational or commercial vehicles—Self-certification for recreational vehicles and park trailers—Procedures—Performance audit of quality control programs. The director or the director's authorized representative may allow qualifying recreational vehicle and/or park trailer manufacturers to be self-certified as to compliance with the American National Standards Institute A119.2 standard for recreational vehicles and the American National Standards Institute A119.5 standard for park trailers. Except as provided in subsection (4) of this section, a manufacturer approved for the department's self-certification is exempt from the requirements under RCW 43.22.434 and 43.22.360. The director shall adopt rules to implement the self-certification program. The director may establish fees at a sufficient level to cover the costs of administering this program.

(1) Before a manufacturer becomes self-certified, the department shall make an initial audit of the manufacturer making self-certification application. The audit must review and report on the following:

(a) The manufacturer's quality control program;

(b) The manufacturer's demonstrated ability to manufacture products in conformance with either or both of the American National Standards Institute standards A119.2 and A119.5; and

(c) The availability on site of comprehensive plans for each model being manufactured.

(2) At the sole discretion of the director, a manufacturer currently being audited by the department that is deemed to meet the criteria for an initial self-certification audit may become a self-certified manufacturer without an additional self-certification audit.

(3) If the department denies an application to allow a manufacturer to be self-certified, the manufacturer shall be notified in writing including the reasons for denial. A copy of the initial self-certification audit shall be provided to the manufacturer. A manufacturer who is denied self-certification may appeal the denial under chapter 34.05 RCW.

(4) If the department has reason to believe that the manufacturer is no longer meeting the criteria established in subsection (1) of this section, the department may make an audit of the manufacturer. For purposes of enforcement of this subsection, the department retains inspection and investigation authority under RCW 43.22.434. At the conclusion of this audit, the director or the director's authorized representative may continue the manufacturer's self-certification or require the manufacturer to meet all of the requirements of this chapter from which the manufacturer was once exempted.

(5) The manufacturer to whom the authorization is given shall pay all of the costs of the initial self-certification audit and any subsequent audit that the department has the authority to perform.

(6) The department shall conduct a performance audit of additional industry association quality control programs utilized by self-certified manufacturers at least once every two years. [1995 c 280 § 6.]

43.22.360 Mobile homes, recreational or commercial vehicles—Plans and specifications—Approval—Alterations—Rules. (1) Plans and specifications of each model or production prototype of a mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and/or park trailer showing body and frame design, construction, plumbing, heating and electrical specifications and data shall be submitted to the department of labor and industries for approval and recommendations with respect to compliance with the rules and standards of each of such agencies. When plans have been submitted and approved as required, no changes or alterations shall be made to body and frame design, construction, plumbing, heating or electrical installations or specifications shown thereon in any mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, or park trailer without prior written approval of the department of labor and industries.

(2) The director may adopt rules that provide for approval of a plan that is certified as meeting state requirements or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements. [1999 c 22 § 4. Prior: 1995 c 289 § 1; 1995 c 280 § 7; 1970 ex.s. c 27 § 3; 1967 c 157 § 3.]

43.22.370 Mobile homes, recreational or commercial vehicles—Leased, sold, or manufactured in state prior to July 1, 1968—Compliance not required—Exception. Any mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and/or park trailer leased or sold in Washington and manufactured prior to July 1, 1968, which has not been inspected prior to its sale and which does not meet the requirements prescribed will not be required to comply with those requirements except for alterations or installations referred to in RCW 43.22.360. [1999 c 22 § 5; 1995 c 280 § 8; 1970 ex.s. c 27 § 4; 1969 ex.s. c 229 § 2; 1967 c 157 § 4.]

43.22.380 Mobile homes, recreational or commercial vehicles—Manufactured for use outside state—Compliance not required—Exception. Used mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers manufactured for use outside this state which do not meet the requirements prescribed and have been used for six months or more will not be required to comply with those requirements except for alterations or installations referred to in RCW 43.22.360. [1999 c 22 § 6; 1995 c 280 § 9; 1970 ex.s. c 27 § 5; 1967 c 157 § 5.]

43.22.390 Mobile homes, recreational or commercial vehicles—Insigne of approval, when required. Mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers subject to the provisions of RCW 43.22.340 through 43.22.410, and mobile homes, commercial coaches, conversion vending

units, medical units, recreational vehicles, and/or park trailers upon which alterations of body and frame design, construction or installations of plumbing, heating or electrical equipment referred to in RCW 43.22.360 are made after July 1, 1968, shall have affixed thereto such insigne of approval. [1999 c 22 § 7; 1995 c 280 § 10; 1970 ex.s. c 27 § 6; 1967 c 157 § 6.]

43.22.400 Mobile homes, recreational or commercial vehicles—Meeting standards of other states at least equal to this state. If the director of the department of labor and industries determines that the standards for body and frame design, construction and the plumbing, heating and electrical equipment installed in mobile homes, commercial coaches, recreational vehicles, and/or park trailers by the statutes or rules and regulations of other states are at least equal to the standards prescribed by this state, he or she may so provide by regulation. Any mobile home, commercial coach, recreational vehicle, and/or park trailer which a state listed in such regulations has approved as meeting its standards for body and frame design, construction and plumbing, heating and electrical equipment shall be deemed to meet the standards of the director of the department of labor and industries, if he or she determines that the standards of such state are actually being enforced. [2009 c 549 § 5101; 1995 c 280 § 11; 1970 ex.s. c 27 § 7; 1967 c 157 § 7.]

43.22.410 Mobile homes, recreational or commercial vehicles—Meeting requirements of chapter deemed compliance with county or city ordinances. Any mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and/or park trailer that meets the requirements prescribed under RCW 43.22.340 shall not be required to comply with any ordinances of a city or county prescribing requirements for body and frame design, construction or plumbing, heating and electrical equipment installed in mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers. [1999 c 22 § 8; 1995 c 280 § 12; 1970 ex.s. c 27 § 8; 1967 c 157 § 8.]

43.22.420 Factory assembled structures advisory board. There is hereby created a factory assembled structures advisory board consisting of nine members to be appointed by the director of labor and industries. It shall be the purpose and function of the board to advise the director on all matters pertaining to the enforcement of this chapter including but not limited to standards of body and frame design, construction and plumbing, heating and electrical installations, minimum inspection procedures, the adoption of rules pertaining to the manufacture of factory assembled structures, manufactured homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and park trailers. The advisory board shall periodically review the rules adopted under RCW 43.22.450 through 43.22.490 and shall recommend changes of such rules to the department if it deems changes advisable.

The members of the advisory board shall be representative of consumers, the regulated industries, and allied professionals. The term of each member shall be four years. How-

ever, the director may appoint the initial members of the advisory board to staggered terms not exceeding four years.

The chief inspector or any person acting as chief inspector for the factory assembled structures, manufactured or mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and park trailer section shall serve as secretary of the board during his tenure as chief. Meetings of the board shall be called at the discretion of the director of labor and industries, but at least quarterly. Each member of the board shall be paid travel expenses in accordance with RCW 43.03.050 and 43.03.060 which shall be paid out of the appropriation to the department of labor and industries, upon vouchers approved by the director of labor and industries or his or her designee. [2001 c 335 § 2; 1999 c 22 § 9; 1995 c 280 § 13; 1987 c 330 § 601; 1975-'76 2nd ex.s. c 34 § 103; 1971 ex.s. c 82 § 1; 1970 ex.s. c 27 § 9; 1969 ex.s. c 229 § 3.]

Application—2001 c 335: See note following RCW 43.22.335.

Additional notes found at www.leg.wa.gov

43.22.430 RCW 43.22.340 and 43.22.350 through 43.22.420 not to apply to common carrier equipment. RCW 43.22.340 and 43.22.350 through 43.22.420 shall not apply to common carrier equipment. [1970 ex.s. c 27 § 10.]

43.22.431 Manufactured home safety and construction standards—Enforcement by director of labor and industries. The director of the department of labor and industries may enforce manufactured home safety and construction standards adopted by the secretary of housing and urban development under the national manufactured home construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Furthermore, the director may make agreements with the United States government and private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the national manufactured home construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Any fees or contract moneys collected under these agreements shall be deposited into the manufactured home installation training account created in RCW 43.22A.100. [2007 c 432 § 6; 2001 c 335 § 3; 1977 ex.s. c 21 § 1.]

Application—2001 c 335: See note following RCW 43.22.335.

Additional notes found at www.leg.wa.gov

43.22.432 Manufactured home construction and safety standards and regulations—Rules. (1) The department may adopt all standards and regulations adopted by the secretary under the national manufactured home construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) for manufactured home construction and safety standards. If any deletions or amendments to the federal standards or regulations are thereafter made and notice thereof is given to the department, the standards or regulations shall be considered automatically adopted by the state under this chapter after the expiration of thirty days from publication in the federal register of a final order describing the deletions or amendments unless within that thirty day period the department objects to the deletion or amendment.

[Title 43 RCW—page 202]

In case of objection, the department shall proceed under the rule making procedure of chapter 34.05 RCW.

(2) The department shall adopt rules with respect to manufactured homes that require the prior written approval of the department before changes or alterations may be made to a manufactured home that differ from the construction standards provided for in this section.

(3) For purposes of implementing this section, by January 1, 2006, the department shall adopt requirements for manufactured homes built before June 15, 1976.

(4) Except as provided in RCW 43.22.436, it is unlawful for any person to lease, sell, or offer for sale, within this state, a manufactured home unless the home meets the requirements of the rules provided for in this section. [2005 c 399 § 3; 2002 c 268 § 7; 2001 c 335 § 4; 1977 ex.s. c 21 § 2.]

Purpose—Finding—Effective dates—2002 c 268: See notes following RCW 43.22.434.

Application—2001 c 335: See note following RCW 43.22.335.

Additional notes found at www.leg.wa.gov

43.22.433 Violations—Penalties. Any person who violates any of the provisions of RCW 43.22.431 through 43.22.434 and 43.22.350 or any rules or regulations adopted pursuant to RCW 43.22.431 through 43.22.434 and 43.22.350 is guilty of a gross misdemeanor, punishable by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or by both such fine and imprisonment. [1977 ex.s. c 21 § 3.]

Additional notes found at www.leg.wa.gov

43.22.434 Inspections and investigations necessary to adopt or enforce rules—Director's duties—Fees—Waiver of provisions during state of emergency. (1) The director or the director's authorized representative may conduct such inspections, investigations, and audits as may be necessary to adopt or enforce manufactured and mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, park trailer, factory built housing, and factory built commercial structure rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge may:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which manufactured and mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, park trailers, factory built housing, and factory built commercial structures are manufactured, stored, or held for sale;

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the national manufactured home construction and safety standards act of 1974. Each inspection shall be commenced and completed with reasonable promptness; and

(c) As requested by an owner of a conversion vending unit or medical unit, inspect an alteration.

(3) For purposes of determining compliance with this chapter's permitting requirements for alterations of mobile and manufactured homes, the department may audit the records of a contractor as defined in chapter 18.27 RCW or RCW 18.106.020(1) or an electrical contractor as defined in RCW 19.28.006 when the department has reason to believe that a violation of the permitting requirements has occurred. The department shall adopt rules implementing the auditing procedures. Information obtained from a contractor through an audit authorized by this subsection is confidential and not open to public inspection under chapter 42.56 RCW.

(4) The department shall set a schedule of fees by rule which will cover the costs incurred by the department in the administration of RCW 43.22.335 through 43.22.490, and is hereby authorized to do so pursuant to RCW 43.135.055. The department shall use fees set under this subsection only for the administration of RCW 43.22.335 through 43.22.490. The department may waive mobile/manufactured home alteration permit fees for indigent permit applicants.

(5) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the collection of fees under this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 285 § 4; 2008 c 181 § 203; 2005 c 274 § 296; 2004 c 137 § 1; 2003 c 67 § 1. Prior: 2002 c 268 § 3; 2002 c 268 § 2; 2001 c 335 § 5; 1999 c 22 § 10; 1995 c 280 § 5; 1977 ex.s. c 21 § 5.]

Reviser's note: This section was amended by 2008 c 181 § 203 and by 2008 c 285 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—2008 c 285: "To protect taxpayers, many state programs require the costs of licensing, registration, certification, and related government services to be borne by the profession or industry that uses the services, rather than by the taxpaying public as a whole. State standards that govern the professional duties of these industries are intended to protect the general public by safeguarding health, safety, employees, and consumers. The legislative approval of the fees and fee increases in this act is intended to ensure that the general public is not assessed these costs while also providing adequate funding to statutory programs that safeguard and improve Washington's health, safety, employees, and consumers." [2008 c 285 § 1.]

Captions not law—2008 c 285: "Captions used in this act are not any part of the law." [2008 c 285 § 31.]

Effective date—2008 c 285: "Except for sections 2 and 15 through 26 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2008]." [2008 c 285 § 32.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Effective date—2004 c 137: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect March 31, 2004." [2004 c 137 § 2.]

Purpose—Finding—2002 c 268: "The purpose of this act is to implement the recommendations of the joint legislative task force created by chapter 335, Laws of 2001. The legislature recognizes the need to improve communications among mobile/manufactured homeowners, regulatory agencies, and other interested parties, to streamline the complex regulatory environment and inflexible enforcement system, and to promote problem-solving at an early stage. To assist in achieving these goals, the legislature:

(1) Encourages the relevant agencies to conduct a pilot project that

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tests an interagency coordinated system for processing permits for alterations or repairs of mobile and manufactured homes; and

(2) Recognizes the task force's work in reviewing agency rules related to alteration permit requirements and supports the task force's recommendations to the agency regarding those rules. The legislature finds that assisting consumers to understand when an alteration of a mobile or manufactured home is subject to a permit, and when it is not, will improve compliance with the agency rules and further the code's safety goals." [2002 c 268 § 1.]

Effective date—2002 c 268: "Sections 1, 2, and 4 through 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [March 29, 2002]." [2003 c 67 § 2; 2002 c 268 § 10.]

Application—2001 c 335: See note following RCW 43.22.335.

Additional notes found at www.leg.wa.gov

43.22.435 Altering a mobile or manufactured home—Permit—Penalties—Appeals—Notice of correction. (1)(a) In addition to or in lieu of any other penalty applicable under this chapter, and except as provided in (b) of this subsection, the department may assess a civil penalty of not more than one thousand dollars against a contractor, firm, partnership, or corporation, that fails to obtain a permit before altering a mobile or manufactured home as required under this chapter or rules adopted under this chapter. Each day on which a violation occurs constitutes a separate violation. However, the cumulative penalty for the same occurrence may not exceed five thousand dollars.

(b) The department must adopt a schedule of civil penalties giving due consideration to the appropriateness of the penalty with respect to the gravity of the violation and the history of previous violations. Penalties for subsequent violations, not constituting the same occurrence, committed within two years of a prior violation by the same party or entity, or by an individual who was a principal or officer of the same entity, must be double the amount of the penalty for the prior violation or one thousand dollars, whichever is greater.

(2)(a) The department may issue a notice of correction before issuing a civil penalty assessment. The notice must include:

- (i) A description of the violation;
- (ii) A statement of what is required to correct the violation;
- (iii) The date by which the department requires correction to be achieved; and
- (iv) Notice of the individual or department office that must be contacted to obtain a permit or other compliance information.

(b) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(c) If the department issues a notice of correction, it shall not issue a civil penalty for the violation identified in the notice of correction unless the responsible person fails to comply with the notice.

(3)(a) The department must issue written notices of civil penalties imposed under this section, with the reasons for the penalty, by certified mail to the last known address of the party named in the notice.

(b) If a party desires to contest a notice of civil penalty issued under this section, the party must file a notice of appeal with the department within twenty days of the department's mailing of the notice of civil penalty. An administrative law judge of the office of administrative hearings will

hear and determine the appeal. Appeal proceedings must be conducted pursuant to chapter 34.05 RCW. An appeal of the administrative law judge's determination or order shall be to the superior court. The superior court's decision is subject only to discretionary review under the rules of appellate procedure. [2002 c 268 § 4.]

Purpose—Finding—Effective dates—2002 c 268: See notes following RCW 43.22.434.

43.22.436 Mobile and manufactured home installations—Exemptions and variances from permitting requirements and alteration rules—Conditional sales of altered mobile and manufactured homes. (1) With respect to mobile and manufactured homes that are installed in accordance with the standards adopted under RCW 43.22.440:

(a) The department shall adopt rules that:

(i) Specify exemptions from a requirement for a permit to alter a mobile or manufactured home;

(ii) Authorize the granting of variances from the rules adopted under this section for alterations that use materials, designs, or methods of construction different from those required under the rules adopted under this chapter; and

(iii) Require the seller of a mobile or manufactured home to deliver to the buyer prior to the sale: (A) A completed property transfer disclosure statement in accordance with chapter 64.06 RCW, unless the seller is exempt or the buyer waives his or her rights under chapter 64.06 RCW; and (B) the variance, if any, granted under the rules adopted under this section.

(b) The department may adopt a rule that allows parties to enter into a conditional sale of an altered mobile or manufactured home. However, a conditional sales agreement may be executed only if, prior to execution, the parties have complied with the department's requirements related to permit approval and a variance granted under the rules, if any, and with property transfer disclosure statement requirements.

(2) This chapter does not prohibit the sale of an altered mobile or manufactured home installed in accordance with the standards adopted under RCW 43.22.440. If, after an inspection requested by any party to a sale, including a party financing the sale, the department determines that an alteration may constitute a hazard to life, safety, or health, the department shall so notify the parties in writing within thirty days of completing the inspection and may notify the local official responsible for enforcing the uniform fire code adopted under chapter 19.27 RCW or local health officer, as applicable, within the relevant jurisdiction. [2002 c 268 § 5.]

Purpose—Finding—Effective dates—2002 c 268: See notes following RCW 43.22.434.

43.22.440 Manufactured and mobile home installation service and warranty service standards—Enforcement. (1) The legislature finds that inspections of manufactured and mobile home installation are not done on a consistent basis. Manufactured and mobile homes provide housing for many people in the state, and improperly installed manufactured or mobile homes are a serious health and safety risk. Where possible and practical, manufactured and mobile homes should be treated the same as any housing inhabited or to be inhabited by persons in this state, including housing built according to the state building code.

(2) In consultation with the factory assembled structures advisory board for manufactured homes, the director of labor and industries shall by rule establish uniform standards for the performance and workmanship of installation service and warranty service by persons or entities engaged in performing the services within this state for all manufactured and mobile homes, as defined in RCW 46.04.302. The standards shall conform, where applicable, with statutes, rules, and recommendations established under the national manufactured home construction and safety standards act of 1974 (42 U.S.C. Sec. 5401 et seq.). These rules regarding the installation of manufactured and mobile homes shall be enforced and fees charged by the counties and cities in the same manner the state building code is enforced under RCW 19.27.050.

(3) In addition to and in conjunction with the remedies provided in this chapter, failure to remedy any breach of the standards and rules so established, upon adequate notice and within a reasonable time, is a violation of the consumer protection act, chapter 19.86 RCW and subject to the remedies provided in that chapter. [2001 c 335 § 6; 1988 c 239 § 5; 1980 c 153 § 1.]

Application—2001 c 335: See note following RCW 43.22.335.

43.22.442 Warranty service—Timely compensation for work performed. A manufacturer of manufactured homes who designates a representative within this state to provide consumers with warranty service for manufactured homes on behalf of the manufacturer shall make reasonable and timely compensation to the representative for performance of the warranty service. [2001 c 335 § 7; 1980 c 153 § 2.]

Application—2001 c 335: See note following RCW 43.22.335.

43.22.445 Mobile homes—Warranties and inspections—Advertising of dimensions. See RCW 46.70.135.

43.22.450 Factory built housing and commercial structures, regulating installation of—Definitions. Whenever used in RCW 43.22.450 through 43.22.490:

(1) "Department" means the Washington state department of labor and industries;

(2) "Approved" means approved by the department;

(3) "Factory built housing" means any structure designed primarily for human occupancy other than a manufactured or mobile home the structure or any room of which is either entirely or substantially prefabricated or assembled at a place other than a building site;

(4) "Install" means the assembly of factory built housing or factory built commercial structures at a building site;

(5) "Building site" means any tract, parcel or subdivision of land upon which factory built housing or a factory built commercial structure is installed or is to be installed;

(6) "Local enforcement agency" means any agency of the governing body of any city or county which enforces laws or ordinances governing the construction of buildings;

(7) "Commercial structure" means a structure designed or used for human habitation, or human occupancy for industrial, educational, assembly, professional or commercial purposes. [2001 c 335 § 8; 1973 1st ex.s. c 22 § 1; 1970 ex.s. c 44 § 1.]

Application—2001 c 335: See note following RCW 43.22.335.

43.22.455 Factory built housing and commercial structures, regulating installation of—Housing must be approved, have department insignia—Significance of insignia—Modification of housing during installation must be approved. No factory built housing or factory built commercial structure shall be installed on a building site in this state after the effective date of the regulations adopted pursuant to RCW 43.22.480 unless it is approved and bears the insignia of approval of the department.

(1) Any factory built housing or factory built commercial structure bearing an insignia of approval of the department shall be deemed to comply with any laws, ordinances or regulations enacted by any city or county or any local enforcement agency which govern the manufacture and construction of factory built housing or factory built commercial structures or on-site housing.

(2) No factory built housing or factory built commercial structure which has been approved by the department shall be in any way modified prior to, or during installation by a manufacturer or installer unless approval of such modification is first made by the department. [1973 1st ex.s. c 22 § 2; 1970 ex.s. c 44 § 2.]

43.22.460 Factory built housing and commercial structures, regulating installation of—Certain requirements reserved to local jurisdictions. Local land use requirements, building setbacks, side and rear yard requirements, site development and property line requirements, and review and regulation of zoning requirements are specifically reserved to local jurisdictions notwithstanding anything contained in RCW 43.22.450 through 43.22.490. [1970 ex.s. c 44 § 3.]

43.22.465 Factory built housing and commercial structures, regulating installation of—Injunctive process, procedure. The department may obtain from a superior court having jurisdiction, a temporary injunction enjoining the installation of factory built housing or factory built commercial structures on any building site upon affidavit of the department that such factory built housing or factory built commercial structures do not conform to the requirements of RCW 43.22.450 through 43.22.490 or to the rules adopted pursuant to RCW 43.22.450 through 43.22.490. The affidavit must set forth such violations in detail. The injunction may be made permanent, in the discretion of the court. [1973 1st ex.s. c 22 § 3; 1970 ex.s. c 44 § 4.]

43.22.470 Factory built housing and commercial structures, regulating installation of—Delegation of inspection duty to local agency. The department shall have the authority to delegate all or part of its duties of inspection to a local enforcement agency. [1970 ex.s. c 44 § 5.]

43.22.480 Factory built housing and commercial structures, installation—Rules—Enforcement—Standards—Fees—Waiver of provisions during state of emergency. (1) The department shall adopt and enforce rules that protect the health, safety, and property of the people of this

state by assuring that all factory built housing or factory built commercial structures are structurally sound and that the plumbing, heating, electrical, and other components thereof are reasonably safe. The rules shall be reasonably consistent with recognized and accepted principles of safety and structural soundness, and in adopting the rules the department shall consider, so far as practicable, the standards and specifications contained in the uniform building, plumbing, and mechanical codes, including the barrier free code and the Washington energy code as adopted by the state building code council pursuant to chapter 19.27A RCW, and the national electrical code, including the state rules as adopted pursuant to chapter 19.28 RCW and published by the national fire protection association or, when applicable, the temporary worker building code adopted under RCW 70.114A.081.

(2) The department shall set a schedule of fees which will cover the costs incurred by the department in the administration and enforcement of RCW 43.22.450 through 43.22.490.

(3) The director may adopt rules that provide for approval of a plan that is certified as meeting state requirements or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements.

(4) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the collection of fees under this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 181 § 204; 1998 c 37 § 4; 1995 c 289 § 2; 1989 c 134 § 1; 1979 ex.s. c 76 § 2; 1973 1st ex.s. c 22 § 5; 1970 ex.s. c 44 § 7.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

43.22.485 Factory built housing and commercial structures, regulating installation of—Recognizing out-of-state standards, enforcement, as department approved. If the director of the department determines that the standards for factory built housing or factory built commercial structures prescribed by statute, rule or regulation of another state are at least equal to the regulations prescribed under RCW 43.22.450 through 43.22.490, and that such standards are actually enforced by such other state, he or she may provide by regulation that factory built housing or factory built commercial structures approved by such other state shall be deemed to have been approved by the department. [2009 c 549 § 5102; 1973 1st ex.s. c 22 § 6; 1970 ex.s. c 44 § 8.]

43.22.490 Factory built housing and commercial structures, regulating installation of—Violation as misdemeanor—Penalty. Any person who violates any of the provisions of RCW 43.22.450 through 43.22.490 or any rules or regulations adopted pursuant to RCW 43.22.450 through 43.22.490 is guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. [1970 ex.s. c 44 § 9.]

43.22.495 Manufactured housing—Duties. Beginning on July 1, 2007, the department of labor and industries shall perform all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department of labor and industries may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

The directors of the *department of community, trade, and economic development and the department of labor and industries shall immediately take such steps as are necessary to ensure that chapter 432, Laws of 2007 is implemented on July 1, 2007. [2007 c 432 § 7; 1995 c 399 § 69; 1990 c 176 § 1.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.22.500 Printing and distribution of publications—Fees. The department of labor and industries, to defray the costs of printing, reprinting, or distributing printed matter issued by the department of labor and industries including, but not limited to, the matters listed in RCW 43.22.505, may charge a fee for such publications in an amount which will reimburse the department for the costs of printing, reprinting, and distributing such publications: PROVIDED, That every person subject to regulation by the department may upon request receive without charge one copy per year of any publication printed pursuant to RCW 43.22.505 whenever such person is affected by any statute, rule or regulation printed therein. All fees collected shall be deposited in the state treasury to the credit of the appropriate fund or account. [1979 ex.s. c 67 § 2; 1975 1st ex.s. c 123 § 1.]

Additional notes found at www.leg.wa.gov

43.22.505 Printing and distribution of publications—Authorized subject matters. The department of labor and industries is specifically authorized to print, reprint, and distribute subject matter including but not limited to the following:

- (1) The provisions of Title 51 RCW;
- (2) The provisions of Title 49 RCW;
- (3) The provisions of chapter 7.68 RCW;
- (4) The provisions of chapter 88.16 RCW;
- (5) The provisions of chapter 19.28 RCW;
- (6) The provisions of chapter 43.22 RCW;
- (7) The provisions of chapter 41.56 RCW;
- (8) The provisions of chapter 49.66 RCW;
- (9) The provisions of chapter 70.79 RCW;
- (10) The provisions of chapter 70.74 RCW;
- (11) The provisions of chapter 70.87 RCW;
- (12) The provisions of all other statutes administered by the department or such statutes as have a relationship to the functions and obligations of the department; and

[Title 43 RCW—page 206]

(13) The rules and regulations of the department of labor and industries, the state apprenticeship council, the state board of pilotage commissioners and the board of boiler rules promulgated pursuant to the statutory provisions cited above. [1975 1st ex.s. c 123 § 2.]

43.22.550 Contract to issue conditional federal employer identification numbers, credentials, and documents in conjunction with license applications. The director may contract with the federal internal revenue service, or other appropriate federal agency, to issue conditional federal employer identification numbers, or other federal credentials or documents, at specified offices and locations of the agency in conjunction with any application for state licenses under chapter 19.02 RCW. [1997 c 51 § 4.]

Intent—1997 c 51: See note following RCW 19.02.300.

Chapter 43.22A RCW MOBILE AND MANUFACTURED HOME INSTALLATION

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- 43.22A.220 Rule adoption—Enforcement.
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- 43.22A.901 Effective date—1994 c 284.

43.22A.005 Purpose. The purpose of this chapter is to ensure that all mobile and manufactured homes are installed by a certified manufactured home installer in accordance with the state installation code, chapter 296-150B WAC, in order to provide greater protections to consumers and make the warranty requirement of *RCW 46.70.134 easier to achieve. [1994 c 284 § 14. Formerly RCW 43.63B.005.]

***Reviser's note:** The reference in 1994 c 284 § 14 to "section 2 of this act" was erroneous. Section 10 of that act, codified as RCW 46.70.134, was apparently intended.

Dispute mediation: RCW 43.22A.210.

43.22A.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Authorized representative" means an employee of a state agency, city, or county acting on behalf of the department.

(2) "Certified manufactured home installer" means a person who is in the business of installing mobile or manufactured homes and who has been issued a certificate by the department as provided in this chapter.

(3) "Department" means the department of labor and industries.

(4) "Director" means the director of labor and industries.

(5) "Manufactured home" means a single-family dwelling built in accordance with the department of housing and urban development manufactured home construction and safety standards act, which is a national, preemptive building code.

(6) "Mobile or manufactured home installation" means all on-site work necessary for the installation of a manufactured home, including:

(a) Construction of the foundation system;

(b) Installation of the support piers and earthquake resistant bracing system;

(c) Required connection to foundation system and support piers;

(d) Skirting;

(e) Connections to the on-site water and sewer systems that are necessary for the normal operation of the home; and

(f) Extension of the pressure relief valve for the water heater.

(7) "Manufactured home standards" means the manufactured home construction and safety standards as promulgated by the United States department of housing and urban development (HUD).

(8) "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since introduction of the HUD manufactured home construction and safety standards act.

(9) "Training course" means the education program administered by the department, or the education course administered by an approved educational provider, as a prerequisite to taking the examination for certification.

(10) "Approved educational provider" means an organization approved by the department to provide education and training of manufactured home installers and local inspectors. [2007 c 432 § 3; 1998 c 124 § 6; 1994 c 284 § 15. Formerly RCW 43.63B.010.]

43.22A.020 Manufactured housing—Department duties. Beginning on July 1, 2007, the department shall perform all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost

of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

The *department of community, trade, and economic development shall transfer all records, files, books, and documents necessary for the department to assume these new functions.

The directors of *community, trade, and economic development and of labor and industries shall immediately take such steps as are necessary to ensure that chapter 432, Laws of 2007 is implemented on July 1, 2007. [2007 c 432 § 1; 1993 c 280 § 76; 1990 c 176 § 2. Formerly RCW 43.63A.460.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.22A.030 Manufactured housing—Federal standards—Enforcement. (Contingent expiration date.) The director shall enforce manufactured housing safety and construction standards adopted by the secretary of housing and urban development under the national manufactured housing construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Furthermore, the director may make agreements with the United States government, state agencies, or private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the national manufactured housing construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) regarding the state administrative agency program. [2007 c 432 § 2; 1995 c 399 § 74; 1993 c 124 § 1. Formerly RCW 43.63A.465.]

Contingent expiration date—2007 c 432 § 2: "Section 2 of this act expires if the contingency in RCW 43.63A.490 occurs." [2007 c 432 § 15.]

Contingent expiration date—RCW 43.22A.030 and 43.63A.470 through 43.63A.490: See RCW 43.63A.490.

Additional notes found at www.leg.wa.gov

43.22A.040 Installer certification—Application—Training. A person desiring to be issued a certificate of manufactured home installation as provided in this chapter shall make application to the department, in such a form as required by the department.

Upon receipt of the application and evidence required in this chapter, the director shall review the information and make a determination as to whether the applicant is eligible to take the training course and examination for the certificate of manufactured home installation. An applicant must furnish written evidence of six months of experience under the direct supervision of a certified manufactured home installer, or other equivalent experience, in order to be eligible to take the training course and examination. The director shall establish reasonable rules for the training course and examinations to be given to applicants for certificates of manufactured home installation. Upon determining that the applicant is eligible to take the training course and examination, the director shall notify the applicant, indicating the time and place for taking the training course and examination.

The requirement that an applicant must be under the direct supervision of a certified manufactured home installer for six months only applies to applications made on or after

July 1, 1996. For applications made before July 1, 1996, the department shall require evidence of experience to satisfy this requirement.

The director may allow other persons to take the training course and examination on manufactured home installation, without certification. [1994 c 284 § 17. Formerly RCW 43.63B.020.]

43.22A.050 Installer certification—Training course—Examination. The department shall prepare a written training course and examination to be administered to applicants for manufactured home installer certification. The examination shall be constructed to determine whether the applicant:

(1) Possesses general knowledge of the technical information and practical procedures that are necessary for manufactured home installation;

(2) Is familiar with the federal and state codes and administrative rules pertaining to manufactured homes; and

(3) Is familiar with the local government regulations as related to manufactured home installations.

The department shall certify the results of the examination and shall notify the applicant in writing whether the applicant has passed or failed the examination. An applicant who failed the examination may retake the training course and examination. The director may not limit the number of times that a person may take the training course and examination. [1994 c 284 § 18. Formerly RCW 43.63B.030.]

43.22A.060 Installer certification—Alternative to department training course—Rules. The department shall adopt rules to establish and administer a process of approving educational providers as an alternative to the department training course for installers and local inspectors. [1998 c 124 § 7. Formerly RCW 43.63B.035.]

43.22A.070 Installer certification—Issuance of certificate—Renewal—Suspension of license or certificate for noncompliance with support order. (1) The department shall issue a certificate of manufactured home installation to an applicant who has taken the training course, passed the examination, paid the fees, and in all other respects meets the qualifications. The certificate shall bear the date of issuance, a certification identification number, and is renewable every three years upon application and completion of a continuing education program as determined by the department. A renewal fee shall be assessed for each certificate. If a person fails to renew a certificate by the renewal date, the person must retake the examination and pay the examination fee.

(2) The certificate of manufactured home installation provided for in this chapter grants the holder the right to engage in manufactured home installation throughout the state, without any other installer certification.

(3) The department shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or

certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [1997 c 58 § 874; 1994 c 284 § 19. Formerly RCW 43.63B.040.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

43.22A.080 Installer certification—Revocation. (1) The department may revoke a certificate of manufactured home installation upon the following grounds:

(a) The certificate was obtained through error or fraud;

(b) The holder of the certificate is judged to be incompetent as a result of multiple infractions of the state installation code, WAC 296-150B-200 through 296-150B-255; or

(c) The holder has violated a provision of this chapter or a rule adopted to implement this chapter.

(2) Before a certificate of manufactured home installation is revoked, the holder must be given written notice of the department's intention to revoke the certificate, sent by registered mail, return receipt requested, to the holder's last known address. The notice shall enumerate the allegations against the holder, and shall give the holder the opportunity to request a hearing. At the hearing, the department and the holder may produce witnesses and give testimony. The hearing shall be conducted in accordance with the provisions of chapter 34.05 RCW. [1994 c 284 § 21. Formerly RCW 43.63B.050.]

43.22A.090 Certification program fees. (1) The department shall charge reasonable fees to cover the costs to administer the certification program which shall include but not be limited to the issuance, renewal, and reinstatement of all certificates, training courses, and examinations required under this chapter. All fees collected under this chapter shall be deposited in the manufactured home installation training account created in RCW 43.22A.100 and used only for the purposes specified in this chapter.

The fees shall be limited to covering the direct cost of issuing the certificates, administering the examinations, and administering and enforcing this chapter. The costs shall include only essential travel, per diem, and administrative support costs.

(2) For the purposes of implementing chapter 432, Laws of 2007, until July 1, 2008, the department may increase fees for the certification program in excess of the fiscal growth factor under chapter 43.135 RCW. [2007 c 432 § 11; 1994 c 284 § 22. Formerly RCW 43.63B.070.]

43.22A.100 Manufactured home installation training account. The manufactured home installation training account is created in the state treasury. All receipts collected under this chapter and any legislative appropriations for manufactured home installation training shall be deposited into

the account. Moneys in the account may only be spent after appropriation. Expenditures from the account may only be used for the purposes of this chapter. Unexpended and unencumbered moneys that remain in the account at the end of the fiscal year do not revert to the state general fund but remain in the account, separately accounted for, as a contingency reserve. [1994 c 284 § 23. Formerly RCW 43.63B.080.]

43.22A.110 Local government installation application and permit requirements. Any local government mobile or manufactured home installation application and permit shall state either the name and registration number of the contractor or licensed manufactured home dealer or the certification identification number of the certified manufactured home installer supervising such installation. A local government may not issue final approval for the installation of a manufactured home unless the certified installer or the installer's agent has posted at the set-up site the manufactured home installer's certification number and has identified the work being performed on the manufactured home installation on a form prescribed by the department. [1998 c 124 § 8; 1994 c 284 § 20. Formerly RCW 43.63B.060.]

43.22A.120 Certified installer required on-site—Infraction—Exceptions. After July 1, 1995, a mobile or manufactured home may not be installed without a certified manufactured home installer providing on-site supervision whenever installation work is being performed. The certified manufactured home installer is responsible for the reading, understanding, and following [of] the manufacturer's installation instructions and performance of noncertified workers engaged in the installation of the home. There shall be at least one certified manufactured home installer on the installation site whenever installation work is being performed.

A manufactured home installer certification shall not be required for:

- (1) Site preparation;
- (2) Sewer and water connections outside of the building site;
- (3) Specialty trades that are responsible for constructing accessory structures such as garages, carports, and decks;
- (4) Pouring concrete into forms;
- (5) Painting and dry wall finishing;
- (6) Carpet installation;
- (7) Specialty work performed within the scope of their license by licensed plumbers or electricians. This provision does not waive or lessen any state regulations related to licensing or permits required for electricians or plumbers;
- (8) A mobile or manufactured home owner performing installation work on their own home; and
- (9) A manufacturer's mobile home installation crew installing a mobile or manufactured home sold by the manufacturer except for the on-site supervisor.

Violation of this section is an infraction. [1994 c 284 § 16. Formerly RCW 43.63B.090.]

43.22A.130 Certified installer required on-site—Infraction—Notice. An authorized representative of the department may issue a notice of infraction if the person supervising the manufactured home installation work fails to

produce evidence of having a certificate issued by the department in accordance with this chapter. A notice of infraction issued under this chapter shall be personally served on or sent by certified mail to the person named in the notice by the authorized representative. [1994 c 284 § 25. Formerly RCW 43.63B.100.]

43.22A.140 Violations—Investigations—Inspections. An authorized representative may investigate alleged or apparent violations of this chapter. Upon presentation of credentials, an authorized representative, including a local government building official, may inspect sites at which manufactured home installation work is undertaken to determine whether such work is being done under the supervision of a certified manufactured home installer. Upon request of the authorized representative, a person performing manufactured home installation work shall identify the person holding the certificate issued by the department in accordance with this chapter. [1994 c 284 § 24. Formerly RCW 43.63B.110.]

43.22A.150 Violations—Separate infraction for each day, each worksite. Each day in which a person engages in the installation of manufactured homes in violation of this chapter is a separate infraction. Each worksite at which a person engages in the trade of manufactured home installation in violation of this chapter is a separate infraction. [1994 c 284 § 27. Formerly RCW 43.63B.120.]

43.22A.160 Violation—Use of uncertified installer. It is a violation of this chapter for any contractor, manufactured home dealer, manufacturer, or home dealer's or manufacturer's agent to engage any person to install a manufactured home who is not certified in accordance with this chapter. [1994 c 284 § 28. Formerly RCW 43.63B.130.]

43.22A.170 Notice of infraction. (1) The department shall prescribe the form of the notice of infraction issued under this chapter.

- (2) The notice of infraction shall include the following:
 - (a) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;
 - (b) A statement that the infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;
 - (c) A statement of the specific infraction for which the notice was issued;
 - (d) A statement of a monetary penalty that has been established for the infraction;
 - (e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;
 - (f) A statement that, at a hearing to contest the determination, the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed, and that the person may subpoena witnesses including the authorized representative who issued and served the notice of the infraction; and

(g) A statement that failure to respond to a notice of infraction is a misdemeanor and may be punished by a fine or imprisonment in jail. [2006 c 270 § 11; 1994 c 284 § 26. Formerly RCW 43.63B.140.]

43.22A.180 Notice as determination. Unless contested in accordance with this chapter, the notice of infraction represents a determination that the person to whom the notice was issued committed the infraction. [1994 c 284 § 30. Formerly RCW 43.63B.160.]

43.22A.190 Penalty. (1) A person found to have committed an infraction under this chapter shall be assessed a monetary penalty of one thousand dollars.

(2) The administrative law judge may waive, reduce, or suspend the monetary penalty imposed for the infraction.

(3) Monetary penalties collected under this chapter shall be deposited into the manufactured home installation training account created in RCW 43.22A.100 for the purposes specified in this chapter. [2007 c 432 § 5; 1994 c 284 § 31. Formerly RCW 43.63B.170.]

43.22A.200 Appeals. If a party desires to contest a notice of infraction and civil penalty issued under this chapter, the party must file a notice of appeal with the department within twenty days of the department mailing the notice of civil penalty. An administrative law judge of the office of administrative hearings shall hear and determine the appeal. Appeal proceedings must be conducted under chapter 34.05 RCW. An appeal of the administrative law judge's determination or order must be to the superior court. The superior court's decision is subject only to discretionary review under the rules of appellate procedure. [2007 c 432 § 4; 1994 c 284 § 29. Formerly RCW 43.63B.150.]

43.22A.210 Manufactured homes—Warranty disputes. The department may mediate disputes that arise regarding any warranty required in chapter 46.70 RCW pertaining to the purchase or installation of a manufactured home. The department may charge reasonable fees for this service and shall deposit the moneys collected in accordance with RCW 43.22A.100. [2007 c 432 § 8; 1994 c 284 § 12. Formerly RCW 46.70.136.]

Additional notes found at www.leg.wa.gov

43.22A.220 Rule adoption—Enforcement. The director may adopt rules in accordance with chapter 34.05 RCW, make specific decisions, orders, and rulings, include demands and findings within the decisions, orders, and rulings, and take other necessary action for the implementation and enforcement of duties under this chapter. [1994 c 284 § 32. Formerly RCW 43.63B.800.]

43.22A.900 Severability—1994 c 284. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1994 c 284 § 34. Formerly RCW 43.63B.900.]

43.22A.901 Effective date—1994 c 284. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1994]. [1994 c 284 § 35. Formerly RCW 43.63B.901.]

Chapter 43.23 RCW

DEPARTMENT OF AGRICULTURE

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43.23.001 Definitions. For purposes of this chapter:

- (1) "Department" means department of agriculture;
- (2) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated. [1995 c 374 § 61.]

Additional notes found at www.leg.wa.gov

43.23.002 Director—Appointment—Powers and duties—Salary. The executive and administrative head of the department of agriculture shall be the director. The director shall be appointed by the governor with the consent of the senate and shall have complete charge of and supervisory power over the department. The director shall be paid a salary

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fixed by the governor in accordance with RCW 43.03.040. [1983 c 248 § 1.]

43.23.005 Deputy director—Appointment—Powers and duties. The director of agriculture may appoint a deputy director who shall assist the director in the administration of the affairs of the department and who shall have charge and general supervision of the department in the absence or disability of the director, and who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director. [1983 c 248 § 2; 1967 c 240 § 14.]

43.23.010 Divisions of department—Assistant directors—State veterinarian—Salaries—Assignment of duties. In order to obtain maximum efficiency and effectiveness within the department of agriculture, the director may create such administrative divisions within the department as he or she deems necessary. The director shall appoint a deputy director as well as such assistant directors as shall be needed to administer the several divisions within the department. The director shall appoint no more than eight assistant directors. The officers appointed under this section are exempt from the provisions of the state civil service law as provided in RCW 41.06.070(1)(g), and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. The director shall also appoint and depute a state veterinarian who shall be an experienced veterinarian properly licensed to practice veterinary medicine in this state.

The director of agriculture shall have charge and general supervision of the department and may assign supervisory and administrative duties other than those specified in RCW 43.23.070 to the division which in his or her judgment can most efficiently carry on those functions. [2002 c 354 § 244; 1990 c 37 § 1; 1983 c 248 § 3; 1967 c 240 § 1; 1965 c 8 § 43.23.010. Prior: 1951 c 170 § 1; 1921 c 7 § 83; RRS § 10841.]

Short title—Headings, captions not law—Severability—2002 c 354: See RCW 41.80.907 through 41.80.909.

Apiary advisory committee: RCW 15.60.010.

Additional notes found at www.leg.wa.gov

43.23.015 Divisions of department—Reassignment of division functions. Except for the functions specified in RCW 43.23.070, the director may, at his or her discretion, reassign any of the functions delegated to the various divisions of the department under the provisions of this chapter or any other law to any other division of the department. [2009 c 549 § 5103; 1983 c 248 § 4; 1967 c 240 § 15.]

43.23.025 Rule-making authority. For rules adopted after July 23, 1995, the director of agriculture may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 104.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

43.23.030 Powers and duties. The director of agriculture shall exercise all the powers and perform all the duties relating to the development of markets, for agricultural products, state and federal cooperative marketing programs, land utilization for agricultural purposes, water resources, transportation, and farm labor as such matters relate to the production, distribution and sale of agricultural commodities including private sector cultured aquatic products as defined in RCW 15.85.020. [1985 c 457 § 15; 1983 c 248 § 5; 1967 c 240 § 3; 1965 c 8 § 43.23.030. Prior: (i) 1921 c 7 § 90; RRS § 10848. (ii) 1937 c 90 § 10; RRS § 10847-1.]

Fair commission: Chapter 15.76 RCW.

Farm marketing: Chapters 15.64, 15.65, 15.66 RCW.

43.23.033 Funding staff support for commodity boards and commissions—Rules. (1) The director may provide by rule for a method to fund staff support for all commodity boards and commissions if a position is not directly funded by the legislature.

(2) Staff support funded under this section, RCW 15.65.047(1)(c), 15.66.055(3), 15.24.215, 15.26.265, 15.28.320, 15.44.190, 15.88.180, 15.89.150, and 16.67.190, and chapter 15.115 RCW shall be limited to one-half full-time equivalent employee for all commodity boards and commissions. [2009 c 33 § 38; 2006 c 330 § 27; 2002 c 313 § 78.]

Construction—Severability—2006 c 330: See RCW 15.89.900 and 15.89.901.

Effective dates—2002 c 313: See note following RCW 15.65.020.

43.23.035 Powers and duties—State agricultural market development programs and activities. The department of agriculture is hereby designated as the agency of state government for the administration and implementation of state agricultural market development programs and activities, both domestic and foreign, and shall, in addition to the powers and duties otherwise imposed by law, have the following powers and duties:

(1) To study the potential marketability of various agricultural commodities of this state in foreign and domestic trade;

(2) To collect, prepare, and analyze foreign and domestic market data;

(3) To establish a program to promote and assist in the marketing of Washington-bred horses: PROVIDED, That the department shall present a proposal to the legislature no later than December 1, 1986, that provides for the elimination of all state funding for the program after June 30, 1989;

(4) To encourage and promote the sale of Washington's agricultural commodities and products at the site of their production through the development and dissemination of referral maps and other means;

(5) To encourage and promote those agricultural industries, such as the wine industry, which attract visitors to rural areas in which other agricultural commodities and products are produced and are, or could be, made available for sale;

(6) To encourage and promote the establishment and use of public markets in this state for the sale of Washington's agricultural products;

(7) To maintain close contact with foreign firms and governmental agencies and to act as an effective intermediary between foreign nations and Washington traders;

(8) To publish and disseminate to interested citizens and others information which will aid in carrying out the purposes of chapters 43.23, 15.64, 15.65, and 15.66 RCW;

(9) To encourage and promote the movement of foreign and domestic agricultural goods through the ports of Washington;

(10) To conduct an active program by sending representatives to, or engaging representatives in, foreign countries to promote the state's agricultural commodities and products;

(11) To assist and to make Washington agricultural concerns more aware of the potentials of foreign trade and to encourage production of those commodities that will have high export potential and appeal;

(12) To coordinate the trade promotional activities of appropriate federal, state, and local public agencies, as well as civic organizations; and

(13) To develop a coordinated marketing program with the *department of community, trade, and economic development, utilizing existing trade offices and participating in mutual trade missions and activities.

As used in this section, "agricultural commodities" includes products of both terrestrial and aquatic farming. [1995 c 399 § 70; 1986 c 202 § 1; 1985 c 159 § 3.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Legislative declaration and intent—1985 c 159: "The legislature declares that:

(1) Marketing is a dynamic and changing part of Washington agriculture and a vital element in expanding the state economy.

(2) The export of agricultural products produced in Washington state contributes substantial benefits to the economic base of the state, provides a large number of jobs and sizeable tax revenues to state and local governments, provides an important stabilizing effect on prices received by agricultural producers, and contributes to the United States balance of trade.

(3) State government should play a significant role in the development and expansion of markets for Washington grown and processed agricultural and food products.

(4) In order for state government to serve the best interests of agriculture in the area of market development, the role of state government in this area must be clearly defined.

(5) The department of agriculture, the department of commerce and economic development, and the IMPACT center at Washington State University, each possesses its own unique body of knowledge, expertise, and relationships that, when combined and applied in a logical and cooperative manner, will benefit the agricultural industry and the overall state economy and will provide a powerful force to seek aggressively new domestic and international markets for Washington's agricultural products.

It is the intent of the legislature to establish an organized agricultural market development function within state government with clearly defined areas of responsibility which will be responsive to the state's agricultural and food products industries' needs, without duplicating established private sector marketing efforts." [1985 c 159 § 1.]

Additional notes found at www.leg.wa.gov

43.23.037 Publishing and dissemination costs—Deposit of proceeds. The director may collect moneys to recover the reasonable costs of publishing and disseminating informational materials by the department. Materials may be disseminated in printed or electronic format. All moneys collected shall be deposited in the agricultural local fund or other

appropriate fund administered by the director. [1997 c 303 § 5.]

Findings—1997 c 303: See note following RCW 43.135.055.

43.23.042 Consultation with commodity commissions. The director may consult with each commodity commission established under state law in order to establish or maintain an integrated comprehensive regulatory scheme for each commodity and the agricultural industry in this state as a whole. [2002 c 313 § 112.]

Effective dates—2002 c 313: See note following RCW 15.65.020.

43.23.050 Powers and duties. The director of agriculture shall:

(1) Exercise all the powers and perform all the duties prescribed by law relating to horticulture, and horticultural plants and products;

(2) Enforce and supervise the administration of all laws relating to horticulture, horticultural products, and horticultural interests. [1983 c 248 § 6; 1967 c 240 § 5; 1965 c 8 § 43.23.050. Prior: 1921 c 7 § 91; RRS § 10849.]

Horticultural

pests and diseases: Chapter 15.08 RCW.

plants, Christmas trees, and facilities: Chapter 15.13 RCW.

43.23.070 Powers and duties of state veterinarian. The state veterinarian shall exercise all the powers and perform all duties prescribed by law relating to diseases among animals and the quarantine and destruction of diseased animals.

The state veterinarian shall enforce and supervise the administration of all laws relating to meat inspection, the prevention, detection, control and eradication of diseases of animals, and all other matters relative to the diseases of livestock and their effect upon the public health. [1998 c 8 § 20; 1983 c 248 § 7; 1967 c 240 § 7; 1965 c 8 § 43.23.070. Prior: 1943 c 56 § 1; 1921 c 7 § 92; Rem. Supp. 1943 § 10850.]

Animal health: Chapter 16.36 RCW.

Dairies and dairy products: Chapter 15.36 RCW.

Diseased animals: Chapter 16.36 RCW.

43.23.090 Powers and duties. The director of agriculture shall exercise all powers and perform all duties prescribed by law with respect to the inspection of foods, food products, drinks, milk and milk products, and dairies and dairy products and the components thereof.

He or she shall enforce and supervise the administration of all laws relating to foods, food products, drinks, milk and milk products, dairies and dairy products, and their inspection, manufacture, and sale. [2009 c 549 § 5104; 1983 c 248 § 8; 1967 c 240 § 9; 1965 c 8 § 43.23.090. Prior: 1921 c 7 § 93; RRS § 10851.]

Commercial feed law: Chapter 15.53 RCW.

Eggs and egg products: Chapter 69.25 RCW.

Food, drugs and cosmetics: Chapter 69.04 RCW.

Honey: Chapter 69.28 RCW.

Weighing commodities in highway transport: Chapter 15.80 RCW.

Weights and measures: Chapter 19.94 RCW.

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43.23.110 Powers and duties. The director of agriculture shall exercise all powers and perform all duties prescribed by law with respect to grains, grain and hay products, grain and terminal warehouses, commercial feeds, commercial fertilizers, and chemical pesticides.

He or she shall enforce and supervise the administration of all laws relating to grains, grain and hay products, grain and terminal warehouses, commercial feeds, commercial fertilizers, and chemical pesticides. [2009 c 549 § 5105; 1983 c 248 § 9; 1967 c 240 § 11; 1965 c 8 § 43.23.110. Prior: 1921 c 7 § 94; RRS § 10852.]

Commercial fertilizers: Chapter 15.54 RCW.

Grain and terminal warehouses: Chapter 22.09 RCW.

Quarantine: Chapter 17.24 RCW.

Seeds: Chapter 15.49 RCW.

Weeds: Chapters 17.04 and 17.06 RCW.

43.23.120 Bulletins and reports. The director of agriculture may publish and distribute bulletins and reports embodying information upon the subjects of agriculture, horticulture, livestock, dairying, foods and drugs, and other matters pertaining to his or her department. [2009 c 549 § 5106; 1977 c 75 § 50; 1965 c 8 § 43.23.120. Prior: (i) 1919 c 126 § 1, part; 1913 c 60 § 6, part; RRS § 2724, part. (ii) 1921 c 7 § 89, part; RRS § 10847, part.]

43.23.130 Annual report. The director of agriculture shall make an annual report to the governor containing an account of all matters pertaining to his or her department and its administration. [2009 c 549 § 5107; 1977 c 75 § 51; 1965 c 8 § 43.23.130. Prior: (i) 1919 c 126 § 1, part; 1913 c 60 § 6, part; RRS § 2724, part. (ii) 1921 c 7 § 89, part; RRS § 10847, part.]

43.23.160 Powers and duties. The director of agriculture shall exercise all the powers and perform all the duties prescribed by law relating to commission merchants, livestock identification, livestock brand registration and inspection. All officers appointed to enforce these laws who have successfully completed a course of training prescribed by the Washington state criminal justice training commission shall have the authority generally vested in a peace officer solely for the purpose of enforcing these laws.

He or she shall enforce and supervise the administration of all laws relating to commission merchants, livestock identification and shall have the power to enforce all laws relating to any division under the supervision of the director of agriculture. [2009 c 549 § 5108; 1983 c 248 § 10; 1967 c 240 § 13. Prior: 1965 c 8 § 43.23.160; prior: 1951 c 170 § 3.]

43.23.170 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the director or the department of agriculture shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 623.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

43.23.200 Official chemists of department—Designated—Duties. The chief chemist of the department of agriculture dairy and food laboratory and the chief chemist of the department of agriculture chemical and hop laboratory shall be the official chemists of the department of agriculture. Official chemists of the department shall provide laboratory services and analyze all substances that the director of agriculture may send to them and report to the director without unnecessary delay the results of any analysis so made. When called upon by the director, they or any of the additional chemists provided for pursuant to RCW 43.23.205 shall assist in any prosecution for the violation of any law enforced by the department. [1987 c 393 § 14; 1981 c 297 § 27.]

Additional notes found at www.leg.wa.gov

43.23.205 Additional chemists—Appointment—Duties—Compensation. The director of agriculture may appoint one or more competent graduate chemists to serve as additional chemist of the department of agriculture, who may perform any of the duties required of and under the supervision of the official chemists, and whose compensation shall be fixed by the director. [1981 c 297 § 28.]

Additional notes found at www.leg.wa.gov

43.23.220 Disposition of impounded livestock on Hanford reservation—Agreements to act as federal government's agent. The director of agriculture may enter written agreements with one or more agencies of the United States to act as the federal government's agent for determining the disposition of livestock impounded on the federal Hanford reservation. The director's authority under such an agreement may include, but is not limited to, selling or donating, on behalf of the federal government, unclaimed livestock to a qualified person, organization, or governmental agency that the director determines to be capable of humanely transporting and caring for the livestock. The director may sell or donate such livestock only if the livestock remains unclaimed after the completion of a reasonable attempt to ascertain ownership and, if ownership is not otherwise determined, by the publication of notice that the livestock has been impounded on the reservation. [1983 c 248 § 12.]

43.23.230 Agricultural local fund. The agricultural local fund is hereby established in the custody of the state treasurer. The fund shall consist of such money as is directed by law for deposit in the fund, and such other money not subject to appropriation that the department authorizes to be deposited in the fund. Any money deposited in the fund, the use of which has been restricted by law, may only be expended in accordance with those restrictions. The department may make disbursements from the fund. The fund is not subject to legislative appropriation. [1988 c 254 § 1.]

43.23.250 Collection of unpaid penalties, assessments, and debts—Use of collection agencies. Except as otherwise specified by law, the director or his or her designee has the authority to retain collection agencies licensed under chapter 19.16 RCW for the purposes of collecting unpaid penalties, assessments, and other debts owed to the department.

The director or his or her designee may also collect as costs moneys paid to the collection agency as charges, or in the case of credit cards or financial instruments, such as checks returned for nonpayment, moneys paid to financial institutions. [1995 c 374 § 62.]

Additional notes found at www.leg.wa.gov

43.23.255 Assessments levied by director—Personal debt—Costs of collecting—Civil actions authorized—Attorneys' fees. Except as otherwise specified by law, any due and payable assessment levied under the authority of the director or his or her designee in such specified amount as may be determined by the department shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the department when payment is called for by the department. In the event any person fails to pay the department the full amount of such assessment or such other sum on or before the date due, the department may, and is hereby authorized to, add to such unpaid assessment or other sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other sum, the department may bring a civil action against such person or persons in a court of competent jurisdiction for the collections thereof, including all costs and reasonable attorneys' fees together with the above specified ten percent, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable. [1995 c 374 § 63.]

Additional notes found at www.leg.wa.gov

43.23.260 Interest on unpaid balances. Except as otherwise specified by law, the department is authorized to charge interest at the rate authorized under RCW 43.17.240 for all unpaid balances for moneys owed to the department. [1995 c 374 § 64.]

Additional notes found at www.leg.wa.gov

43.23.265 Dishonored check or negotiable instrument. Except as otherwise specified by law, in the event a check or negotiable instrument as defined by RCW 62A.3-104 is dishonored by nonacceptance or nonpayment, the department is entitled to collect a reasonable handling fee for each instrument. If the check or instrument is not paid within fifteen days and proper notice is sent, the department is authorized to recover the assessment, the handling fee, and any other charges allowed by RCW 62A.3-515. [1995 c 374 § 65.]

Additional notes found at www.leg.wa.gov

43.23.270 Export market development project records—Confidentiality. Except for release of statistical information not descriptive of any readily identifiable person or persons, all financial and commercial information and records supplied by persons to the department with respect to export market development projects shall be kept confidential unless confidentiality is waived by the party supplying the information. For purposes of this section, persons include any natural person, joint venture, firm, partnership or associ-

ation, private or public corporation, or governmental entity. [1996 c 80 § 2.]

43.23.275 Market development and promotion matching fund program. There is created a market development and promotion matching fund program within the Washington state department of agriculture. The purpose of the program is to allow the department of agriculture and the agricultural industry to combine funds in order to enhance access to markets that are growth sales areas for the industry's product. The goal of the program is to expose buyers to Washington's diverse agricultural products. The agriculture [agricultural] industry may bring in buying missions, perform trade promotions in various markets, hire overseas contractors, and perform other marketing functions that help it target the correct buyer and market for its product. [2001 c 324 § 2.]

Findings—Intent—2001 c 324: "The legislature finds that the growing and processing of food and agricultural products is the dominant industry in Washington state and a major employer in rural Washington. The legislature also finds that agriculture is a critical component of Washington's international trade industry, accounting for billions of dollars in exports every year.

The legislature further finds that the export market for Washington's agricultural products has dropped significantly in recent years and that such a drop has negatively impacted the economy in Washington's agricultural regions. Therefore, it is the intent of the legislature to enhance Washington's international trade of agricultural products by increasing funding for the Washington state department of agriculture's international marketing program in an effort to promote marketing of Washington's products and to assist the agricultural industry in efforts to reduce trade barriers that stand in the way of trade in new and emerging markets." [2001 c 324 § 1.]

43.23.280 Trade barrier matching fund program. (1) The legislature finds that trade barriers have become an increasingly important issue in the agricultural arena. Further, the world trade organization highlighted the need for "a fair and level playing field." The legislature finds that both large and small commodity groups need adequate resources to address trade barrier issues.

(2) There is created within the department of agriculture a trade barrier matching fund program to assist agriculture [agricultural] industries in fighting trade barriers. The purpose of the program is to allow the department of agriculture and the agricultural industry to combine funds in order to address trade barriers issues impacting the agricultural industry. [2001 c 324 § 3.]

Findings—Intent—2001 c 324: See note following RCW 43.23.275.

43.23.290 Food assistance programs. The director of the department may exercise powers and duties with respect to the administration of food assistance programs in the department. It is the intent of the legislature in administering the food assistance programs transferred to the department by chapter 68, Laws of 2010, that programs continue to be provided through community-based organizations. It is the intent of the legislature that in accepting the administration of food assistance programs, the department's core programs administered by the department by July 1, 2010, not be impacted.

The director of the department may adopt rules necessary to implement the food assistance programs.

The director may enter into contracts and agreements to implement food assistance programs, including contracts and (2010 Ed.)

agreements with the United States department of agriculture, to implement federal food assistance programs. [2010 c 68 § 1.]

Effective date—2010 c 68: "This act takes effect July 1, 2010." [2010 c 68 § 5.]

Chapter 43.24 RCW

DEPARTMENT OF LICENSING

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Veterans, motor vehicle license issued free to veterans with disabilities: RCW 73.04.110.

Veterans' preferences, qualifications for: RCW 73.04.090.

43.24.001 Department of licensing—Creation—Director—Powers, duties, and functions—Personnel. See chapter 46.01 RCW.

43.24.005 Director—Appointment—Salary. The director of licensing shall be appointed by the governor with the consent of the senate and shall serve at the pleasure of the governor. The director shall receive a salary in an amount fixed by the governor in accordance with RCW 43.03.040. [1999 c 240 § 3.]

43.24.016 Powers and duties—Generally. (1) The director of licensing shall supervise and administer the activities of the department of licensing and shall advise the governor and the legislature with respect to matters under the jurisdiction of the department.

(2) In addition to other powers and duties granted to the director, the director has the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the responsibilities of the department;

(b) Accept and expend gifts and grants, whether such grants be of federal or other funds;

(c) Appoint a deputy director and such assistant directors, special assistants, and administrators as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW;

(d) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary to carry out the responsibilities of the department;

(e) Delegate powers, duties, and functions as the director deems necessary for efficient administration, but the director is responsible for the official acts of the officers and employees of the department; and

(f) Perform other duties as are necessary and consistent with law.

(3) The director may establish advisory groups as may be necessary to carry out the responsibilities of the department.

(4) The internal affairs of the department shall be under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director shall have complete charge and supervisory powers over the department. The director may create such administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ such personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law. [1999 c 240 § 4.]

43.24.020 Powers and duties—Licensing. In addition to other powers and duties granted to the department, the director of licensing shall administer all laws with respect to the examination of applicants for, and the issuance of, licenses to persons to engage in any business, profession, trade, occupation, or activity except for health professions. [1999 c 240 § 1; 1994 c 92 § 496; 1989 1st ex.s. c 9 § 314; 1979 c 158 § 95; 1965 c 100 § 2; 1965 c 8 § 43.24.020. Prior: (i) 1921 c 7 § 96; RRS § 10854. (ii) 1921 c 7 § 104; RRS § 10862. (iii) 1929 c 133 § 1; RRS § 5852-24.]

Powers, duties and functions of director and department of licensing: Chapter 46.01 RCW.

Additional notes found at www.leg.wa.gov

43.24.023 Rule-making authority. For rules adopted after July 23, 1995, the director of the department of licensing may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule, except rules defining or clarifying terms in, or procedures necessary to the implementation of, a statute. [1995 c 403 § 107.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

43.24.030 "License" defined. The word "license" shall be construed to mean and include license, certificate of registration, certificate of qualification, certificate of competency, certificate of authority, and any other instrument, by whatever name designated, authorizing the practice of a profession or calling, the carrying on of a business or occupation, or the doing of any act required by law to be authorized by the state. [1965 c 8 § 43.24.030. Prior: 1921 c 7 § 98; RRS § 10856.]

43.24.040 Forms to be prescribed. The director of licensing shall prescribe the various forms of applications, certificates, and licenses required by law. [1979 c 158 § 97; 1965 c 8 § 43.24.040. Prior: 1921 c 7 § 97; RRS § 10855.]

Application forms—Licenses—Mention of race or religion prohibited—Penalty: RCW 43.01.100.

Director to prescribe forms for applications, licenses, certificates: RCW 46.01.160.

43.24.060 Examinations—Committees—Duties, compensation, travel expenses. (1) The director of licensing shall, from time to time, fix such times and places for holding examinations of applicants as may be convenient, and adopt general rules and regulations prescribing the method of conducting examinations.

The governor, from time to time, upon the request of the director of licensing, shall appoint examining committees, composed of three persons possessing the qualifications provided by law to conduct examinations of applicants for licenses to practice the respective professions or callings for which licenses are required.

The committees shall prepare the necessary lists of examination questions, conduct the examinations, which may be either oral or written, or partly oral and partly written, and shall make and file with the director of licensing lists, signed by all the members conducting the examination, showing the names and addresses of all applicants for licenses who have successfully passed the examination, and showing separately the names and addresses of the applicants who have failed to pass the examination, together with all examination questions and the written answers thereto submitted by the applicants.

Each member of a committee shall receive twenty-five dollars per day for each day spent in conducting the examination and in going to and returning from the place of examination, and travel expenses, in accordance with RCW 43.03.050 and 43.03.060.

(2) The director of licensing may appoint advisory committees to advise the department regarding the preparation of examinations for professional licensing and such other specific aspects of regulating the professions within the jurisdiction of the department as the director may designate. Such a committee and its members shall serve at the pleasure of the director.

Each member of an advisory committee shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses incurred in attending meetings of the committee in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 78; 1982 c 227 § 15; 1979 c 158 § 98; 1975-'76 2nd ex.s. c 34 § 105; 1965 c 100 § 3; 1965 c 8 § 43.24.060. Prior: 1921 c 7 § 99; RRS § 10857.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.24.065 Appointment of temporary additional members of boards and committees for administration and grading of examinations. The director of licensing may, at the request of a board or committee established under Title 18 RCW under the administrative authority of the department of licensing, appoint temporary additional members for the purpose of participating as members during the administration and grading of practical examinations for licensure, certification, or registration. The appointment shall be for the duration of the examination specified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or committee, including the requirement to be licensed, certified, or registered. While serving as board or committee members, persons so appointed have all the powers, duties, and immunities and are entitled to the emoluments, including travel

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expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board or committee. This authority is intended to provide for more efficient, economical, and effective examinations. [1985 c 116 § 1.]

43.24.080 Issuance of licenses. Except as provided in RCW 43.24.112, at the close of each examination the department of licensing shall prepare the proper licenses, where no further fee is required to be paid, and issue licenses to the successful applicants signed by the director and notify all successful applicants, where a further fee is required, of the fact that they are entitled to receive such license upon the payment of such further fee to the department of licensing and notify all applicants who have failed to pass the examination of that fact. [1997 c 58 § 866; 1979 c 158 § 99; 1965 c 100 § 4; 1965 c 8 § 43.24.080. Prior: 1921 c 7 § 101; RRS § 10859.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

43.24.084 Professional licenses—Use of social security numbers and drivers' license numbers prohibited. Social security numbers and drivers' license numbers may not be used as part of a professional license. Professional licenses containing such information that are in existence on January 1, 2002, shall comply with this section by the next renewal date. [2001 c 276 § 1.]

Effective date—2001 c 276: "This act takes effect January 1, 2002." [2001 c 276 § 2.]

43.24.086 Fee policy for professions, occupations, and businesses—Determination by rule. It shall be the policy of the state of Washington that the cost of each professional, occupational[,], or business licensing program be fully borne by the members of that profession, occupation[,], or business. The director of licensing shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations[,], or businesses, except for health professions, administered by the department of licensing. In fixing said fees, the director shall set the fees for each such program at a sufficient level to defray the costs of administering that program. All such fees shall be fixed by rule adopted by the director in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW. [1999 c 240 § 2; 1989 1st ex.s. c 9 § 315; 1987 c 467 § 7; 1983 c 168 § 12.]

Regulation of health professions: Chapters 18.120 and 18.122 RCW.

Additional notes found at www.leg.wa.gov

43.24.090 Examination of persons with disabilities. Any person taking any written examination prescribed or authorized by law, for a license or permit to practice any trade, occupation, or profession, who, because of any handicap, is unable to write the examination himself or herself, may dictate it to and have it written or typed by another, to the same effect as though the examination were written out by himself or herself. Any expense connected therewith shall be

borne by the person taking the examination. [2009 c 549 § 5109; 1965 c 8 § 43.24.090. Prior: 1947 c 143 § 1; Rem. Supp. 1947 § 8265-20.]

43.24.112 Suspension of license—Noncompliance with support order—Reissuance. The department shall immediately suspend any license issued by the department of licensing of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [1997 c 58 § 869.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

43.24.115 Director's duties as to refusal, revocation or suspension of licenses—Performance by assistants. The director may deputize one or more of his or her assistants to perform his or her duties with reference to refusal, revocation or suspension of licenses, including the power to preside at hearings and to render decisions therein subject to the approval of the director. [2009 c 549 § 5110; 1965 c 100 § 6.]

43.24.120 Appeal—Further review. Except as provided in RCW 43.24.112, any person feeling aggrieved by the refusal of the director to issue a license, or to renew one, or by the revocation or suspension of a license shall have a right of appeal to superior court from the decision of the director of licensing, which shall be taken, prosecuted, heard, and determined in the manner provided in chapter 34.05 RCW.

The decision of the superior court may be reviewed by the supreme court or the court of appeals in the same manner as other civil cases. [1997 c 58 § 868; 1987 c 202 § 212; 1979 c 158 § 102; 1971 c 81 § 112; 1965 c 8 § 43.24.120. Prior: 1921 c 7 § 106; RRS § 10864.]

Rules of court: *Writ procedure superseded by RAP 2.1, 2.2, 18.22.*

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Intent—1987 c 202: See note following RCW 2.04.190.

Additional notes found at www.leg.wa.gov

43.24.125 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the director or the department of licensing shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 624.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

43.24.130 License moratorium for persons in service.

Notwithstanding any provision of law to the contrary, the license of any person licensed by the director of licensing to practice a profession or engage in an occupation, if valid and in force and effect at the time the licensee entered service in the armed forces or the merchant marine of the United States, shall continue in full force and effect so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The director shall renew the license of every such person who applies for renewal thereof within six months after being honorably discharged from service upon payment of the renewal fee applicable to the then current year or other license period. [1979 c 158 § 103; 1965 c 8 § 43.24.130. Prior: 1945 c 112 § 1; 1943 c 108 § 1; RRS § 10864-1.]

43.24.140 Extension or modification of licensing, certification, or registration period authorized—Rules and regulations, manner and content.

Notwithstanding any provision of law to the contrary which provides for a licensing period for any type of license subject to this chapter, the director of licensing may, from time to time, extend or otherwise modify the duration of any licensing, certification, or registration period, whether an initial or renewal period, if the director determines that it would result in a more economical or efficient operation of state government and that the public health, safety, or welfare would not be substantially adversely affected thereby. However, no license, certification, or registration may be issued or approved for a period in excess of four years, without renewal. Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of licensing adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period. [1984 c 279 § 25; 1979 c 158 § 104; 1971 c 52 § 1.]

Additional notes found at www.leg.wa.gov

43.24.150 Business and professions account. (1) The business and professions account is created in the state treasury. All receipts from business or professional licenses, registrations, certifications, renewals, examinations, or civil penalties assessed and collected by the department from the following chapters must be deposited into the account:

- (a) Chapter 18.11 RCW, auctioneers;
- (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- (c) Chapter 18.145 RCW, court reporters;
- (d) Chapter 18.165 RCW, private investigators;
- (e) Chapter 18.170 RCW, security guards;
- (f) Chapter 18.185 RCW, bail bond agents;
- (g) Chapter 18.280 RCW, home inspectors;
- (h) Chapter 19.16 RCW, collection agencies;
- (i) Chapter 19.31 RCW, employment agencies;
- (j) Chapter 19.105 RCW, camping resorts;
- (k) Chapter 19.138 RCW, sellers of travel;
- (l) Chapter 42.44 RCW, notaries public;
- (m) Chapter 64.36 RCW, timeshares;

(n) Chapter 67.08 RCW, boxing, martial arts, and wrestling; and

(o) Chapter 18.300 RCW.

Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for expenses incurred in carrying out these business and professions licensing activities of the department. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium.

(2) The director shall biennially prepare a budget request based on the anticipated costs of administering the business and professions licensing activities listed in subsection (1) of this section, which shall include the estimated income from these business and professions fees. [2009 c 429 § 4; 2009 c 412 § 21; 2009 c 370 § 19; 2008 c 119 § 22; 2005 c 25 § 1.]

Reviser's note: This section was amended by 2009 c 370 § 19, 2009 c 412 § 21, and by 2009 c 429 § 4, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2009 c 412 §§ 1-21: See RCW 18.300.901.

Short title—Implementation—2009 c 412: See RCW 18.300.900 and 18.300.902.

Effective date—2009 c 370 §§ 17 and 19: See note following RCW 18.96.210.

Finding—2009 c 370: See note following RCW 18.96.010.

Effective date—2005 c 25: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005." [2005 c 25 § 5.]

43.24.160 Registration of third-party administrators—Fee—Penalty—Rules. (1)(a) Beginning September 1, 2010, a third-party administrator must register with the department of licensing and renew its registration on an annual basis thereafter prior to December 31st of each year, or within ten days after the registrant changes its name, business name, business address, or business telephone number, whichever occurs sooner.

(b) The registrant shall pay the registration or renewal fee established by the department of licensing as provided in RCW 43.24.086.

(c) Any person or entity that is acting as or holding itself out to be a third-party administrator while failing to have registered under this section is subject to a civil penalty of not less than one thousand dollars nor more than ten thousand dollars for each violation. The civil penalty is in addition to any other penalties that may be imposed for violations of other laws of this state.

(2) For the purposes of this section, "third-party administrator" has the same meaning as defined in RCW 70.290.010.

(3) The department of licensing may adopt rules under chapter 34.05 RCW as necessary to implement this section. [2010 c 174 § 9.]

Effective date—2010 c 174: See RCW 70.290.900.

Chapter 43.27A RCW WATER RESOURCES

Sections

43.27A.015 Powers, duties and functions of department of water resources, director thereof, transferred to department of ecology.
43.27A.020 Definitions.

(2010 Ed.)

43.27A.090 Powers and duties of department.

43.27A.130 Department of ecology to inventory state water resources.

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43.27A.015 Powers, duties and functions of department of water resources, director thereof, transferred to department of ecology. See RCW 43.21A.064.

43.27A.020 Definitions. As used in this chapter, and unless the context indicates otherwise, words and phrase shall mean:

"Department" means the department of ecology;

"Director" means the director of ecology;

"State agency" and "state agencies" mean any branch, department or unit of state government, however designated or constituted;

"Water resources" means all waters above, upon, or beneath the surface of the earth, located within the state and over which the state has sole or concurrent jurisdiction.

"Beneficial use" means, but its meaning shall not be limited to: Domestic water supplies; irrigation; fish, shellfish, game, and other aquatic life; recreation; industrial water supplies; generation of hydroelectric power; and navigation. [1987 c 109 § 31; 1967 c 242 § 2.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.27A.090 Powers and duties of department. The department shall be empowered as follows:

(1) To represent the state at, and fully participate in, the activities of any basin or regional commission, interagency committee, or any other joint interstate or federal-state agency, committee or commission, or publicly financed entity engaged in the planning, development, administration, management, conservation or preservation of the water resources of the state.

(2) To prepare the views and recommendations of the state of Washington on any project, plan or program relating to the planning, development, administration, management, conservation and preservation of any waters located in or affecting the state of Washington, including any federal permit or license proposal, and appear on behalf of, and present views and recommendations of the state at any proceeding, negotiation or hearing conducted by the federal government, interstate agency, state or other agency.

(3) To cooperate with, assist, advise and coordinate plans with the federal government and its officers and agencies, and serve as a state liaison agency with the federal government in matters relating to the use, conservation, preservation, quality, disposal or control of water and activities related thereto.

(4) To cooperate with appropriate agencies of the federal government and/or agencies of other states, to enter into contracts, and to make appropriate contributions to federal or interstate projects and programs and governmental bodies to carry out the provisions of this chapter.

(5) To apply for, accept, administer and expend grants, gifts and loans from the federal government or any other entity to carry out the purposes of this chapter and make con-

tracts and do such other acts as are necessary insofar as they are not inconsistent with other provisions hereof.

(6) To develop and maintain a coordinated and comprehensive state water and water resources related development plan, and adopt, with regard to such plan, such policies as are necessary to insure that the waters of the state are used, conserved and preserved for the best interest of the state. There shall be included in the state plan a description of developmental objectives and a statement of the recommended means of accomplishing these objectives. To the extent the director deems desirable, the plan shall integrate into the state plan, the plans, programs, reports, research and studies of other state agencies.

(7) To assemble and correlate information relating to water supply, power development, irrigation, watersheds, water use, future possibilities of water use and prospective demands for all purposes served through or affected by water resources development.

(8) To assemble and correlate state, local and federal laws, regulations, plans, programs and policies affecting the beneficial use, disposal, pollution, control or conservation of water, river basin development, flood prevention, parks, reservations, forests, wildlife refuges, drainage and sanitary systems, waste disposal, water works, watershed protection and development, soil conservation, power facilities and area and municipal water supply needs, and recommend suitable legislation or other action to the legislature, the congress of the United States, or any city, municipality, or to responsible state, local or federal executive departments or agencies.

(9) To cooperate with federal, state, regional, interstate and local public and private agencies in the making of plans for drainage, flood control, use, conservation, allocation and distribution of existing water supplies and the development of new water resource projects.

(10) To encourage, assist and advise regional, and city and municipal agencies, officials or bodies responsible for planning in relation to water aspects of their programs, and coordinate local water resources activities, programs, and plans.

(11) To promulgate such rules and regulations as are necessary to carry out the purposes of this chapter.

(12) To hold public hearings, and make such investigations, studies and surveys as are necessary to carry out the purposes of the chapter.

(13) To subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and require the production of any books or papers when the department deems such measures necessary in the exercise of its rule-making power or in determining whether or not any license, certificate, or permit shall be granted or extended. [1988 c 127 § 25; 1967 c 242 § 9.]

43.27A.130 Department of ecology to inventory state water resources. The department of ecology may make complete inventories of the state's water resources and enter into such agreements with the director of the United States geological survey as will insure that investigations and surveys are carried on in an economical manner. [1988 c 127 § 26; 1967 c 242 § 15.]

43.27A.190 Water resource orders. Notwithstanding and in addition to any other powers granted to the department of ecology, whenever it appears to the department that a person is violating or is about to violate any of the provisions of the following:

(1) Chapter 90.03 RCW; or

(2) Chapter 90.44 RCW; or

(3) Chapter 86.16 RCW; or

(4) Chapter 43.37 RCW; or

(5) Chapter 43.27A RCW; or

(6) Any other law relating to water resources administered by the department; or

(7) A rule or regulation adopted, or a directive or order issued by the department relating to subsections (1) through (6) of this section; the department may cause a written regulatory order to be served upon said person either personally, or by registered or certified mail delivered to addressee only with return receipt requested and acknowledged by him or her. The order shall specify the provision of the statute, rule, regulation, directive or order alleged to be or about to be violated, and the facts upon which the conclusion of violating or potential violation is based, and shall order the act constituting the violation or the potential violation to cease and desist or, in appropriate cases, shall order necessary corrective action to be taken with regard to such acts within a specific and reasonable time. The regulation of a headgate or controlling works as provided in RCW 90.03.070, by a watermaster, stream patrol officer, or other person so authorized by the department shall constitute a regulatory order within the meaning of this section. A regulatory order issued hereunder shall become effective immediately upon receipt by the person to whom the order is directed, except for regulations under RCW 90.03.070 which shall become effective when a written notice is attached as provided therein. Any person aggrieved by such order may appeal the order pursuant to RCW 43.21B.310. [2009 c 549 § 5111; 1987 c 109 § 11; 1969 ex.s. c 284 § 7.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Additional notes found at www.leg.wa.gov

43.27A.220 "Person" defined. Whenever the word "person" is used in RCW 43.27A.190, it shall be construed to include any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual or any other entity whatsoever. [1988 c 127 § 27; 1969 ex.s. c 284 § 11.]

Additional notes found at www.leg.wa.gov

43.27A.900 Liberal construction. The rule of strict construction shall have no application to this chapter, but the same shall be liberally construed, in order to carry out the purposes and objectives for which this chapter is intended. [1967 c 242 § 22.]

43.27A.910 Severability—1967 c 242. If any provision of this chapter, or its application to any person or circumstance, is held invalid, the remainder of this chapter, or the application to other persons or circumstances, is not affected. [1967 c 242 § 21.]

Chapter 43.30 RCW

DEPARTMENT OF NATURAL RESOURCES

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PART 1
GENERAL

43.30.010 Purpose. The purpose of this chapter is to provide for more effective and efficient management of the forest and land resources in the state by consolidating into a department of natural resources certain powers, duties and functions of the division of forestry of the department of conservation and development, the board of state land commissioners, the state forest board, all state sustained yield forest committees, director of conservation and development, state capitol committee, director of licensing, secretary of state, director of revenue, and commissioner of public lands. [1979 c 107 § 4; 1965 c 8 § 43.30.010. Prior: 1957 c 38 § 1.]

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

(1) "Administrator" means the administrator of the department of natural resources.

(2) "Agency" and "state agency" means any branch, department, or unit of the state government, however designated or constituted.

(3) "Board" means the board of natural resources.

(4) "Commissioner" means the commissioner of public lands.

(5) "Department" means the department of natural resources.

(6) "Supervisor" means the supervisor of natural resources. [2010 c 126 § 7; 2009 c 163 § 6; 1965 c 8 § 43.30.020. Prior: 1957 c 38 § 2.]

Findings—Intent—2009 c 163: See note following RCW 43.30.835.

43.30.030 Department created. The department of natural resources is hereby created, to consist of a board of natural resources, an administrator and a supervisor. [1965 c 8 § 43.30.030. Prior: 1957 c 38 § 3.]

43.30.055 Employees—Applicability of merit system. All employees of the department shall be governed by any merit system which is now or may hereafter be enacted by law governing such employment. [2003 c 334 § 119; 1965 c 8 § 43.30.270. Prior: 1957 c 38 § 27. Formerly RCW 43.30.270.]

Intent—2003 c 334: See note following RCW 79.02.010.

PART 2 ORGANIZATION

43.30.105 Administrator of department. The commissioner of public lands shall be the administrator of the department. [1965 c 8 § 43.30.050. Prior: 1957 c 38 § 5. Formerly RCW 43.30.050.]

43.30.155 Supervisor of natural resources—Appointment. The supervisor shall be appointed by the administrator with the advice and consent of the board. The supervisor shall serve at the pleasure of the administrator. [2003 c 334 § 105; 1965 c 8 § 43.30.060. Prior: 1957 c 38 § 6. Formerly RCW 43.30.060.]

Intent—2003 c 334: See note following RCW 79.02.010.

PART 3 BOARD OF NATURAL RESOURCES

43.30.205 Board of natural resources—Composition.

- (1) The board shall consist of six members:
- The governor or the governor's designee;
 - The superintendent of public instruction;
 - The commissioner;
 - The director of the University of Washington school of forest resources;
 - The dean of the Washington State University college of agricultural, human, and natural resource sciences; and
 - A representative of those counties that contain state forest lands acquired or transferred under RCW 79.22.010, 79.22.040, and 79.22.020.

(2)(a) The county representative on the board shall be selected by the legislative authorities of those counties that contain state forest lands acquired or transferred under RCW 79.22.010, 79.22.040, and 79.22.020. In the selection of the county representative, each participating county shall have one vote. The Washington state association of counties shall convene a meeting for the purpose of making the selection and shall notify the board of the selection.

(b) The county representative must be a duly elected member of a county legislative authority who shall serve a term of four years unless the representative should leave office for any reason. The initial term shall begin on July 1, 1986. [2010 c 189 § 1; 2003 c 334 § 104; 1986 c 227 § 1;

1979 ex.s. c 57 § 9; 1965 c 8 § 43.30.040. Prior: 1957 c 38 § 4. Formerly RCW 43.30.040.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.215 Powers and duties of board. The board shall:

(1) Perform duties relating to appraisal, appeal, approval, and hearing functions as provided by law;

(2) Establish policies to ensure that the acquisition, management, and disposition of all lands and resources within the department's jurisdiction are based on sound principles designed to achieve the maximum effective development and use of such lands and resources consistent with laws applicable thereto;

(3) Constitute the board of appraisers provided for in Article 16, section 2 of the state Constitution;

(4) Constitute the commission on harbor lines provided for in Article 15, section 1 of the state Constitution as amended;

(5) Adopt and enforce rules as may be deemed necessary and proper for carrying out the powers, duties, and functions imposed upon it by this chapter. [2003 c 334 § 112; 1988 c 128 § 10; 1986 c 227 § 2; 1975-'76 2nd ex.s. c 34 § 107; 1965 c 8 § 43.30.150. Prior: 1957 c 38 § 15. Formerly RCW 43.30.150.]

Intent—2003 c 334: See note following RCW 79.02.010.

Additional notes found at www.leg.wa.gov

43.30.225 Board's duties—Meetings—Organization. The board shall:

(1) Hold regular monthly meetings at such times as it may determine, and such special meetings as may be called by the chair or majority of the board membership upon written notice to all members. However, the board may dispense with any regular meetings, except that the board shall not dispense with two consecutive regular meetings;

(2) Employ and fix the compensation of technical, clerical, and other personnel as deemed necessary for the performance of its duties;

(3) Appoint such advisory committees as deemed appropriate to advise and assist it to more effectively discharge its responsibilities. The members of such committees shall receive no compensation, but are entitled to reimbursement for travel expenses in attending committee meetings in accordance with RCW 43.03.050 and 43.03.060;

(4) Meet and organize on the third Tuesday of each January following a state general election at which the elected ex officio members of the board are elected. The board shall select its own chair. The commissioner of public lands shall be the secretary of the board. The board may select a vice-chair from among its members. In the absence of the chair and vice-chair at a meeting of the board, the members shall elect a chair pro tem. No action shall be taken by the board except by the agreement of at least four members. The department and the board shall maintain its principal office at the capital;

(5) Be entitled to reimbursement individually for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060. [2003 c 334 § 113.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.235 Records—Rules. (1) The board shall keep its records in the office of the commissioner, and shall keep a full and complete record of its proceedings relating to the appraisal of lands granted for educational purposes.

(2) Records for all forest lands acquired by the state and any lands owned by the state and designated as such by the department must be maintained by the department as provided in RCW 79.22.030.

(3) The board shall have the power, from time to time, to make and enforce rules for carrying out the provisions of this title relating to its duties not inconsistent with law. [2003 c 334 § 304; 1988 c 128 § 51; 1982 1st ex.s. c 21 § 149; 1927 c 255 § 13; RRS § 7797-13. Formerly RCW 79.01.052, 43.65.020.]

Intent—2003 c 334: See note following RCW 79.02.010.

Additional notes found at www.leg.wa.gov

PART 4 FUNDS

43.30.305 Natural resources equipment fund—Authorized—Purposes—Expenditure. A revolving fund in the custody of the state treasurer, to be known as the natural resources equipment fund, is hereby created to be expended by the department without appropriation solely for the purchase of equipment, machinery, and supplies for the use of the department and for the payment of the costs of repair and maintenance of such equipment, machinery, and supplies. During the 2007-2009 fiscal biennium the legislature may transfer such amounts as represent the excess balance of the fund to the state general fund. [2009 c 564 § 1809; 2005 c 518 § 928; 2003 c 334 § 120; 1965 c 8 § 43.30.280. Prior: 1963 c 141 § 1. Formerly RCW 43.30.280.]

Effective date—2009 c 564: See note following RCW 2.68.020.

Severability—Effective date—2005 c 518: See notes following RCW 28A.500.030.

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.315 Natural resources equipment fund—Reimbursement. The natural resources equipment fund shall be reimbursed by the department for all moneys expended from it. Reimbursement may be prorated over the useful life of the equipment, machinery, and supplies purchased by moneys from the fund. Reimbursement may be made from moneys appropriated or otherwise available to the department for the purchase, repair, and maintenance of equipment, machinery, and supplies and shall be prorated on the basis of relative benefit to the programs. For the purpose of making reimbursement, all existing and hereafter acquired equipment, machinery, and supplies of the department shall be deemed to have been purchased from the natural resources equipment fund. [2003 c 334 § 121; 1965 c 8 § 43.30.290. Prior: 1963 c 141 § 2. Formerly RCW 43.30.290.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.325 Deposit of money and fees—Natural resources deposit fund—Repayments. (1) The department

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shall deposit daily all moneys and fees collected or received by the commissioner and the department in the discharge of official duties as follows:

(a) The department shall pay moneys received as advance payments, deposits, and security from successful bidders under RCW 79.15.100 and 79.11.150 to the state treasurer for deposit under (b) of this subsection. Moneys received from unsuccessful bidders shall be returned as provided in RCW 79.11.150;

(b) The department shall pay all moneys received on behalf of a trust fund or account to the state treasurer for deposit in the trust fund or account after making the deduction authorized under RCW *79.22.040, 79.22.050, 79.64.040, and 79.15.520;

(c) The natural resources deposit fund is hereby created. The state treasurer is the custodian of the fund. All moneys or sums which remain in the custody of the commissioner of public lands awaiting disposition or where the final disposition is not known shall be deposited into the natural resources deposit fund. Disbursement from the fund shall be on the authorization of the commissioner or the commissioner's designee, without necessity of appropriation;

(d) If it is required by law that the department repay moneys disbursed under (a) and (b) of this subsection the state treasurer shall transfer such moneys, without necessity of appropriation, to the department upon demand by the department from those trusts and accounts originally receiving the moneys.

(2) Money shall not be deemed to have been paid to the state upon any sale or lease of land until it has been paid to the state treasurer. [2003 c 334 § 125; 2003 c 313 § 9; 1981 2nd ex.s. c 4 § 1; 1965 c 8 § 43.85.130. Prior: (i) 1911 c 51 § 1; RRS § 5555. (ii) 1909 c 133 § 1, part; 1907 c 96 § 1, part; RRS § 5501, part. Formerly RCW 43.85.130.]

Reviser's note: *(1) The reference to RCW 79.22.040 appears to be incorrect. A reference to RCW 79.64.110 was apparently intended.

(2) This section was amended by 2003 c 313 § 9 and by 2003 c 334 § 125, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—2003 c 334: See note following RCW 79.02.010.

Findings—Severability—2003 c 313: See notes following RCW 79.15.500.

Moneys received and invested prior to December 1, 1981: "Moneys received as deposits from successful bidders, advance payments, and security under RCW 79.01.132 and 79.01.204, which have been invested prior to December 1, 1981, in time deposits, shall be subject to RCW 43.85.130 as each time deposit matures." [1981 2nd ex.s. c 4 § 2.]

Additional notes found at www.leg.wa.gov

43.30.340 Federal funds for management and protection of forests, forest and range lands. The department is authorized to receive funds from the federal government for cooperative work in management and protection of forests and forest and range lands as may be authorized by any act of Congress which is now, or may hereafter be, adopted for such purposes. [2003 c 334 § 202; 1988 c 128 § 13; 1957 c 78 § 1. Formerly RCW 76.01.040.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.345 Federal funds for management and protection of forests, forest and range lands—Disbursement of

funds. The department is authorized to disburse such funds, together with any funds which may be appropriated or contributed from any source for such purposes, on management and protection of forests and forest and range lands. [2003 c 334 § 203; 1988 c 128 § 14; 1957 c 78 § 2. Formerly RCW 76.01.050.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.360 Clarke-McNary fund. The department and Washington State University may each receive funds from the federal government in connection with cooperative work with the United States department of agriculture, authorized by sections 4 and 5 of the Clarke-McNary act of congress, approved June 7, 1924, providing for the procurement, protection, and distribution of forestry seed and plants for the purpose of establishing windbreaks, shelter belts, and farm wood lots and to assist the owners of farms in establishing, improving, and renewing wood lots, shelter belts, and windbreaks; and are authorized to disburse such funds as needed. During the 2001-2003 fiscal biennium, the legislature may transfer from the Clarke-McNary fund to the state general fund such amounts as reflect the excess fund balance of the Clarke-McNary fund. [2002 c 371 § 908; 1986 c 100 § 46.]

Severability—Effective date—2002 c 371: See notes following RCW 9.46.100.

43.30.370 Cooperative farm forestry funds. The department and Washington State University may each receive funds from the federal government for cooperative work, as authorized by the cooperative forest management act of congress, approved May 18, 1937, and as subsequently authorized by any amendments to or substitutions for that act, for all purposes authorized by those acts, and to disburse the funds in cooperation with the federal government in accordance therewith. [1986 c 100 § 47.]

43.30.385 Park land trust revolving fund. (1) The park land trust revolving fund is to be utilized by the department for the purpose of acquiring real property, including all reasonable costs associated with these acquisitions, as a replacement for the property transferred to the state parks and recreation commission, as directed by the legislature in order to maintain the land base of the affected trusts or under RCW 79.22.060 and to receive voluntary contributions for the purpose of operating and maintaining public use and recreation facilities, including trails, managed by the department. Proceeds from transfers of real property to the state parks and recreation commission or other proceeds identified from transfers of real property as directed by the legislature shall be deposited in this fund. Disbursement from the park land trust revolving fund to acquire replacement property and for operating and maintaining public use and recreation facilities shall be on the authorization of the department. The proceeds from real property transferred or disposed under RCW 79.22.060 must be solely used to purchase replacement forest land, that must be actively managed as a working forest, within the same county as the property transferred or disposed. In order to maintain an effective expenditure and revenue control, the park land trust revolving fund is subject in all respects to chapter 43.88 RCW, but no appropriation is

required to permit expenditures and payment of obligations from the fund.

(2) The department is authorized to solicit and receive voluntary contributions for the purpose of operating and maintaining public use and recreation facilities, including trails, managed by the department. The department may seek voluntary contributions from individuals and organizations for this purpose. Voluntary contributions will be deposited into the park land trust revolving fund and used solely for the purpose of public use and recreation facilities operations and maintenance. Voluntary contributions are not considered a fee for use of these facilities. [2009 c 354 § 9; 2004 c 103 § 1; 2003 c 334 § 106; 2000 c 148 § 4; 1995 c 211 § 5. Formerly RCW 43.30.115.]

Finding—Intent—2009 c 354: See note following RCW 84.33.140.

Intent—2003 c 334: See note following RCW 79.02.010.

Findings—Intent—Effective date—Severability—1995 c 211: See notes following RCW 79A.05.070.

PART 5 POWERS AND DUTIES—GENERAL

43.30.411 Department to exercise powers and duties—Indemnification of private parties. (1) The department shall exercise all of the powers, duties, and functions now vested in the commissioner of public lands and such powers, duties, and functions are hereby transferred to the department. However, nothing contained in this section shall effect the commissioner's ex officio membership on any committee provided by law.

(2)(a) Except as provided in (b) of this subsection, and subject to the limitations of RCW 4.24.115, the department, in the exercise of any of its powers, may include in any authorized contract a provision for indemnifying the other contracting party against loss or damages.

(b) When executing a right-of-way or easement contract over private land that involves forest management activities, the department shall indemnify the private landowner if the landowner does not receive a direct benefit from the contract. [2003 c 334 § 108; 2003 c 312 § 1; 1965 c 8 § 43.30.130. Prior: 1957 c 38 § 13. Formerly RCW 43.30.130.]

Reviser's note: This section was amended by 2003 c 312 § 1 and by 2003 c 334 § 108, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.421 Administrator. The administrator shall have responsibility for performance of all the powers, duties, and functions of the department except those specifically assigned to the board. In the performance of these powers, duties, and functions, the administrator shall conform to policies established by the board, and may employ and fix the compensation of such personnel as may be required to perform the duties of this office. [2003 c 334 § 114; 1965 c 8 § 43.30.160. Prior: 1957 c 38 § 16. Formerly RCW 43.30.160.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.430 Supervisor. The supervisor shall:

- (1) Be charged with the direct supervision of the department's activities as delegated by the administrator;
- (2) Perform his or her duties in conformance with the policies established by the board;
- (3) Organize the department, with approval of the administrator, into such subordinate divisions as the supervisor deems appropriate for the conduct of its operations;
- (4) Employ and fix the compensation of such technical, clerical, and other personnel as may be required to carry on activities under his or her supervision;
- (5) Delegate by order any assigned powers, duties, and functions to one or more deputies or assistants, as desired;
- (6) Furnish before entering upon the duties of this position a surety bond payable to the state in such amount as may be determined by the board, conditioned for the faithful performance of duties and for accounting of all moneys and property of the state that may come into possession of or under the control of this position. [2003 c 334 § 115; 1965 c 8 § 43.30.170. Prior: 1957 c 38 § 17. Formerly RCW 43.30.170.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.440 Oaths may be administered by supervisor and deputies. The supervisor and duly authorized deputies may administer oaths. [2003 c 334 § 116; 1965 c 8 § 43.30.180. Prior: 1957 c 38 § 18. Formerly RCW 43.30.180.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.450 Right of entry in course of duty by representatives of department. Any authorized assistants, employees, agents, appointees, or representatives of the department may, in the course of their inspection and enforcement duties as provided for in chapters 76.04, 76.06, 76.09, and 76.36 RCW, enter upon any lands, real estate, waters, or premises except the dwelling house or appurtenant buildings in this state whether public or private and remain thereon while performing such duties. Similar entry by the department may be made for the purpose of making examinations, locations, surveys, and/or appraisals of all lands under the management and jurisdiction of the department; or for making examinations, appraisals and, after five days' written notice to the landowner, making surveys for the purpose of possible acquisition of property to provide public access to public lands. In no event other than an emergency such as firefighting shall motor vehicles be used to cross a field customarily cultivated, without prior consent of the owner. None of the entries herein provided for shall constitute trespass, but nothing contained herein shall limit or diminish any liability which would otherwise exist as a result of the acts or omissions of the department or its representatives. [2003 c 334 § 204; 2000 c 11 § 1; 1983 c 3 § 194; 1971 ex.s. c 49 § 1; 1963 c 100 § 1. Formerly RCW 76.01.060.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.460 Department to participate in and administer federal Safe Drinking Water Act in conjunction with other departments. See RCW 43.21A.445.

43.30.480 Watershed restoration projects—Permit processing. A permit required by the department for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. [1995 c 378 § 13. Formerly RCW 43.30.410.]

43.30.490 Cost-reimbursement agreements. (1) The department may enter into a written cost-reimbursement agreement with a permit or lease applicant or project proponent to recover from the applicant or proponent the reasonable costs incurred by the department in carrying out the requirements of this chapter, as well as the requirements of other relevant laws, as they relate to permit coordination, environmental review, application review, technical studies, establishment of development units and approval or establishment of pooling agreements under chapter 78.52 RCW, including necessary technical studies, permit or lease processing, and monitoring for permit compliance.

(2) The cost-reimbursement agreement shall identify the tasks and costs for work to be conducted under the agreement. The agreement must include a schedule that states:

- (a) The estimated number of weeks for initial review of the permit application;
- (b) The estimated number of revision cycles;
- (c) The estimated number of weeks for review of subsequent revision submittals;
- (d) The estimated number of billable hours of employee time;
- (e) The rate per hour; and
- (f) A date for revision of the agreement if necessary.

(3) The written cost-reimbursement agreement shall be negotiated with the permit or lease applicant or project proponent. Under the provisions of a cost-reimbursement agreement, funds from the applicant or proponent shall be used by the department to contract with an independent consultant to carry out the work covered by the cost-reimbursement agreement. The department may also use funds provided under a cost-reimbursement agreement to hire temporary employees, to assign current staff to review the work of the consultant, to provide necessary technical assistance when an independent consultant with comparable technical skills is unavailable, and to recover reasonable and necessary direct and indirect costs that arise from processing the permit or lease. The department shall, in developing the agreement, ensure that final decisions that involve policy matters are made by the agency and not by the consultant. The department shall make an estimate of the number of permanent staff hours to process the permits or leases, and shall contract with consultants or hire temporary employees to replace the time and functions committed by these permanent staff to the project. The billing process shall provide for accurate time and cost accounting and may include a billing cycle that provides for progress payments.

(4) The cost-reimbursement agreement must not negatively impact the processing of other permit applications. In order to maintain permit processing capacity, the agency may hire outside consultants, temporary employees, or make internal administrative changes. Consultants or temporary employees hired as part of a cost-reimbursement agreement or to maintain agency capacity are hired as agents of the state not of the permit applicant. The restrictions of chapter 42.52

RCW apply to any cost-reimbursement agreement, and to any person hired as a result of a cost-reimbursement agreement. [2009 c 97 § 9. Prior: 2007 c 188 § 1; 2007 c 94 § 11; 2003 c 70 § 2; 2000 c 251 § 3. Formerly RCW 43.30.420.]

Severability—Effective date—2007 c 341: See RCW 90.71.906 and 90.71.907.

Intent—Captions not law—Effective date—2000 c 251: See notes following RCW 43.21A.690.

43.30.510 Administrator may designate substitute for member of board, commission, etc. When any officer, member, or employee of an agency abolished by provisions of this chapter is, under provisions of existing law, designated as a member ex officio of another board, commission, committee, or other agency, and no provision is made in this chapter with respect to a substitute, the administrator shall designate the officer or other person to serve hereafter in that capacity. [1965 c 8 § 43.30.210. Prior: 1957 c 38 § 21. Formerly RCW 43.30.210.]

43.30.520 Property transactions, restrictive conveyances, highway purpose—Existing law to continue. Nothing in this chapter shall be interpreted as changing existing law with respect to:

(1) Property given to a state agency on restrictive conveyance with provision for reversion to the grantor or for the vesting of title in another if and when such property is not used by the agency concerned for the stipulated purposes;

(2) Land or other property acquired by any state agency for highway purposes. [1965 c 8 § 43.30.250. Prior: 1957 c 38 § 25. Formerly RCW 43.30.250.]

43.30.530 Real property—Services and facilities available to other state agencies, cost. Upon request by any state agency vested by law with the authority to acquire or manage real property, the department shall make available to such agency the facilities and services of the department with respect to such acquisition or management, upon condition that such agency reimburse the department for the costs of such services. [2003 c 334 § 117; 1965 c 8 § 43.30.260. Prior: 1957 c 38 § 26. Formerly RCW 43.30.260.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.540 Acting as harbor line commission. The board acting as the harbor line commission shall keep a full and complete record of its proceedings relating to the establishment of harbor lines and the determination of harbor areas. The board shall have the power from time to time to make and enforce rules for the carrying out of the provisions of chapters 79.105 through 79.140 RCW relating to its duties not inconsistent with law. [2005 c 155 § 103; 1982 1st ex.s. c 21 § 14. Formerly RCW 79.90.080.]

Intent—Severability—Part/subchapter headings not law—2005 c 155: See RCW 79.105.001, 79.105.903, and 79.105.904.

PART 6

DUTIES AND POWERS—MINING AND GEOLOGY

43.30.600 State geological survey. The department shall assume full charge and supervision of the state geological survey and perform such other duties as may be pre-

scribed by law. [2003 c 334 § 107; 1988 c 127 § 3; 1965 c 8 § 43.21.050. Prior: 1921 c 7 § 69; RRS § 10827. Formerly RCW 43.30.125, 43.21.050.]

Intent—2003 c 334: See note following RCW 79.02.010.

Mining survey reports, forwarding to: RCW 78.06.030.

Provisions relating to geological survey: Chapter 43.92 RCW, RCW 43.27A.130.

43.30.610 Mining. The department shall:

(1) Collect, compile, publish, and disseminate statistics and information relating to mining, milling, and metallurgy;

(2) Make special studies of the mineral resources and industries of the state;

(3) Collect and assemble an exhibit of mineral specimens, both metallic and nonmetallic, especially those of economic and commercial importance; such collection to constitute the museum of mining and mineral development;

(4) Collect and assemble a library pertaining to mining, milling, and metallurgy of books, reports, drawings, tracings, and maps and other information relating to the mineral industry and the arts and sciences of mining and metallurgy;

(5) Make a collection of models, drawings, and descriptions of the mechanical appliances used in mining and metallurgical processes;

(6) Issue bulletins and reports with illustrations and maps with detailed description of the natural mineral resources of the state;

(7) Preserve and maintain such collections and library open to the public for reference and examination and maintain a bureau of general information concerning the mineral and mining industry of the state, and issue from time to time at cost of publication and distribution such bulletins as may be deemed advisable relating to the statistics and technology of minerals and the mining industry;

(8) Make determinative examinations of ores and minerals, and consider other scientific and economical problems relating to mining and metallurgy;

(9) Cooperate with all departments of the state government, state educational institutions, the United States geological survey, and the United States bureau of mines. All departments of the state government and educational institutions shall render full cooperation to the department in compiling useful and scientific information relating to the mineral industry within and without the state, without cost to the department. [2003 c 334 § 109; 1988 c 127 § 4; 1965 c 8 § 43.21.070. Prior: 1935 c 142 § 2; RRS § 8614-2. Formerly RCW 43.30.138, 43.21.070.]

Intent—2003 c 334: See note following RCW 79.02.010.

Mining survey reports forwarded to: RCW 78.06.030.

43.30.630 Sealing of open holes and mine shafts. The department shall work with federal officials and private mine owners to ensure the prompt sealing of open holes and mine shafts that constitute a threat to safety. [2003 c 334 § 101; 1985 c 459 § 7. Formerly RCW 43.12.025.]

Intent—2003 c 334: See note following RCW 79.02.010.

Additional notes found at www.leg.wa.gov

43.30.640 Mine owners—Maps of property surface and underground workings—Filing. The owner of each

mine shall make a map of the surface of the property. The owner of each active mine shall make a map of the underground workings. All maps shall be filed with the department. The department shall establish by rule the scale and contents required for the maps. [2003 c 334 § 102; 1985 c 459 § 8. Formerly RCW 43.12.035.]

Intent—2003 c 334: See note following RCW 79.02.010.

Additional notes found at www.leg.wa.gov

43.30.650 Gifts and bequests relating to mining. The department may receive on behalf of the state, for the benefit of mining and mineral development, gifts, bequests, devises, and legacies of real or personal property and use them in accordance with the wishes of the donors and manage, use, and dispose of them for the best interests of mining and mineral development. [2003 c 334 § 110; 1988 c 127 § 5; 1965 c 8 § 43.21.080. Prior: 1935 c 142 § 3; RRS § 8614-3. Formerly RCW 43.30.141, 43.21.080.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.660 Collection of minerals for exhibition. The department may, from time to time, prepare special collections of ores and minerals representative of the mineral industry of the state to be displayed or used at any world fair, exposition, mining congress, or state exhibition, in order to promote information relating to the mineral wealth of the state. [2003 c 334 § 111; 1988 c 127 § 6; 1965 c 8 § 43.21.090. Prior: 1935 c 142 § 4; RRS § 8614-4. Formerly RCW 43.30.145, 43.21.090.]

Intent—2003 c 334: See note following RCW 79.02.010.

PART 7

DUTIES AND POWERS—FORESTED LANDS

43.30.700 Powers of department—Forested lands.

(1) The department may:

(a) Inquire into the production, quality, and quantity of second growth timber to ascertain conditions for reforestation; and

(b) Publish information pertaining to forestry and forest products which it considers of benefit to the people of the state.

(2) The department shall:

(a) Collect information through investigation by its employees, on forest lands owned by the state, including:

(i) Condition of the lands;

(ii) Forest fire damage;

(iii) Illegal cutting, trespassing, or thefts; and

(iv) The number of acres and the value of the timber that is cut and removed each year, to determine which state lands are valuable chiefly for growing timber;

(b) Prepare maps of each timbered county showing state land therein; and

(c) Protect forested public land, as defined in RCW 79.02.010, as much as is practical and feasible from fire, trespass, theft, and the illegal cutting of timber.

(3) When the department considers it to be in the best interest of the state, it may cooperate with any agency of another state, the United States or any agency thereof, the Dominion of Canada or any agency or province thereof, and

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any county, town, corporation, individual, or Indian tribe within the state of Washington in:

(a) Forest surveys;

(b) Forest studies;

(c) Forest products studies; and

(d) Preparation of plans for the protection, management, and replacement of trees, wood lots, and timber tracts. [2004 c 199 § 101; 1986 c 100 § 50. Formerly RCW 43.30.135.]

Part headings not law—2004 c 199: See note following RCW 79.02.010.

Additional notes found at www.leg.wa.gov

43.30.710 Sale or exchange of tree seedling stock and tree seed—Provision of stock or seed to local governments or nonprofit organizations. The department is authorized to sell to or exchange with persons intending to restock forest areas, tree seedling stock and tree seed produced at the state nursery.

The department may provide at cost, stock or seed to local governments or nonprofit organizations for urban tree planting programs consistent with the community and urban forestry program. [1993 c 204 § 7; 1988 c 128 § 35; 1947 c 67 § 1; Rem. Supp. 1947 § 5823-40. Formerly RCW 76.12.160.]

Findings—1993 c 204: See note following RCW 35.92.390.

43.30.720 Use of proceeds specified. All receipts from the sale of stock or seed shall be deposited in a state forest nursery revolving fund to be maintained by the department, which is hereby authorized to use all money in said fund for the maintenance of the state tree nursery or the planting of denuded state owned lands.

During the 2003-2005 fiscal biennium, the legislature may transfer from the state forest nursery revolving fund to the state general fund such amounts as reflect the excess fund balance of the fund. [2003 1st sp.s. c 25 § 938; 1988 c 128 § 36; 1947 c 67 § 2; RRS § 5823-41. Formerly RCW 76.12.170.]

Severability—Effective date—2003 1st sp.s. c 25: See notes following RCW 19.28.351.

43.30.800 Olympic natural resources center—Finding, intent. The legislature finds that conflicts over the use of natural resources essential to the state's residents, especially forest and ocean resources, have increased dramatically. There are growing demands that these resources be fully utilized for their commodity values, while simultaneously there are increased demands for protection and preservation of these same resources. While these competing demands are most often viewed as mutually exclusive, recent research has suggested that commodity production and ecological values can be integrated. It is the intent of the legislature to foster and support the research and education necessary to provide sound scientific information on which to base sustainable forest and marine industries, and at the same time sustain the ecological values demanded by much of the public. [1991 c 316 § 1. Formerly RCW 76.12.205.]

Additional notes found at www.leg.wa.gov

43.30.810 Olympic natural resources center—Purpose, programs. The Olympic natural resources center is hereby created at the University of Washington in the college of forest resources and the college of ocean and fishery sciences. The center shall maintain facilities and programs in the western portion of the Olympic Peninsula. Its purpose shall be to demonstrate innovative management methods which successfully integrate environmental and economic interests into pragmatic management of forest and ocean resources. The center shall combine research and educational opportunities with experimental forestry, oceans management, and traditional management knowledge into an overall program which demonstrates that management based on sound economic principles is made superior when combined with new methods of management based on ecological principles. The programs developed by the center shall include the following:

(1) Research and education on a broad range of ocean resources problems and opportunities in the region, such as estuarine processes, ocean and coastal management, offshore development, fisheries and shellfish enhancement, and coastal business development, tourism, and recreation. In developing this component of the center's program, the center shall collaborate with coastal educational institutions such as Grays Harbor community college and Peninsula community college;

(2) Research and education on forest resources management issues on the landscape, ecosystem, or regional level, including issues that cross legal and administrative boundaries;

(3) Research and education that broadly integrates marine and terrestrial issues, including interactions of marine, aquatic, and terrestrial ecosystems, and that identifies options and opportunities to integrate the production of commodities with the preservation of ecological values. Where appropriate, programs shall address issues and opportunities that cross legal and administrative boundaries;

(4) Research and education on natural resources and their social and economic implications, and on alternative economic and social bases for sustainable, healthy, resource-based communities;

(5) Educational opportunities such as workshops, short courses, and continuing education for resource professionals, policy forums, information exchanges including international exchanges where appropriate, conferences, student research, and public education; and

(6) Creation of a neutral forum where parties with diverse interests are encouraged to address and resolve their conflicts. [1991 c 316 § 2; 1989 c 424 § 4. Formerly RCW 76.12.210.]

Additional notes found at www.leg.wa.gov

43.30.820 Olympic natural resources center—Administration. The Olympic natural resources center shall operate under the authority of the board of regents of the University of Washington. It shall be administered by a director appointed jointly by the deans of the college of forest resources and the college of ocean and fishery sciences. The director shall be a member of the faculty of one of those colleges. The director shall appoint and maintain a scientific or technical committee, and other committees as necessary, to

advise the director on the efficiency, effectiveness, and quality of the center's activities. [2010 1st sp.s. c 7 § 74; 1991 c 316 § 3. Formerly RCW 76.12.220.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Additional notes found at www.leg.wa.gov

43.30.830 Olympic natural resources center—Funding—Contracts. The center may solicit gifts, grants, conveyances, bequests, and devises, whether real or personal property, or both, in trust or otherwise, to be directed to the center for carrying out the purposes of the center. The center may solicit contracts for work, financial and in-kind contributions, and support from private industries, interest groups, federal and state sources, and other sources. It may also use separately appropriated funds of the University of Washington for the center's activities. [1991 c 316 § 4. Formerly RCW 76.12.230.]

Additional notes found at www.leg.wa.gov

43.30.835 Forest biomass demonstration projects. (1) The department may develop and implement forest biomass energy demonstration projects, one east of the crest of the Cascade mountains and one west of the crest of the Cascade mountains. The demonstration projects must be designed to:

(a) Reveal the utility of Washington's public and private forest biomass feedstock;

(b) Create green jobs and generate renewable energy;

(c) Generate revenues or improve asset values for beneficiaries of state lands and state forest lands;

(d) Improve forest health, reduce pollution, and restore ecological function; and

(e) Avoid interfering with the current working area for forest biomass collection surrounding an existing fixed location biomass energy production site.

(2) To develop and implement the forest biomass energy demonstration projects, the department may form forest biomass energy partnerships or cooperatives.

(3) The forest biomass energy partnerships or cooperatives are encouraged to be public-private partnerships focused on convening the entities necessary to grow, harvest, process, transport, and utilize forest biomass to generate renewable energy. Particular focus must be given to recruiting and employing emerging technologies that can locally process forest biomass feedstock to create local green jobs and reduce transportation costs.

(4) The forest biomass energy partnerships or cooperatives may include, but are not limited to: Entrepreneurs or organizations developing and operating emerging technology to process forest biomass; industrial electricity producers; contractors capable of providing the local labor needed to collect, process, and transport forest biomass feedstocks; tribes; federal land management agencies; county, city, and other local governments; the *department of community, trade, and economic development; state trust land managers; an organization dedicated to protecting and strengthening the jobs, rights, and working conditions of Washington's working families; accredited research institution representatives; an industrial timber land manager; a small forest landowner;

and a not-for-profit conservation organization. [2009 c 163 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Intent—2009 c 163: "The legislature finds that forest biomass is an abundant and renewable by-product of Washington's forest land management. Forest biomass can be utilized to generate clean renewable energy.

In some Washington forests, residual forest biomass is burned on site or left to decompose. The lack of forest products markets in some areas means that standing forest biomass removed for forest health and wildfire risk reduction treatments must occur at substantial cost. Utilizing forest biomass to generate energy can reduce the greenhouse gases emitted by burning forest biomass.

The legislature further finds that the emerging forest biomass energy economy is challenged by: Not having a reliable supply of predictably priced forest biomass feedstock; shipping and processing costs; insufficient forest biomass processing infrastructure; and feedstock demand.

The legislature finds that making use of the state's forest biomass resources for energy production may generate new revenues or increase asset values of state lands and state forest lands, protect forest land of all ownerships from severe forest health problems, stimulate Washington's economy, create green jobs, and reduce Washington's dependence on foreign oil.

It is the intent of the legislature to support forest biomass demonstration projects that employ promising processing technologies. The demonstration projects must emphasize public and private forest biomass feedstocks that are generated as by-products of current forest practices. The project must reveal ways to overcome the current impediments to the developing forest biomass energy economy, and ways to realize ecologically sustainable outcomes from that development." [2009 c 163 § 1.]

43.30.8351 Progress report. By December 2010, the department shall provide a progress report to the legislature regarding its efforts to develop, implement, and evaluate forest biomass energy demonstration projects and any other department initiatives related to forest biomass. The report may include an evaluation of:

(1) The status of the department's abilities to secure funding, partners, and other resources for the forest biomass energy demonstration projects;

(2) The status of the biomass energy demonstration projects resulting from the department's efforts;

(3) The status and, if applicable, additional needs of forest landowners within the demonstration project areas for estimating sustainable forest biomass yields and availability;

(4) Forest biomass feedstock supply and forest biomass market demand barriers, and how they can best be overcome including actions by the legislature and United States congress; and

(5) Sustainability measures that may be instituted by the state to ensure that an increasing demand for forest biomass feedstocks does not impair public resources or the ecological conditions of forests. [2009 c 163 § 3.]

Findings—Intent—2009 c 163: See note following RCW 43.30.835.

43.30.840 Grants or financing. For the purposes of implementing chapter 163, Law of 2009, the department may seek grants or financing from the federal government, industry, or philanthropists. [2009 c 163 § 4.]

Findings—Intent—2009 c 163: See note following RCW 43.30.835.

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Chapter 43.31 RCW

DEPARTMENT OF COMMERCE

(Formerly: Department of community, trade, and economic development)

Sections

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43.31.086 *Business assistance center—Additional duties. To assist state agencies in reducing regulatory costs to small business and to promote greater public participation in the rule-making process, the *business assistance center shall:

(1) Develop agency guidelines for the preparation of a small business economic impact statement and compliance with chapter 19.85 RCW;

(2) Review and provide comments to agencies on draft or final small business economic impact statements;

(3) Advise the joint administrative rules review committee on whether an agency reasonably assessed the costs of a proposed rule and reduced the costs for small business as required by chapter 19.85 RCW; and

(4) Organize and chair a state rules coordinating committee, consisting of agency rules coordinators and interested members of the public, to develop an education and training program that includes, among other components, a component that addresses voluntary compliance, for agency personnel responsible for rule development and implementation. The *business assistance center shall submit recommendations to the department of personnel for an administrative procedures training program that is based on the sharing of interagency resources. [1994 c 249 § 15.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Additional notes found at www.leg.wa.gov

43.31.088 *Business assistance center—ISO-9000 quality standards. (1) The department, through its *business assistance center, shall assist companies seeking to adopt ISO-9000 quality standards. The department shall:

(a) Prepare and disseminate information regarding ISO-9000;

(b) Assemble and maintain information on public and private sector individuals, organizations, educational institutions, and advanced technology centers that can provide technical assistance to firms that wish to become ISO-registered;

(c) Assemble and maintain information on Washington firms which have received ISO registration;

(d) Undertake other activities it deems necessary to execute this section;

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(e) Survey appropriate sectors to determine the level of interest in receiving ISO-9000 certification and coordinate with the program;

(f) Establish a mechanism for businesses to make self-assessments of relative need to become ISO-9000 certified;

(g) Assist and support nonprofit organizations, and other organizations, currently providing education, screening, and certification training; and

(h) Coordinate the Washington program with other similar state, regional, and federal programs.

(2) For the purposes of this section, "ISO-9000" means the series of standards published in 1987, and subsequent revisions, by the international organization for standardization for quality assurance in design, development, production, final inspection and testing, and installation and servicing of products, processes, and services.

(3) For the purposes of this section, registration to the American national standards institute/American society for quality control Q90 series shall be considered ISO-9000 registration. [1994 c 140 § 2.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Findings—Intent—1994 c 140: "The legislature finds that since the publication by the international organization for standardization of its ISO-9000 series of quality systems standards, more than twenty thousand facilities in the United Kingdom and several thousand in Europe have become registered in the standards. By comparison, currently only about four hundred United States companies have adopted the standards. The international organization for standardization is a Geneva-based organization founded in 1947 to promote standardization with a view to facilitating trade.

The legislature further finds that the growing worldwide acceptance by over sixty nations of the ISO-9000 series of quality systems standards, including adoption by the twelve nations of the European Community, means that more Washington companies will need to look at the adoption of ISO-9000 to remain competitive in global markets. Adoption of ISO-9000, as well as other quality systems, may also help Washington companies improve quality. However, many small businesses know little about the standards or how registration is achieved.

It is the intent of the legislature that the *department of community, trade, and economic development encourage and assist state businesses to adopt ISO-9000 and other quality systems as part of the state's strategy for global industrial competitiveness." [1994 c 140 § 1.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.31.0925 *Business assistance center—Minority and women business development office. There is established within the department's *business assistance center the minority and women business development office. This office shall provide business-related assistance to minorities and women as well as serve as an outreach program to increase minority and women-owned businesses' awareness and use of existing business assistance services. [1993 c 512 § 7.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

43.31.125 Advisory groups. The director may establish such advisory groups as in the director's discretion are necessary to carry out the purposes of this chapter. Members

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of and vacancies in such advisory groups shall be filled by appointment by the director. Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. [1985 c 466 § 16.]

Additional notes found at www.leg.wa.gov

43.31.205 Hanford reservation—Promotion of sublease for nuclear-related industry. In an effort to enhance the economy of the Tri-Cities area, the *department of community, trade, and economic development is directed to promote the existence of the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington, and the opportunity of subleasing the land to entities for nuclear-related industry, in agreement with the terms of the lease. When promoting the existence of the lease, the department shall work in cooperation with any associate development organization located in or near the Tri-Cities area. [1993 c 280 § 41; 1992 c 228 § 2; 1990 c 281 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Legislative findings—1992 c 228: "The legislature finds that the ninety-nine-year lease of one thousand acres of land by the state from the federal government requires that the state use any rent moneys from subleasing the land for the development of the leased land and nuclear-related industries in the Tri-Cities area. The legislature further finds that the new emphasis on waste cleanup at Hanford and the new technologies needed for environmental restoration warrant a renewed effort to promote development of the leased land and nuclear-related industries in the Tri-Cities area." [1992 c 228 § 1.]

Legislative findings—1990 c 281: "The legislature finds that the one thousand acres of land leased from the federal government to the state of Washington on the Hanford reservation constitutes an unmatched resource for development of high-technology industry, nuclear medicine research, and research into new waste immobilization and reduction techniques. The legislature further finds that continued diversification of the Tri-Cities economy will help stabilize and improve the Tri-Cities economy, and that this effort can be aided by emphasizing the resources of local expertise and nearby facilities." [1990 c 281 § 1.]

Additional notes found at www.leg.wa.gov

43.31.215 Hanford reservation—Tri-Cities area—Emphasize workforce and facilities. When the department implements programs intended to attract or maintain industrial or high-technology investments in the state, the department shall, to the extent possible, emphasize the following:

- (1) The highly skilled and trained workforce in the Tri-Cities area;
- (2) The world-class research facilities in the area, including the fast flux test facility and the Pacific Northwest laboratories;
- (3) The existence of the one thousand acres leased by the state from the federal government for the purpose of nuclear-related industries; and
- (4) The ability for high-technology and medical industries to safely dispose of low-level radioactive waste at the Hanford commercial low-level waste disposal facility. [1990 c 281 § 3.]

Legislative findings—1990 c 281: See note following RCW 43.31.205.

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43.31.422 Hanford area economic investment fund.

The Hanford area economic investment fund is established in the custody of the state treasurer. Moneys in the fund shall only be used for reasonable assistant attorney general costs in support of the committee or pursuant to the decisions of the committee created in RCW 43.31.425 for Hanford area revolving loan funds, Hanford area infrastructure projects, or other Hanford area economic development and diversification projects, but may not be used for government or non-profit organization operating expenses. Up to five percent of moneys in the fund may be used for program administration. For the purpose of this chapter "Hanford area" means Benton and Franklin counties. The *director of community, trade, and economic development or the director's designee shall authorize disbursements from the fund after an affirmative vote of at least six members of the committee created in RCW 43.31.425 on any decisions reached by the committee created in RCW 43.31.425. The fund is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for disbursements. The legislature intends to establish similar economic investment funds for areas that develop low-level radioactive waste disposal facilities. [2004 c 77 § 1; 1998 c 76 § 1; 1993 c 280 § 44; 1991 c 272 § 19.]

***Reviser's note:** The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

Surcharge on waste generators: RCW 43.200.230, 43.200.233, and 43.200.235.

Additional notes found at www.leg.wa.gov

43.31.425 Hanford area economic investment fund committee. The Hanford area economic investment fund committee is hereby established.

(1) The committee shall have eleven members. The governor shall appoint the members, in consultation with Hanford area elected officials, subject to the following requirements:

(a) All members shall either reside or be employed within the Hanford area.

(b) The committee shall have a balanced membership representing one member each from the elected leadership of Benton county, Franklin county, the city of Richland, the city of Kennewick, the city of Pasco, a Hanford area port district, the labor community, and four members from the Hanford area business and financial community.

(c) Careful consideration shall be given to assure minority representation on the committee.

(2) Each member appointed by the governor shall serve a term of three years, except that of the members first appointed, four shall serve two-year terms and four shall serve one-year terms. A person appointed to fill a vacancy of a member shall be appointed in a like manner and shall serve for only the unexpired term. A member is eligible for reappointment. A member may be removed by the governor for cause.

(3) The governor shall designate a member of the committee as its chairperson. The committee may elect such other officers as it deems appropriate. Six members of the committee constitute a quorum and six affirmative votes are necessary for the transaction of business or the exercise of any power or function of the committee.

(4) The members shall serve without compensation, but are entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties in accordance with RCW 43.03.050 and 43.03.060.

(5) Members shall not be liable to the state, to the fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violations of law. The department may purchase liability insurance for members and may indemnify these persons against the claims of others. [1998 c 76 § 2; 1991 c 272 § 20.]

Additional notes found at www.leg.wa.gov

43.31.428 Hanford area economic investment fund committee—Powers. The Hanford area economic investment fund committee created under RCW 43.31.425 may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Utilize the services of other governmental agencies;

(3) Accept from any federal or state agency loans or grants for the purposes of funding Hanford area revolving loan funds, Hanford area infrastructure projects, or Hanford area economic development projects;

(4) Adopt rules for the administration of the program, including the terms and rates pertaining to its loans, and criteria for awarding grants, loans, and financial guarantees;

(5) Adopt a spending strategy for the moneys in the fund created in RCW 43.31.422. The strategy shall include five and ten year goals for economic development and diversification for use of the moneys in the Hanford area;

(6) Recommend to the director no more than two allocations eligible for funding per calendar year, with a first priority on Hanford area revolving loan allocations, and Hanford area infrastructure allocations followed by other Hanford area economic development and diversification projects if the committee finds that there are no suitable allocations in the priority allocations described in this section;

(7) Establish and administer a revolving fund consistent with this section and RCW 43.31.422 and 43.31.425; and

(8) Make grants from the Hanford area economic investment fund consistent with this section and RCW 43.31.422 and 43.31.425. [2004 c 77 § 2; 1998 c 76 § 3; 1991 c 272 § 21.]

Additional notes found at www.leg.wa.gov

43.31.450 SEED act—Findings—Purpose. The legislature finds that economic well-being encompasses not only income, spending, and consumption, but also savings, investment, and asset-building. The building of assets, in particular, can improve individuals' economic independence and stability. The legislature further finds that it is appropriate for the state to institute an asset-based strategy to assist low-income families. It is the purpose of chapter 402, Laws of 2005 to promote job training, home ownership, and business development among low-income individuals and to provide assistance in meeting the financial goals of low-income individuals. [2005 c 402 § 2.]

43.31.455 SEED act—Definitions. The definitions in this section apply throughout RCW 43.31.450 through 43.31.475 unless the context clearly requires otherwise.

(1) "Department" means the department of commerce.

(2) "Director" means the director of the department of commerce.

(3) "Foster youth" means a person who is fifteen years of age or older who is a dependent of the department of social and health services; or a person who is at least fifteen years of age, but not more than twenty-three years of age, who was a dependent of the department of social and health services for at least twenty-four months after attaining thirteen years of age.

(4) "Individual development account" or "account" means an account established by contract between a low-income individual and a sponsoring organization for the benefit of the low-income individual and funded through periodic contributions by the low-income individual which are matched with contributions by or through the sponsoring organization.

(5) "Low-income individual" means a person whose household income is equal to or less than either:

(a) Eighty percent of the median family income, adjusted for household size, for the county or metropolitan statistical area where the person resides; or

(b) Two hundred percent of the federal poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2).

(6) "Program" means the individual development account program established pursuant to RCW 43.31.450 through 43.31.475.

(7) "Sponsoring organization" means: (a) A nonprofit, fund-raising organization that is exempt from taxation under section 501(c)(3) of the internal revenue code as amended and in effect on January 1, 2005; (b) a housing authority established under RCW 35.82.030; or (c) a federally recognized Indian tribe. [2009 c 565 § 28; 2005 c 402 § 3.]

43.31.460 SEED act—Individual development account program—Rules. An individual development account program is hereby established within the department for the purpose of facilitating the creation by sponsoring organizations of individual development accounts for low-income individuals.

(1) The department shall select sponsoring organizations to establish and monitor individual development accounts using the following criteria:

(a) The ability of the sponsoring organization to implement and administer an individual development account program, including the ability to verify a low-income individual's eligibility, certify that matching deposits are used only for approved purposes, and exercise general fiscal accountability;

(b) The capacity of the sponsoring organization to provide or raise funds to match the contributions made by low-income individuals to their individual development accounts;

(c) The capacity of the sponsoring organization to provide or arrange for the provision of financial counseling and other related services to low-income individuals;

(d) The links the sponsoring organization has to other activities and programs related to the purpose of chapter 402, Laws of 2005; and

(e) Such other criteria as the department determines are consistent with the purpose of chapter 402, Laws of 2005 and ease of administration.

(2) An individual development account may be established by or on behalf of an eligible low-income individual to enable the individual to accumulate funds for the following purposes:

(a) The acquisition of postsecondary education or job training;

(b) The purchase of a primary residence, including any usual or reasonable settlement, financing, or other closing costs;

(c) The capitalization of a small business. Account moneys may be used for capital, land, plant, equipment, and inventory expenses or for working capital pursuant to a business plan. The business plan must have been developed with a business counselor, trainer, or financial institution approved by the sponsoring organization. The business plan shall include a description of the services or goods to be sold, a marketing strategy, and projected financial statements;

(d) The purchase of a computer, an automobile, or home improvements; or

(e) The purchase of assistive technologies that will allow a person with a disability to participate in work-related activities.

(3) An eligible low-income individual participating in the program must contribute to an individual development account. The contributions may be derived from earned income or other income, as provided by the department. Other income shall include child support payments, supplemental security income, and disability benefits.

(4) A sponsoring organization may authorize a low-income individual for whom an individual development account has been established to withdraw all or part of the individual's deposits for the following emergencies:

(a) Necessary medical expenses;

(b) To avoid eviction of the individual from the individual's residence;

(c) Necessary living expenses following loss of employment; or

(d) Such other circumstances as the sponsoring organization determines merit emergency withdrawal.

The low-income individual making an emergency withdrawal shall reimburse the account for the amount withdrawn within twelve months of the date of withdrawal or the individual development account shall be closed.

(5) Funds held in an individual development account established under RCW 43.31.450 through 43.31.475 shall not be used in the determination of eligibility for, or the amount of, assistance in any state or federal means-tested program.

(6) The department shall adopt rules as necessary to implement chapter 402, Laws of 2005, including rules regulating the use of individual development accounts by eligible low-income individuals. The department's rules shall require that funds held in an individual development account are to be withdrawn only for the purposes specified in subsection

(2) of this section or withdrawn as permitted for emergencies under subsection (4) of this section.

(7) Nothing in this section shall be construed to create an entitlement to matching moneys. [2005 c 402 § 4.]

43.31.465 SEED act—Foster youth individual development account program. (1) A foster youth individual development account program is hereby established within the individual development account program established pursuant to RCW 43.31.460 for the purpose of facilitating the creation by sponsoring organizations of individual development accounts for foster youth.

(2) The department shall select sponsoring organizations to establish and monitor individual development accounts for foster youth from those entities with whom the department of social and health services contracts for independent living services for youth who are or have been dependents of the department of social and health services.

(3) An individual development account may be established by or on behalf of a foster youth to enable the individual to accumulate funds for the following purposes:

(a) The acquisition of postsecondary education or job training;

(b) Housing needs, including rent, security deposit, and utilities costs;

(c) The purchase of a computer if necessary for postsecondary education or job training;

(d) The purchase of a car if necessary for employment; and

(e) Payment of health insurance premiums.

(4) A foster youth participating in the program must contribute to an individual development account. The contributions may be derived from earned income or other income, as provided by the department. Other income shall include financial incentives for educational achievement provided by entities contracted with the department of social and health services for independent living services for youth who are or have been dependents of the department of social and health services. [2005 c 402 § 5.]

43.31.470 SEED act—Individual development account program account. (1) An account is created in the custody of the state treasurer to be known as the individual development account program account. The account shall consist of all moneys appropriated to the account by the legislature and any other federal, state, or private funds, appropriated or nonappropriated, as the department receives for the purpose of matching low-income individuals' contributions to their individual development accounts. Expenditures from the account may be used only for the following:

(a) Grants to sponsoring organizations selected by the department to participate in the individual development account program to assist sponsoring organizations in providing or arranging for the provision of financial counseling and other related services to low-income individuals participating in the program and for program administration purposes;

(b) A match to be determined by the department of up to four dollars for every dollar deposited by an individual into the individual's individual development account, except that

the maximum amount provided as a match for each individual development account shall be four thousand dollars; and

(c) The department's administrative expenses in carrying out the purposes of chapter 402, Laws of 2005.

(2) Only the director or the director's designee may authorize expenditures from the account.

(3) The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2005 c 402 § 6.]

43.31.475 SEED act—Additional funds and purposes. Sponsoring organizations may seek additional funds to increase the match rate and the maximum annual match amount established pursuant to RCW 43.31.465. Such funds may also be used for purposes in addition to those provided in RCW 43.31.460(2). [2005 c 402 § 7.]

43.31.480 SEED act—Report to the legislature. The department shall annually report to the legislature and the governor on the individual development account program established pursuant to RCW 43.31.450 through 43.31.475. [2005 c 402 § 9.]

43.31.485 SEED act—Short title—2005 c 402. This act shall be known as the saving, earning, and enabling dreams (SEED) act. [2005 c 402 § 1.]

43.31.502 Child care facility revolving fund—Purpose—Source of funds. (1) A child care facility revolving fund is created. Money in the fund shall be used solely for the purpose of starting or improving a child care facility pursuant to RCW *43.31.085 and 43.31.502 through 43.31.514. Only moneys from private or federal sources may be deposited into this fund.

(2) Funds provided under this section shall not be subject to reappropriation. The child care facility fund committee may use loan and grant repayments and income for the revolving fund program. [1991 c 248 § 1; 1989 c 430 § 3.]

***Reviser's note:** RCW 43.31.085 was repealed by 1993 c 280 § 81, effective June 30, 1996.

Legislative findings—1989 c 430: "The legislature finds that increasing the availability and affordability of quality child care will enhance the stability of the family and facilitate expanded economic prosperity in the state. The legislature finds that balancing work and family life is a critical concern for employers and employees. The dramatic increase in participation of women in the workforce has resulted in a demand for affordable child care exceeding the supply. The future of the state's workforce depends in part upon the availability of quality affordable child care. There are not enough child care services and facilities to meet the needs of working parents, the costs of care are often beyond the resources of working parents, and facilities are not located conveniently to work places and neighborhoods. The prospect for labor shortages resulting from the aging of the population and the importance of the quality of the workforce to the competitiveness of Washington businesses make the availability of quality child care an important concern for the state's businesses.

The legislature further finds that a partnership between business and child care providers can help the market for child care adjust to the needs of businesses and working families and improve productivity, reduce absenteeism, improve recruitment, and improve morale among Washington's labor force. The legislature further finds that private and public partnerships and investments are necessary to increase the supply, affordability, and quality of child care in the state." [1989 c 430 § 1.]

Additional notes found at www.leg.wa.gov

43.31.504 Child care facility fund committee—Generally. The child care facility fund committee is established within the *business assistance center of the **department of community, trade, and economic development. The committee shall administer the child care facility fund, with review by the **director of community, trade, and economic development.

(1) The committee shall have five members. The **director of community, trade, and economic development shall appoint the members, who shall include:

(a) Two persons experienced in investment finance and having skills in providing capital to new businesses, in starting and operating businesses, and providing professional services to small or expanding businesses;

(b) One person representing a philanthropic organization with experience in evaluating funding requests;

(c) One child care services expert; and

(d) One early childhood development expert.

In making these appointments, the director shall give careful consideration to ensure that the various geographic regions of the state are represented and that members will be available for meetings and are committed to working cooperatively to address child care needs in Washington state.

(2) The committee shall elect officers from among its membership and shall adopt policies and procedures specifying the lengths of terms, methods for filling vacancies, and other matters necessary to the ongoing functioning of the committee.

(3) Committee members shall serve without compensation, but may request reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) Committee members shall not be liable to the state, to the child care facility fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violation of the law. The **department of community, trade, and economic development may purchase liability insurance for members and may indemnify these persons against the claims of others. [1993 c 280 § 45; 1989 c 430 § 4.]

Reviser's note: *(1) The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

** (2) The "department of community, trade, and economic development" and the "director of community, trade, and economic development" were renamed the "department of commerce" and the "director of commerce" by 2009 c 565.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

Additional notes found at www.leg.wa.gov

43.31.506 Child care facility fund committee—Authority to award moneys from fund. The child care facility fund committee is authorized to solicit applications for and award grants and loans from the child care facility fund to assist persons, businesses, or organizations to start a licensed child care facility, or to make capital improvements in an existing licensed child care facility. Grants and loans shall be awarded on a one-time only basis, and shall not be awarded to cover operating expenses beyond the first three months of business. No grant shall exceed twenty-five thou-

sand dollars. No loan shall exceed one hundred thousand dollars. [1991 c 248 § 2; 1989 c 430 § 5.]

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.508 Child care facility fund committee—Loans to child care facilities. The child care facility fund committee is authorized, upon application, to use the child care facility fund to guarantee loans made to persons, businesses, or organizations to start a licensed child care facility, or to make capital improvements in an existing licensed child care facility.

(1) Loan guarantees shall be awarded on a one-time only basis, and shall not be awarded for loans to cover operating expenses beyond the first three months of business.

(2) The total aggregate amount of the loan guarantee awarded to any applicant may not exceed twenty-five thousand dollars and may not exceed eighty percent of the loan.

(3) The total aggregate amount of guarantee from the child care facility fund, with respect to the guaranteed portions of loans, may not exceed at any time an amount equal to five times the balance in the child care facility fund. [1989 c 430 § 6.]

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.512 Child care facility fund committee—Loans or grants to individuals, businesses, or organizations. The child care facility fund committee shall award loan guarantees, loans or grants to those persons, businesses, or organizations meeting the minimum standards set forth in this chapter who will best serve the intent of the chapter to increase the availability of high quality, affordable child care in Washington state. The committee shall promulgate rules regarding the application for and disbursement of loan guarantees, loans, or grants from the fund, including loan terms and repayment procedures. At a minimum, such rules shall require an applicant to submit a plan which includes a detailed description of:

(1) The need for a new or improved child care facility in the area served by the applicant;

(2) The steps the applicant will take to serve a reasonable number of handicapped children as defined in *chapter 72.40 RCW, sick children, infants, children requiring night time or weekend care, or children whose costs of care are subsidized by government;

(3) Why financial assistance from the state is needed to start or improve the child care facility;

(4) How the guaranteed loan, loan, or grant will be used, and how such uses will meet the described need;

(5) The child care services to be available at the facility and the capacity of the applicant to provide those services; and

(6) The financial status of the applicant, including other resources available to the applicant which will ensure the continued viability of the facility and the availability of its described services.

Recipients shall annually for two years following the receipt of the loan guarantee, loan, or grant, submit to the child care facility fund committee a report on the facility and how it is meeting the child care needs for which it was intended. [1989 c 430 § 7.]

(2010 Ed.)

***Reviser's note:** Chapter 72.40 RCW does not contain a definition of "handicapped children."

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.514 Child care facility fund committee—Grants, repayment requirements. Where the child care facility fund committee makes a grant to a person, organization, or business, the grant shall be repaid to the child care facility fund if the child care facility using the grant to start or expand ceases to provide child care earlier than the following time periods from the date the grant is made: (1) Twelve months for a grant up to five thousand dollars; (2) twenty-four months for a grant over five thousand dollars up to ten thousand dollars; (3) thirty-six months for a grant over ten thousand dollars up to fifteen thousand dollars; (4) forty-eight months for a grant over fifteen thousand dollars up to twenty thousand dollars; and (5) sixty months for a grant over twenty thousand dollars up to twenty-five thousand dollars. [1989 c 430 § 8.]

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.522 Marketplace program—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.31.524:

(1) "Department" means the department of commerce.

(2) "Director" means the director of commerce.

(3) "Local nonprofit organization" means a local nonprofit organization organized to provide economic development or community development services, including but not limited to associate development organizations, economic development councils, and community development corporations. [2009 c 565 § 29; 2005 c 136 § 17; 1993 c 280 § 46; 1990 c 57 § 2; 1989 c 417 § 2.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

Finding—1990 c 57; 1989 c 417: "The legislature finds and declares that substantial benefits in increased employment and business activity can be obtained by assisting businesses in identifying opportunities to purchase the goods and services they need from Washington state suppliers rather than from out-of-state suppliers and in identifying new markets for Washington state firms to provide goods and services. The replacement of out-of-state imports with services and manufactured goods produced in-state can be an important source of economic growth in a local community especially in rural areas. Businesses in the state are often unaware that goods and services they purchase from out-of-state suppliers are available from in-state firms with substantial advantages in responsiveness, service, and price. Increasing the economic partnerships between businesses in Washington state can build bridges between urban and rural communities and can result in the identification of additional opportunities for successful economic development initiatives. Providing additional information to businesses regarding in-state sources of goods and services can be a particularly valuable component of revitalization strategies in economically distressed areas. The legislature finds and declares that it is the policy of the state to strengthen the economies of local communities by increasing the economic partnerships between in-state businesses and creating programs to assist businesses in identifying in-state sources of goods and services, and in addition to identify new markets for Washington firms to provide goods and services." [1990 c 57 § 1; 1989 c 417 § 1.]

Additional notes found at www.leg.wa.gov

43.31.524 Marketplace program—Generally. There is established a Washington marketplace program within the business assistance center established under *RCW

43.31.083. The program shall assist businesses to competitively meet their needs for goods and services within Washington state by providing information relating to the replacement of imports or the fulfillment of new requirements with Washington products produced in Washington state. The program shall place special emphasis on strengthening rural economies in economically distressed areas of the state meeting the criteria of an "eligible area" as defined in RCW 82.60.020(3). [1993 c 280 § 47; 1990 c 57 § 3; 1989 c 417 § 3.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Finding—1990 c 57; 1989 c 417: See note following RCW 43.31.522. Additional notes found at www.leg.wa.gov

43.31.545 Recycled materials and products—Market development. The department is the lead state agency to assist in establishing and improving markets for recyclable materials generated in the state. [1991 c 319 § 210; 1989 c 431 § 64.]

Clean Washington center: Chapter 70.95H RCW.

Additional notes found at www.leg.wa.gov

43.31.800 State international trade fairs—"Director" defined. "Director" as used in RCW *43.31.790 through 43.31.850 and **67.16.100 means the director of commerce. [2009 c 565 § 30; 1993 c 280 § 52; 1987 c 195 § 4; 1965 c 148 § 2.]

***Reviser's note:** *(1) RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

***(2) RCW 67.16.100 was amended by 1998 c 345 § 5, removing the reference to "director."

Additional notes found at www.leg.wa.gov

43.31.805 State trade fair fund. The state trade fair fund is created in the custody of the state treasury. All moneys received by the *department of community, trade, and economic development for the purposes of this fund shall be deposited into the fund. Expenditures from the fund may be used only for the purpose of assisting state trade fairs. Only the *director of community, trade, and economic development or the director's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. [1998 c 345 § 3.]

***Reviser's note:** The "department of community, trade, and economic development" and the "director of community, trade, and economic development" were renamed the "department of commerce" and the "director of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.31.810 State international trade fairs—State aid eligibility requirements. For the purposes of *RCW 43.31.790 through 43.31.850 and **67.16.100, as now or hereafter amended, state international trade fair organizations, to be eligible for state financial aid hereunder (1) must have had at least two or more years of experience in the presentation of or participation in state international trade fairs, whether held in this state, another state or territory of the

United States or a foreign country, however these need not be consecutive years; (2) must be able to provide, from its own resources derived from general admission or otherwise, funds sufficient to match at least one-half the amount of state financial aid allotted. [1987 c 195 § 5; 1975 1st ex.s. c 292 § 3; 1965 c 148 § 3.]

Reviser's note: *(1) RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

***(2) RCW 67.16.100 was amended by 1998 c 345 § 5, removing references to state trade fairs.

43.31.820 State international trade fairs—Application for funds. The board of trustees of any state international trade fair sponsored by any public agency, qualifying under the provisions of *RCW 43.31.790 through 43.31.850 and **67.16.100, as now or hereafter amended, may apply to the director for moneys to carry on the continued development as well as the operation of said fair, said money to be appropriated from the state trade fair fund as provided for in ***RCW 67.16.100, as now or hereafter amended. [1987 c 195 § 6; 1975 1st ex.s. c 292 § 4; 1965 c 148 § 4.]

Reviser's note: *(1) RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

***(2) RCW 67.16.100 was amended by 1998 c 345 § 5, removing references to state trade fairs.

****(3) RCW 67.16.100 was amended by 1998 c 345 § 5, removing references to the state trade fair fund, which is now regulated under RCW 43.31.805.

43.31.830 State international trade fairs—Certification of fairs—Allotments—Division and payment from state trade fair fund. (1) It shall be the duty of the *director of community, trade, and economic development to certify, from the applications received, the state international trade fair or fairs qualified and entitled to receive funds under **RCW 67.16.100, and under rules established by the director.

(2) The director shall make annual allotments to state international trade fairs determined qualified to be entitled to participate in the state trade fair fund and shall fix times for the division of and payment from the state trade fair fund: PROVIDED, That total payment to any one state international trade fair shall not exceed sixty thousand dollars in any one year, where participation or presentation occurs within the United States, and eighty thousand dollars in any one year, where participation or presentation occurs outside the United States: PROVIDED FURTHER, That a state international trade fair may qualify for the full allotment of funds under either category. Upon certification of the allotment and division of fair funds by the director the treasurer shall proceed to pay the same to carry out the purposes of RCW 67.16.100. [1993 c 280 § 53; 1987 c 195 § 7; 1975 1st ex.s. c 292 § 5; 1965 c 148 § 5.]

Reviser's note: *(1) The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

***(2) RCW 67.16.100 was amended by 1998 c 345 § 5, removing references to state trade fairs.

Additional notes found at www.leg.wa.gov

43.31.832 State trade fairs—Transfer of surplus funds in state trade fair fund to general fund—Expenditure. Funds determined to be surplus funds by the director

may be transferred from the state trade fair fund to the general fund upon the recommendation of the director and the state treasurer: PROVIDED, That the director may also elect to expend up to one million dollars of such surplus on foreign trade related activities, including, but not limited to, promotion of investment, tourism, and foreign trade. [1985 c 466 § 34; 1981 2nd ex.s. c 2 § 1; 1975 1st ex.s. c 292 § 8; 1972 ex.s. c 93 § 2.]

State trade fair fund: RCW 43.31.805.

Additional notes found at www.leg.wa.gov

43.31.833 State trade fairs—Transfer of surplus funds in state trade fair fund to general fund—Construction. RCW 43.31.832 through 43.31.834 shall not be construed to interfere with the state financial aid made available under the provisions of *RCW 43.31.790 through 43.31.850 regardless of whether such aid was made available before or after May 23, 1972. [1987 c 195 § 8; 1985 c 466 § 35; 1972 ex.s. c 93 § 3.]

***Reviser's note:** RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

Additional notes found at www.leg.wa.gov

43.31.834 State trade fairs—Transfer of surplus funds in state trade fair fund to general fund—Construction. RCW 43.31.832 through 43.31.834 shall be construed to supersede any provision of existing law to the contrary. [1985 c 466 § 36; 1972 ex.s. c 93 § 4.]

Additional notes found at www.leg.wa.gov

43.31.840 State international trade fairs—Post audit of participating fairs—Reports. The *director of community, trade, and economic development shall at the end of each year for which an annual allotment has been made, conduct a post audit of all of the books and records of each state international trade fair participating in the state trade fair fund. The purpose of such post audit shall be to determine how and to what extent each participating state international trade fair has expended all of its funds.

The audit required by this section shall be a condition to future allotments of money from the state international trade fair fund, and the director shall make a report of the findings of each post audit and shall use such report as a consideration in an application for any future allocations. [1993 c 280 § 54; 1975 1st ex.s. c 292 § 6; 1965 c 148 § 6.]

***Reviser's note:** The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.31.850 State international trade fairs—State international trade fair defined. State international trade fair as used in *RCW 43.31.790 through 43.31.840 and **67.16.100, as now or hereafter amended, shall mean a fair supported by public agencies basically for the purpose of introducing and promoting the sale of manufactured or cultural products and services of a given area, whether presented in this state, the United States or its territories, or in a foreign country. [1987 c 195 § 9; 1975 1st ex.s. c 292 § 7; 1965 c 148 § 8.]

(2010 Ed.)

Reviser's note: *(1) RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

***(2) RCW 67.16.100 was amended by 1998 c 345 § 5, removing references to state trade fairs.

43.31.859 Rural development council—Successor organization—Funding. Notwithstanding anything to the contrary in chapter 41.06 RCW or any other provision of law, the department may contract to provide funding to a successor organization under *RCW 43.31.856 to carry out activities of the organization that are consistent with the department's powers and duties. All moneys for contracts entered into under this section are subject to appropriation. [1999 c 299 § 4.]

***Reviser's note:** RCW 43.31.856 was repealed by 1999 c 299 § 6, effective June 30, 2002.

43.31.956 General obligation bonds—Authorized—Issuance, sale, terms, conditions, etc.—Appropriation required—Pledge and promise—Seal. For the purpose of providing matching funds for the planning, design, construction, renovation, furnishing, and landscaping of a regionally based performing arts facility, to be known as "the Washington center for the performing arts" facility located in Thurston county within the area of the city of Olympia, and for the purpose of providing matching funds for the restoration and renovation of "the Pantages theatre" facility located in Pierce county within the area of the city of Tacoma, the state finance committee is directed and authorized to issue general obligation bonds of the state of Washington in the sum of three million dollars, or so much thereof as may be required to finance that portion of the grant by the state for the projects as provided by law: PROVIDED, That one million five hundred thousand dollars shall be allocated for the Washington center for the performing arts, to be built or renovated on real estate provided by the city of Olympia as a performing arts recreational facility for the people of the state of Washington: AND PROVIDED FURTHER, That one million five hundred thousand dollars shall be allocated for the renovation and restoration of the "Pantages theatre" as a performing arts recreational facility for the people of the state of Washington.

No bonds may be issued for the Washington center for the performing arts unless matching funds are provided or secured from the federal government, private sources, or any other sources available including funds available pursuant to chapter 67.28 RCW in the amount of one million five hundred thousand dollars for the Washington center for the performing arts and the city of Olympia provides real estate for the site of the facility.

No bonds may be issued for the Pantages theatre unless matching funds are provided or secured from the federal government, private sources, or any other sources available including funds available pursuant to chapter 67.28 RCW in the amount of one million five hundred thousand dollars for the Pantages theatre.

No bonds authorized by this section shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The state finance committee is authorized to prescribe the form of the bonds, the time of sale of all or any portion or portions of the bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1981 c 244 § 1; 1979 ex.s. c 260 § 1.]

Additional notes found at www.leg.wa.gov

43.31.960 Administration of proceeds. The principal proceeds from the sale of the bonds authorized in RCW 43.31.956 shall be administered by the *director of community, trade, and economic development. [1995 c 399 § 72; 1987 c 195 § 10; 1979 ex.s. c 260 § 3.]

***Reviser's note:** The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.31.962 Retirement of bonds from cultural facilities bond redemption fund of 1979—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders. The cultural facilities bond redemption fund of 1979, hereby created in the state treasury, shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.31.956 and *43.31.958. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury an amount equal to the amount certified by the state finance committee to be due on such payment date and deposit the same in the cultural facilities bond redemption fund of 1979.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess. and becomes effective by statute prior to the issuance of any of the bonds authorized by RCW 43.31.956 through 43.31.964, the state general obligation bond retirement fund shall be used for purposes of RCW 43.31.956 through 43.31.964 in lieu of the cultural facilities bond redemption fund of 1979, and the cultural facilities bond redemption fund of 1979 shall cease to exist.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed by this section. [1979 ex.s. c 260 § 4.]

***Reviser's note:** RCW 43.31.958 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

State general obligation bond retirement fund: RCW 43.83.160.

Additional notes found at www.leg.wa.gov

43.31.964 Bonds legal investment for public funds. The bonds authorized by RCW 43.31.956 shall be a legal investment for all state funds under state control and all funds of municipal corporations. [1979 ex.s. c 260 § 5.]

Additional notes found at www.leg.wa.gov

43.31.970 Electric vehicle infrastructure. The *department of community, trade, and economic development must distribute to local governments model ordinances, model development regulations, and guidance for local governments for siting and installing electric vehicle infrastructure, and in particular battery charging stations, and appropriate handling, recycling, and storage of electric vehicle batteries and equipment, when available. The model ordinances, model development regulations, and guidance must be developed by a federal or state agency, or nationally recognized organizations with specific expertise in land-use regulations or electric vehicle infrastructure. [2009 c 459 § 18.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—Purpose—2009 c 459: See note following RCW 47.80.090. *Regional transportation planning organizations—Electric vehicle infrastructure: RCW 47.80.090.*

Chapter 43.31A RCW

ECONOMIC ASSISTANCE ACT OF 1972

Sections

43.31A.400 Economic assistance authority abolished—Transfer of duties to department of revenue.

43.31A.400 Economic assistance authority abolished—Transfer of duties to department of revenue. The economic assistance authority established by section 2, chapter 117, Laws of 1972 ex. sess. as amended by section 111, chapter 34, Laws of 1975-'76 2nd ex. sess. is abolished, effective June 30, 1982. Any remaining duties of the economic assistance authority are transferred to the department of revenue on that date. The public facilities construction loan and grant revolving account within the state treasury is continued to service the economic assistance authority's loans. [1991 sp.s. c 13 § 27; 1981 c 76 § 4.]

Additional notes found at www.leg.wa.gov

Chapter 43.31C RCW

COMMUNITY EMPOWERMENT ZONES

Sections

43.31C.005 Findings—Declaration.
 43.31C.010 Definitions.
 43.31C.020 Community empowerment zone—Application.
 43.31C.030 Community empowerment zone—Requirements.
 43.31C.040 Community empowerment plan—Requirements—Annual progress report.
 43.31C.050 Community empowerment zones—Amendment—Termination.
 43.31C.060 Administration of chapter—Powers and duties of department.
 43.31C.070 Administration of community empowerment zone—Jurisdiction of local government—Community empowerment zone administrator.
 43.31C.900 Short title.
 43.31C.901 Conflict with federal requirements—2000 c 212.
 43.31C.902 Severability—2000 c 212.

43.31C.005 Findings—Declaration. (1) The legislature finds that:

(a) There are geographic areas within communities that are characterized by a lack of employment opportunities, an average income level that is below the median income level for the surrounding community, a lack of affordable housing, deteriorating infrastructure, and a lack of facilities for community services, job training, and education;

(b) Strategies to encourage reinvestment in these areas by assisting local businesses to become stronger and area residents to gain economic power involve a variety of activities and partnerships;

(c) Reinvestment in these areas cannot be accomplished with only governmental resources and require a comprehensive approach that integrates various incentives, programs, and initiatives to meet the economic, physical, and social needs of the area;

(d) Successful reinvestment depends on a local government's ability to coordinate public resources in a cohesive, comprehensive strategy that is designed to leverage long-term private investment in an area;

(e) Reinvestment can strengthen the overall tax base through increased tax revenue from expanded and new business activities and physical property improvement;

(f) Local governments, in cooperation with area residents, can provide leadership as well as planning and coordination of resources and necessary supportive services to address reinvestment in the area; and

(g) It is in the public interest to adopt a targeted approach to revitalization and enlist the resources of all levels of government, the private sector, community-based organizations, and community residents to revitalize an area.

(2) The legislature declares that the purposes of the community empowerment zone act are to:

(a) Encourage reinvestment through strong partnerships and cooperation between all levels of government, community-based organizations, area residents, and the private sector;

(b) Involve the private sector and stimulate private reinvestment through the judicious use of public resources;

(c) Target governmental resources to those areas of greatest need; and

(d) Include all levels of government, community individuals, organizations, and the private sector in the policy-making process. [2000 c 212 § 1.]

43.31C.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Area" means a geographic area within a local government that is described by a close perimeter boundary.

(2) "Community empowerment zone" means an area meeting the requirements of RCW 43.31C.020 and officially designated by the director.

(3) "Department" means the department of commerce.

(4) "Director" means the director of the department of commerce.

(5) "Local government" means a city, code city, town, or county. [2009 c 565 § 31; 2000 c 212 § 2.]

(2010 Ed.)

43.31C.020 Community empowerment zone—Application. (1) The department, in cooperation with the department of revenue, the employment security department, and the office of financial management, may approve applications submitted by local governments for an area's designation as a community empowerment zone under this chapter. The application for designation shall be in the form and manner and contain such information as the department may prescribe, provided that the application shall:

(a) Contain information sufficient for the director to determine if the criteria established in RCW 43.31C.030 have been met;

(b) Be submitted on behalf of the local government by its chief elected official, or, if none, by the governing body of the local government;

(c) Contain a five-year community empowerment plan that meets the requirements of RCW 43.31C.040; and

(d) Certify that area residents were given the opportunity to participate in the development of the five-year community empowerment strategy required under RCW 43.31C.040.

(2) No local government shall submit more than two areas to the department for possible designation as a community empowerment zone under this chapter.

(3)(a) The director may designate up to six community empowerment zones, statewide, from among the applications submitted for designation as a community empowerment zone.

(b) The director shall make determinations of designated community empowerment zones on the basis of the following factors:

(i) The strength and quality of the local government commitments to meet the needs identified in the five-year community empowerment plan required under RCW 43.31C.040.

(ii) The level of private sector commitment of additional resources and contribution to the community empowerment zone.

(iii) The potential for revitalization of the area as a result of designation as a community empowerment zone.

(iv) Other factors the director deems necessary.

(c) The determination of the director as to the areas designated as community empowerment zones shall be final.

(4) Except as provided in RCW 43.31C.050, an area that was designated a community empowerment zone before January 1, 1996, under this section, automatically and without additional action by the local government continues its designation under this chapter.

(5) The department may not designate additional community empowerment zones after January 1, 2004, but may amend or rescind designation of community empowerment zones in accordance with RCW 43.31C.050. [2000 c 212 § 3; 1994 sp.s. c 7 § 702; 1993 sp.s. c 25 § 401. Formerly RCW 43.63A.700.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

43.31C.030 Community empowerment zone—Requirements. (1) The director may not designate an area as a community empowerment zone unless that area meets the following requirements:

(a) The area must be designated by the legislative authority of the local government as an area to receive federal, state, and local assistance designed to increase economic, physical, or social activity in the area;

(b) The area must have at least fifty-one percent of the households in the area with incomes at or below eighty percent of the county's median income, adjusted for household size;

(c) The average unemployment rate for the area, for the most recent twelve-month period for which data is available must be at least one hundred twenty percent of the average unemployment rate of the county; and

(d) A five-year community empowerment plan for the area that meets the requirements of RCW 43.31C.040 must be adopted.

(2) The director may establish, by rule, such other requirements as the director may reasonably determine necessary and appropriate to assure that the purposes of this chapter are satisfied.

(3) In determining if an area meets the requirements of this section, the director may consider data provided by the United States bureau of the census from the most recent census or any other reliable data that the director determines to be acceptable for the purposes for which the data is used. [2000 c 212 § 4; 1994 sp.s. c 7 § 703; 1993 sp.s. c 25 § 402. Formerly RCW 43.63A.710.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

43.31C.040 Community empowerment plan—Requirements—Annual progress report. (1) The five-year community empowerment plan required under RCW 43.31C.020 shall contain information that describes the community development needs of the proposed community empowerment zone and present a strategy for meeting those needs. The plan shall address the following categories:

(a) Housing needs for all economic segments of the proposed community empowerment zone;

(b) Public infrastructure needs, such as transportation, water, sanitation, energy, and drainage and flood control;

(c) Other public facilities needs, such as neighborhood facilities or facilities for the provision of health, education, recreation, public safety, and other services;

(d) Community economic development needs, such as commercial and industrial revitalization, job creation and retention considering the unemployment and underemployment of area residents, accessibility to financial resources by area residents and businesses, investment within the area, and other related components of community economic development; and

(e) Social service needs of residents in the proposed community empowerment zone.

(2) The local government must provide a description of its strategy for meeting the needs identified in subsection (1) of this section. As part of the community empowerment zone strategy, the local government must identify the needs for which specific plans are currently in place and the source of funds expected to be used. For the balance of the area's needs, the local government must identify the source of funds expected to become available during the next two-year period

and actions the local government will take to acquire those funds.

(3) The local government must submit an annual progress report to the department that details the extent to which the local government is working to meet the needs identified in the five-year community empowerment plan. If applicable, the progress report must also contain a discussion on the impediments to meeting the needs outlined in the five-year community empowerment plan. The department must determine the date the annual progress reports are due from each local government. [2000 c 212 § 5.]

43.31C.050 Community empowerment zones—Amendment—Termination. (1) The terms or conditions of a community empowerment zone approved under this chapter may be amended to:

(a) Alter the boundaries of the community empowerment zone; or

(b) Terminate the designation of a community empowerment zone.

(2)(a) A request for an amendment under subsection (1)(a) of this section may not be in effect until the department issues an amended designation for the community empowerment zone that approves the requested amendment. The local government must promptly file with the department a request for approval that contains information the department deems necessary to evaluate the proposed changes and its impact on the area's designation as a community empowerment zone under RCW 43.31C.030. The local government must hold at least two public hearings on the proposed changes and include the information in its request for an amendment to its community empowerment zone.

(b) The department shall approve or disapprove a proposed amendment to a community empowerment zone within sixty days of its receipt of a request under subsection (1)(a) of this section. The department may not approve changes to a community empowerment zone that are not in conformity with this chapter.

(3)(a) The termination of an area's designation as a community empowerment zone under subsection (1)(b) of this section is not effective until the department issues a finding stating the reasons for the termination, which may include lack of commitment of resources to activities in the community empowerment zone by the public, private, and community-based sectors. The local government may file an appeal to the department's findings within sixty days of the notice to terminate the area's designation. The department must notify the local government of the results within thirty days of the filing of the appeal.

(b) A termination of an area's designation as a community empowerment zone has no effect on benefits previously extended to individual businesses. The local government may not commit benefits to a business after the effective date of the termination of an area's designation as a community empowerment zone.

(4) The department may request applications from local governments for designation as community empowerment zones under this chapter as a result of a termination of an area's designation as a community empowerment zone under this section. [2000 c 212 § 6.]

43.31C.060 Administration of chapter—Powers and duties of department. The department must administer this chapter and has the following powers and duties:

(1) To monitor the implementation of chapter 212, Laws of 2000 and submit reports evaluating the effectiveness of the program and any suggestions for legislative changes to the governor and legislature by December 1, 2000;

(2) To develop evaluation and performance measures for local governments to measure the effectiveness of the program at the local level on meeting the objectives of this chapter;

(3) To provide information and appropriate assistance to persons desiring to locate and operate a business in a community empowerment zone;

(4) To work with appropriate state agencies to coordinate the delivery of programs, including but not limited to housing, community and economic development, small business assistance, social service, and employment and training programs which are carried on in a community empowerment zone; and

(5) To develop rules necessary for the administration of this chapter. [2000 c 212 § 7.]

43.31C.070 Administration of community empowerment zone—Jurisdiction of local government—Community empowerment zone administrator. The administration of a community empowerment zone is under the jurisdiction of the local government. Each local government must, by ordinance, designate a community empowerment zone administrator for the area designated as a community empowerment zone that is within its jurisdiction. A community empowerment zone administrator must be an officer or employee of the local government. The community empowerment zone administrator is the liaison between the local government, the department, the business community, and labor and community-based organizations within the community empowerment zone. [2000 c 212 § 8.]

43.31C.900 Short title. This chapter may be known and cited as the Washington community empowerment zone act. [2000 c 212 § 9.]

43.31C.901 Conflict with federal requirements—2000 c 212. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [2000 c 212 § 12.]

43.31C.902 Severability—2000 c 212. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2000 c 212 § 14.]

(2010 Ed.)

Chapter 43.32 RCW

COUNTY ROADS DESIGN STANDARDS

(Formerly: Design standards committee)

Sections

- 43.32.010 Composition of committee.
- 43.32.020 Duties of committee.

43.32.010 Composition of committee. There is created a state design standards committee of seven members, six of which shall be appointed by the executive committee of the Washington state association of counties to hold office at its pleasure and the seventh to be the state aid engineer for the department of transportation. The members to be appointed by the executive committee of the Washington state association of counties shall be restricted to the membership of such association or to those holding the office and/or performing the functions of county engineer in any of the several counties of the state. [1982 c 145 § 4; 1971 ex.s. c 85 § 6; 1965 c 8 § 43.32.010. Prior: 1949 c 165 § 2; RRS § 6450-8.]

Design standards committee for arterial streets: Chapter 35.78 RCW.

43.32.020 Duties of committee. On or before January 1, 1950, and from time to time thereafter the design standards committee shall adopt uniform design standards for the county primary road systems. [1965 c 8 § 43.32.020. Prior: 1949 c 165 § 3; RRS § 6450-8j.]

Design standards for county roads and bridges: Chapter 36.86 RCW.

Chapter 43.33 RCW

STATE FINANCE COMMITTEE

Sections

- 43.33.010 Composition of committee.
- 43.33.022 Washington public deposit protection commission, state finance committee constitutes, powers, duties and functions.
- 43.33.030 Records—Administrative and clerical assistance.
- 43.33.040 Rules and regulations—Chair.
- 43.33.130 Summary of debt management activities and debt issuances.

Acquisition of highway property in advance of programmed construction, committee duties relating to: Chapter 47.12 RCW.

Bonds, notes and other evidences of indebtedness, finance committee duties: Chapter 39.42 RCW.

Committee created: RCW 43.17.070.

County held United States bonds, disposal: RCW 36.33.190.

Fiscal agencies: Chapter 43.80 RCW.

Industrial insurance, investments: RCW 51.44.100.

Intoxicating liquor warehouses, acquisition: RCW 66.08.160.

State depositaries: Chapter 43.85 RCW.

State investment board: Chapter 43.33A RCW.

Washington State University Tree Fruit Research Center office-laboratory facility, financing, finance committee powers and duties: RCW 28B.30.600 through 28B.30.620.

43.33.010 Composition of committee. The state treasurer, the lieutenant governor, and the governor, ex officio, shall constitute the state finance committee. [1965 c 8 § 43.33.010. Prior: 1961 c 300 § 2; 1921 c 7 § 6, part; RRS § 10764, part.]

43.33.022 Washington public deposit protection commission, state finance committee constitutes, powers, duties and functions. See chapter 39.58 RCW.

43.33.030 Records—Administrative and clerical assistance. The state finance committee shall keep a full and complete public record of its proceedings in appropriate books of record.

The state treasurer shall provide administrative and clerical assistance for the state finance committee. [1981 c 3 § 24; 1965 c 8 § 43.33.030. Prior: 1961 c 300 § 4; 1907 c 12 § 2; RRS § 5537.]

Additional notes found at www.leg.wa.gov

43.33.040 Rules and regulations—Chair. The state finance committee may make appropriate rules and regulations for the performance of its duties. The state treasurer shall act as chair of the committee. [2009 c 549 § 5112; 1965 c 8 § 43.33.040. Prior: 1907 c 12 § 3; RRS § 5538.]

43.33.130 Summary of debt management activities and debt issuances. The state finance committee must publish a summary of debt management activities at least annually and must also publish the results of each debt issuance in a timely manner upon conclusion of each debt issuance. The state finance committee, in its discretion, may publish these materials exclusively by electronic means on the office of the state treasurer's web site if it is determined that public access to these materials is not substantially diminished. [2010 1st sp.s. c 18 § 2; 1998 c 245 § 63; 1981 c 3 § 25; 1977 ex.s. c 251 § 10.]

Additional notes found at www.leg.wa.gov

Chapter 43.33A RCW

STATE INVESTMENT BOARD

Sections

- 43.33A.010 General powers and duties.
- 43.33A.020 Board created—Membership—Terms—Vacancies—Removal.
- 43.33A.025 Criminal history record checks for board staff finalist candidates.
- 43.33A.030 Trusteeship of funds—Contracts—Delegation of powers and duties.
- 43.33A.035 Delegation of authority—Investments or investment properties.
- 43.33A.040 Quorum—Meetings—Chairperson—Vice chairperson.
- 43.33A.050 Compensation of members—Travel expenses.
- 43.33A.060 Employment restrictions.
- 43.33A.070 Liability of members.
- 43.33A.080 Investment of funds in farm, soil, water conservation loans and in Washington land bank.
- 43.33A.090 Records.
- 43.33A.100 Offices—Personnel—Officers—Compensation—Transfer of employees—Existing contracts and obligations.
- 43.33A.110 Rules and regulations—Investment policies and procedures.
- 43.33A.120 Examination of accounts, files, and other records.
- 43.33A.130 Securities—State treasurer may cause same to be registered in the name of the nominee.
- 43.33A.135 Investment policy—Investment options.
- 43.33A.140 Investments—Standard of investment and management.
- 43.33A.150 Reports of investment activities.
- 43.33A.160 Funding of board—State investment board expense account.
- 43.33A.170 Commingled trust funds—Participation of funds in investments of board.
- 43.33A.180 Investment accounting—Transfer of functions and duties from state treasurer's office.
- 43.33A.190 Self-directed investment—Board's duties.

- 43.33A.200 Creation of entities for investment purposes—Liability—Tax status.
- 43.33A.210 Assets not publicly traded—Treatment of rent and income—Management accounts—Application of this chapter and chapter 39.58 RCW.
- 43.33A.230 Basic health plan self-insurance reserve account—Board duties and powers.

43.33A.010 General powers and duties. The state investment board shall exercise all the powers and perform all duties prescribed by law with respect to the investment of public trust and retirement funds. [1981 c 3 § 1.]

Reviser's note: Substitute House Bill No. 1610 was enacted during the 1980 legislative session, but was vetoed. The veto was overridden by the legislature as follows: Passed the House of Representatives on January 30, 1981; passed the Senate on February 6, 1981. The bill became chapter 3, Laws of 1981.

Additional notes found at www.leg.wa.gov

43.33A.020 Board created—Membership—Terms—Vacancies—Removal. There is hereby created the state investment board to consist of fifteen members to be appointed as provided in this section.

(1) One member who is an active member of the public employees' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be one year.

(2) One member who is an active member of the law enforcement officers' and firefighters' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be two years.

(3) One member who is an active member of the teachers' retirement system and has been an active member for at least five years. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(4) The state treasurer or the assistant state treasurer if designated by the state treasurer.

(5) A member of the state house of representatives. This member shall be appointed by the speaker of the house of representatives.

(6) A member of the state senate. This member shall be appointed by the president of the senate.

(7) One member who is a retired member of a state retirement system shall be appointed by the governor, subject to confirmation by the senate. The initial term of appointment shall be three years.

(8) The director of the department of labor and industries.

(9) The director of the department of retirement systems.

(10) One member who is an active member of the school employees' retirement system and has at least five years of service credit. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(11) Five nonvoting members appointed by the state investment board who are considered experienced and qualified in the field of investments.

The legislative members shall serve terms of two years. The initial legislative members appointed to the board shall be appointed no sooner than January 10, 1983. The position of a legislative member on the board shall become vacant at the end of that member's term on the board or whenever the member ceases to be a member of the senate or house of representatives from which the member was appointed.

After the initial term of appointment, all other members of the state investment board, except ex officio members, shall serve terms of three years and shall hold office until successors are appointed. Members' terms, except for ex officio members, shall commence on January 1 of the year in which the appointments are made.

Members may be reappointed for additional terms. Appointments for vacancies shall be made for the unexpired terms in the same manner as the original appointments. Any member may be removed from the board for cause by the member's respective appointing authority. [2002 c 303 § 1; 1985 c 195 § 1; 1981 c 219 § 1; 1981 c 3 § 2.]

Effective date—2002 c 303: "This act takes effect September 1, 2002." [2002 c 303 § 3.]

Additional notes found at www.leg.wa.gov

43.33A.025 Criminal history record checks for board staff finalist candidates. (1) Notwithstanding any provision of RCW 43.43.700 through 43.43.815, the state investment board shall require a criminal history record check for conviction records through the Washington state patrol criminal identification system, and through the federal bureau of investigation, for the purpose of conducting preemployment evaluations of each finalist candidate for a board staff position exempt from the provisions of chapter 41.06 RCW, or for any other position in which the employee will have authority for or access to: (a) Funds under the jurisdiction or responsibility of the investment board; or (b) data or security systems of the investment board or designs for such systems. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card, which shall be forwarded by the state patrol to the federal bureau of investigation.

(2) Information received by the investment board pursuant to this section shall be made available by the investment board only to board employees involved in the selection, hiring, background investigation, or job assignment of the person who is the subject of the record check, or to that subject person, and it shall be used only for the purposes of making, supporting, or defending decisions regarding the appointment or hiring of persons for these positions, or securing any necessary bonds or other requirements for such employment. Otherwise, the reports, and information contained therein, shall remain confidential and shall not be subject to the disclosure requirements of chapter 42.56 RCW.

(3) Fees charged by the Washington state patrol, or the federal bureau of investigation, for conducting these investigations and providing these reports shall be paid by the investment board. [2005 c 274 § 297; 2000 c 188 § 1; 1999 c 226 § 1.]

(2010 Ed.)

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

43.33A.030 Trusteeship of funds—Contracts—Delegation of powers and duties. Trusteeship of those funds under the authority of the board is vested in the voting members of the board. The nonvoting members of the board shall advise the voting members on matters of investment policy and practices.

The board may enter into contracts necessary to carry out its powers and duties. The board may delegate any of its powers and duties to its executive director as deemed necessary for efficient administration and when consistent with the purposes of chapter 3, Laws of 1981.

Subject to guidelines established by the board, the board's executive director may delegate to board staff any of the executive director's powers and duties including, but not limited to, the power to make investment decisions and to execute investment and other contracts on behalf of the board. [1997 c 161 § 1; 1981 c 3 § 3.]

Additional notes found at www.leg.wa.gov

43.33A.035 Delegation of authority—Investments or investment properties. The board or its executive director may delegate by contract to private sector or other external advisors or managers the discretionary authority, as fiduciaries, to purchase or otherwise acquire, sell, or otherwise dispose of or manage investments or investment properties on behalf of the board, subject to investment or management criteria established by the board or its executive director. Such criteria relevant to particular investments or class of investment applicable under the board's contract with an advisor or manager must be incorporated by reference into the contract. [1997 c 161 § 2.]

43.33A.040 Quorum—Meetings—Chairperson—Vice chairperson. (1) A quorum to conduct the business of the state investment board consists of at least six voting members. No action may be taken by the board without the affirmative vote of six members.

(2) The state investment board shall meet at least quarterly at such times as it may fix. The board shall elect a chairperson and vice chairperson annually: PROVIDED, That the legislative members are not eligible to serve as chairperson. [2002 c 303 § 2; 1981 c 219 § 2; 1981 c 3 § 4.]

Effective date—2002 c 303: See note following RCW 43.33A.020.

Additional notes found at www.leg.wa.gov

43.33A.050 Compensation of members—Travel expenses. Members of the state investment board who are public employees shall serve without compensation but shall suffer no loss because of absence from their regular employment. Members of the board who are not public employees shall be compensated in accordance with RCW 43.03.240. Members of the board who are not legislators shall be reimbursed for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060. Legislative members shall receive allowances provided for in RCW 44.04.120. [1984 c 287 § 80; 1981 c 3 § 5.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.33A.060 Employment restrictions. No member during the term of appointment may be employed by any investment brokerage or mortgage servicing firm doing business with the state investment board. A trust department of a commercial bank or trust company organized under federal or state law is not considered a mortgage servicing firm for purposes of this section. [1981 c 3 § 6.]

Additional notes found at www.leg.wa.gov

43.33A.070 Liability of members. No member of the state investment board is liable for the negligence, default, or failure of any other person or other member of the board to perform the duties of the member's office and no member of the board shall be considered or held to be an insurer of the funds or assets of any of the trust and retirement funds nor is any nonvoting member liable for actions performed with the exercise of reasonable diligence within the scope of the member's authorized activities as a member of the board. [1981 c 3 § 7.]

Additional notes found at www.leg.wa.gov

43.33A.080 Investment of funds in farm, soil, water conservation loans and in Washington land bank. The state investment board may invest those funds which are not under constitutional prohibition in: (1) Farm ownership and soil and water conservation loans fully guaranteed as to principal and interest under the Bankhead-Jones farm tenant act administered by the United States department of agriculture; and (2) the Washington land bank established by *chapter 31.30 RCW. [1987 c 29 § 2; 1981 c 3 § 8.]

*Reviser's note: Chapter 31.30 RCW was repealed by 1998 c 12 § 1.

Additional notes found at www.leg.wa.gov

43.33A.090 Records. The state investment board shall keep a full and complete public record of its proceedings in appropriate books of record. Within sixty days of July 1, 1981, the state investment board shall assume physical custody of all investment accounts, files, and other records of each fund placed under the investment authority of the board. [1981 c 3 § 9.]

Additional notes found at www.leg.wa.gov

43.33A.100 Offices—Personnel—Officers—Compensation—Transfer of employees—Existing contracts and obligations. The state investment board shall maintain appropriate offices and employ such personnel as may be necessary to perform its duties. Employment by the investment board shall include but not be limited to an executive director, investment officers, and a confidential secretary, which positions are exempt from classified service under chapter 41.06 RCW. Employment of the executive director by the board shall be for a term of three years, and such employment shall be subject to confirmation of the state finance committee: PROVIDED, That nothing shall prevent the board from dismissing the director for cause before the expiration of the term nor shall anything prohibit the board, with the confirmation of the state finance committee, from employing the same individual as director in succeeding

terms. Compensation levels for the executive director, a confidential secretary, and all investment officers, including the deputy director for investment management, employed by the investment board shall be established by the state investment board. The investment board is authorized to maintain a retention pool within the state investment board expense account under RCW 43.33A.160, from the earnings of the funds managed by the board, pursuant to a performance management and compensation program developed by the investment board, in order to address recruitment and retention problems and to reward performance. The compensation levels and incentive compensation for investment officers shall be limited to the average of total compensation provided by state or other public funds of similar size, based upon a biennial survey conducted by the investment board, with review and comment by the joint legislative audit and review committee. However, in any fiscal year the incentive compensation granted by the investment board from the retention pool to investment officers pursuant to this section may not exceed thirty percent. Disbursements from the retention pool shall be from legislative appropriations and shall be on authorization of the board's executive director or the director's designee.

The investment board shall provide notice to the director of the department of personnel, the director of financial management, and the chairs of the house of representatives and senate fiscal committees of proposed changes to the compensation levels for the positions. The notice shall be provided not less than sixty days prior to the effective date of the proposed changes.

As of July 1, 1981, all employees classified under chapter 41.06 RCW and engaged in duties assumed by the state investment board on July 1, 1981, are assigned to the state investment board. The transfer shall not diminish any rights granted these employees under chapter 41.06 RCW nor exempt the employees from any action which may occur thereafter in accordance with chapter 41.06 RCW.

All existing contracts and obligations pertaining to the functions transferred to the state investment board in chapter 3, Laws of 1981 shall remain in full force and effect, and shall be performed by the board. None of the transfers directed by chapter 3, Laws of 1981 shall affect the validity of any act performed by a state entity or by any official or employee thereof prior to July 1, 1981. [2008 c 236 § 1; 2001 c 302 § 1; 1993 c 281 § 50; 1981 c 219 § 3; 1981 c 3 § 10.]

Additional notes found at www.leg.wa.gov

43.33A.110 Rules and regulations—Investment policies and procedures. The state investment board may make appropriate rules and regulations for the performance of its duties. The board shall establish investment policies and procedures designed exclusively to maximize return at a prudent level of risk. However, in the case of the department of labor and industries' accident, medical aid, and reserve funds, the board shall establish investment policies and procedures designed to attempt to limit fluctuations in industrial insurance premiums and, subject to this purpose, to maximize return at a prudent level of risk. The board shall adopt rules to ensure that its members perform their functions in compliance with chapter 42.52 RCW. Rules adopted by the board

shall be adopted pursuant to chapter 34.05 RCW. [1994 c 154 § 310; 1989 c 179 § 1; 1988 c 130 § 1; 1981 c 219 § 4; 1981 c 3 § 11.]

Additional notes found at www.leg.wa.gov

43.33A.120 Examination of accounts, files, and other records. All accounts, files, and other records of the state investment board which pertain to each retirement system are subject at any time or from time to time to such reasonable periodic, special, or other examinations by the department of retirement systems as the director of the department of retirement systems deems necessary or appropriate. [1981 c 3 § 12.]

Additional notes found at www.leg.wa.gov

43.33A.130 Securities—State treasurer may cause same to be registered in the name of the nominee. The state treasurer may cause any securities in which the state investment board deals to be registered in the name of a nominee without mention of any fiduciary relationship, except that adequate records shall be maintained to identify the actual owner of the security so registered. The securities so registered shall be held in the physical custody of the state treasurer, the federal reserve system, the designee of the state treasurer, or, at the election of the designee and upon approval of the state treasurer, the Depository Trust Company of New York City or its designees.

With respect to the securities, the nominee shall act only upon the order of the state investment board. All rights to the dividends, interest, and sale proceeds from the securities and all voting rights of the securities are vested in the actual owners of the securities, and not in the nominee. [1999 c 228 § 1; 1981 c 3 § 13.]

Additional notes found at www.leg.wa.gov

43.33A.135 Investment policy—Investment options. The state investment board has the full power to establish investment policy, develop participant investment options, and manage investment funds for the state deferred compensation plan, consistent with the provisions of RCW 41.50.770 and 41.50.780. The board may continue to offer the investment options provided as of June 11, 1998, until the board establishes a deferred compensation plan investment policy and adopts new investment options after considering the recommendations of the department of retirement systems. [2010 1st sp.s. c 7 § 36; 1998 c 116 § 13.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

43.33A.140 Investments—Standard of investment and management. The state investment board shall invest and manage the assets entrusted to it with reasonable care, skill, prudence, and diligence under circumstances then prevailing which a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an activity of like character and purpose.

The board shall:

(1) Consider investments not in isolation, but in the context of the investment of the particular fund as a whole and as part of an overall investment strategy, which should incorpo-

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rate risk and return objectives reasonably suited for that fund; and

(2) Diversify the investments of the particular fund unless, because of special circumstances, the board reasonably determines that the purposes of that fund are better served without diversifying. However, no corporate fixed-income issue or common stock holding may exceed three percent of the cost or six percent of the market value of the assets of that fund. [1998 c 14 § 1; 1981 c 3 § 14.]

Additional notes found at www.leg.wa.gov

43.33A.150 Reports of investment activities. (1) The state investment board shall prepare written reports at least quarterly summarizing the investment activities of the state investment board, which reports shall be sent to the governor, the senate ways and means committee, the house appropriations committee, the department of retirement systems, and other agencies having a direct financial interest in the investment of funds by the board, and to other persons on written request. The state investment board shall provide information to the department of retirement systems necessary for the preparation of monthly reports.

(2) At least annually, the board shall report on the board's investment activities for the department of labor and industries' accident, medical aid, and reserve funds to the senate financial institutions and insurance committee, the senate economic development and labor committee, and the house commerce and labor committee, or appropriate successor committees.

(3) At least annually, the board shall report on the board's investment activities for the higher education permanent funds to the house capital budget committee and the senate ways and means committee. [2007 c 215 § 4; 1989 c 179 § 2; 1981 c 3 § 15.]

Finding—Intent—Contingent effective date—2007 c 215: See notes following RCW 39.42.070.

Additional notes found at www.leg.wa.gov

43.33A.160 Funding of board—State investment board expense account. (1) The state investment board shall be funded from the earnings of the funds managed by the state investment board, proportional to the value of the assets of each fund, subject to legislative appropriation.

(2) There is established in the state treasury a state investment board expense account from which shall be paid the operating expenses of the state investment board. Prior to November 1 of each even-numbered year, the state investment board shall determine and certify to the state treasurer and the office of financial management the value of the various funds managed by the investment board in order to determine the proportional liability of the funds for the operating expenses of the state investment board. Pursuant to appropriation, the state treasurer is authorized to transfer such moneys from the various funds managed by the investment board to the state investment board expense account as are necessary to pay the operating expenses of the investment board. [1991 sp.s. c 13 § 32; 1985 c 57 § 32; 1982 c 10 § 10. Prior: 1981 c 242 § 1; 1981 c 219 § 5; 1981 c 3 § 16.]

Additional notes found at www.leg.wa.gov

43.33A.170 Commingled trust funds—Participation of funds in investments of board. The state investment board is authorized to establish commingled trust funds in the state treasury for the implementation of specific investment programs for any combination of funds under its jurisdiction. At the discretion of the state investment board, the funds under the jurisdiction of the board may participate in the investments made by the board through state investment board commingled trust funds. The state investment board may establish accounts within any such commingled trust fund as necessary for the implementation of specific investment programs. The combining of moneys from funds located outside the state treasury with moneys from funds located within the state treasury for investment under this section shall not affect the nature, character, or purpose of a participating fund. [1999 c 227 § 1; 1982 c 58 § 1.]

43.33A.180 Investment accounting—Transfer of functions and duties from state treasurer’s office. The state investment board shall account for and report on the investments authorized by this chapter in the manner prescribed by the office of financial management under chapter 43.88 RCW.

After approval of the director of financial management, all positions, reports, documents, and office equipment along with any appropriation necessary for carrying out the functions and duties transferred shall, on July 1, 1992, be transferred from the state treasurer’s office to the state investment board. All employees assigned to such classified positions to be transferred, are assigned, without any loss of rights, to the state investment board. [1992 c 232 § 905.]

Additional notes found at www.leg.wa.gov

43.33A.190 Self-directed investment—Board’s duties. Pursuant to RCW 41.34.130, the state investment board shall invest all self-directed investment moneys under teachers’ retirement system plan 3, the school employees’ retirement system plan 3, and the public employees’ retirement system plan 3 with full power to establish investment policy, develop investment options, and manage self-directed investment funds. [2000 c 247 § 701; 1998 c 341 § 707; 1995 c 239 § 321.]

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Benefits not contractual right until date specified: RCW 41.34.100.

Additional notes found at www.leg.wa.gov

43.33A.200 Creation of entities for investment purposes—Liability—Tax status. (1) The board is authorized to create corporations under Title 23B RCW, limited liability companies under chapter 25.15 RCW, and limited partnerships under chapter 25.10 RCW, of which it may or may not be the general partner, for the purposes of transferring, acquiring, holding, overseeing, operating, or disposing of real estate or other investment assets that are not publicly traded on a daily basis or on an organized exchange. The liability of each entity created by the board is limited to the assets or properties of that entity. No creditor or other person has any right of action against the board, its members or employees,

or the state of Washington on account of any debts, obligations, or liabilities of the entity. Entities created under this section may be authorized by the board to make any investment that the board may make, including but not limited to the acquisition of: Equity interests in operating companies, the indebtedness of operating companies, and real estate.

(2) Directors, officers, and other principals of entities created under this section must be board members, board staff, or principals or employees of an advisor or manager engaged by contract by the board or the entity to manage real estate or other investment assets of the entity. Directors of entities created under this section must be appointed by the board. Officers and other principals of entities created under this section are appointed by the directors.

(3) A public corporation, limited liability company, or limited partnership created under this section has the same immunity or exemption from taxation as that of the state. The entity shall pay an amount equal to the amounts that would be paid for taxes otherwise levied upon real property and personal property to the public official charged with the collection of such real property and personal property taxes as if the property were in private ownership. The proceeds of such payments must be allocated as though the property were in private ownership. [1997 c 359 § 1.]

43.33A.210 Assets not publicly traded—Treatment of rent and income—Management accounts—Application of this chapter and chapter 39.58 RCW. Rent and other income from real estate or other investment assets that are not publicly traded on a daily basis or on an organized exchange that are acquired and being held for investment by the board or by an entity created under RCW 43.33A.200 by the board, and being managed by an external advisor or other property manager under contract, shall not be deemed income or state funds for the purposes of chapter 39.58 RCW and this title, until distributions are made to the board of such income from the advisor or manager. Bank and other accounts established by the advisor or property manager for the purpose of the management of such investment assets shall not be deemed accounts established by the state for the purpose of chapter 39.58 RCW and this title. [1997 c 359 § 2.]

43.33A.230 Basic health plan self-insurance reserve account—Board duties and powers. (1) The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the basic health plan self-insurance reserve account. All investment and operating costs associated with the investment of money shall be paid under RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the account.

(2) All investments made by the state investment board shall be made with the exercise of that degree of judgment and care under RCW 43.33A.140 and the investment policy established by the state investment board.

(3) As deemed appropriate by the investment board, money in the account may be commingled for investment with other funds subject to investment by the board.

(4) The investment board shall routinely consult and communicate with the health care authority on the investment

policy, earnings of the account, and related needs of the account. [2000 c 80 § 6.]

**Chapter 43.34 RCW
CAPITOL COMMITTEE**

Sections

- 43.34.010 Composition of committee.
- 43.34.015 Secretary of committee—Committee records.
- 43.34.040 Buildings—Erection—Improvements.
- 43.34.080 Capitol campus design advisory committee—Generally.
- 43.34.090 Building names.

Capitol building lands: Chapter 79.24 RCW.

Committee created: RCW 43.17.070.

East capitol site, powers and duties concerning: RCW 79.24.500.

Housing for state offices, duties: RCW 43.82.010.

43.34.010 Composition of committee. The governor or the governor’s designee, the lieutenant governor, the secretary of state, and the commissioner of public lands, ex officio, shall constitute the state capitol committee. [1997 c 279 § 1; 1979 ex.s. c 57 § 10; 1965 c 8 § 43.34.010. Prior: 1961 c 300 § 5; 1921 c 7 § 8; RRS § 10766.]

43.34.015 Secretary of committee—Committee records. The commissioner of public lands shall be the secretary of the state capitol committee, but the committee may appoint a suitable person as acting secretary thereof, and fix his or her compensation. However, all records of the committee shall be filed in the office of the commissioner of public lands. [1997 c 279 § 2; 1965 c 8 § 43.34.015. Prior: 1959 c 257 § 45; 1909 c 69 § 1; RRS § 7897. Formerly RCW 79.24.080.]

43.34.040 Buildings—Erection—Improvements. The state capitol committee may erect one or more permanent buildings; one or more temporary buildings; excavate or partially excavate for any such building or buildings; partially erect any such building or buildings; make other temporary or permanent improvements wholly or in part; upon the capitol grounds belonging to the state and known as the "Sylvester site" or "Capitol place" in Olympia, Washington. [1965 c 8 § 43.34.040. Prior: 1933 ex.s. c 34 § 1; RRS § 7915-1.]

43.34.080 Capitol campus design advisory committee—Generally. (1) The capitol campus design advisory committee is established as an advisory group to the capitol committee and the director of general administration to review programs, planning, design, and landscaping of state capitol facilities and grounds and to make recommendations that will contribute to the attainment of architectural, aesthetic, functional, and environmental excellence in design and maintenance of capitol facilities on campus and located in neighboring communities.

(2) The advisory committee shall consist of the following persons who shall be appointed by and serve at the pleasure of the governor:

- (a) Two architects;
- (b) A landscape architect; and
- (c) An urban planner.

The governor shall appoint the chair and vice-chair and shall instruct the director of general administration to provide the staff and resources necessary for implementing this section. The advisory committee shall meet at least once every ninety days and at the call of the chair.

The members of the committee shall be reimbursed as provided in RCW 43.03.220 and 44.04.120.

(3) The advisory committee shall also consist of the secretary of state and two members of the house of representatives, one from each caucus, who shall be appointed by the speaker of the house of representatives, and two members of the senate, one from each caucus, who shall be appointed by the president of the senate.

(4) The advisory committee shall review plans and designs affecting state capitol facilities as they are developed. The advisory committee’s review shall include:

(a) The process of solicitation and selection of appropriate professional design services including design-build proposals;

(b) Compliance with the capitol campus master plan and design concepts as adopted by the capitol committee;

(c) The design, siting, and grouping of state capitol facilities relative to the service needs of state government and the impact upon the local community’s economy, environment, traffic patterns, and other factors;

(d) The relationship of overall state capitol facility planning to the respective comprehensive plans for long-range urban development of the cities of Olympia, Lacey, and Tumwater, and Thurston county; and

(e) Landscaping plans and designs, including planting proposals, street furniture, sculpture, monuments, and access to the capitol campus and buildings. [1990 c 93 § 1.]

43.34.090 Building names. (1) The legislature shall approve names for new or existing buildings on the state capitol grounds based upon recommendations from the state capitol committee and the director of the department of general administration, with the advice of the capitol campus design advisory committee, subject to the following limitations:

(a) An existing building may be renamed only after a substantial renovation or a change in the predominant tenant agency headquartered in the building.

(b) A new or existing building may be named or renamed after:

(i) An individual who has played a significant role in Washington history;

(ii) The purpose of the building;

(iii) The single or predominant tenant agency headquartered in the building;

(iv) A significant place name or natural place in Washington;

(v) A Native American tribe located in Washington;

(vi) A group of people or type of person;

(vii) Any other appropriate person consistent with this section as recommended by the director of the department of general administration.

(c) The names on the facades of the state capitol group shall not be removed.

(2) The legislature shall approve names for new or existing public rooms or spaces on the west capitol campus based upon recommendations from the state capitol committee and

the director of the department of general administration, with the advice of the capitol campus design advisory committee, subject to the following limitations:

(a) An existing room or space may be renamed only after a substantial renovation;

(b) A new or existing room or space may be named or renamed only after:

(i) An individual who has played a significant role in Washington history;

(ii) The purpose of the room or space;

(iii) A significant place name or natural place in Washington;

(iv) A Native American tribe located in Washington;

(v) A group of people or type of person;

(vi) Any other appropriate person consistent with this section as recommended by the director of the department of general administration.

(3) When naming or renaming buildings, rooms, and spaces under this section, consideration must be given to: (a) Any disparity that exists with respect to the gender of persons after whom buildings, rooms, and spaces are named on the state capitol grounds; (b) the diversity of human achievement; and (c) the diversity of the state's citizenry and history.

(4) For purposes of this section, "state capitol grounds" means buildings and land owned by the state and otherwise designated as state capitol grounds, including the west capitol campus, the east capitol campus, the north capitol campus, the Tumwater campus, the Lacey campus, Sylvester Park, Centennial Park, the Old Capitol Building, and Capitol Lake. [2002 c 164 § 1.]

Chapter 43.37 RCW

WEATHER MODIFICATION

Sections

43.37.010	Definitions.
43.37.030	Powers and duties.
43.37.040	Promotion of research and development activities—Contracts and agreements.
43.37.050	Hearing procedure.
43.37.060	Acceptance of gifts, donations, etc.
43.37.080	License and permit required.
43.37.090	Exemptions.
43.37.100	Licenses—Requirements, duration, renewal, fees.
43.37.110	Permits—Requirements—Hearing as to issuance.
43.37.120	Separate permit for each operation—Filing and publishing notice of intention—Activities restricted by permit and notice.
43.37.130	Notice of intention—Contents.
43.37.140	Notice of intention—Publication.
43.37.150	Financial responsibility.
43.37.160	Fees—Sanctions for failure to pay.
43.37.170	Records and reports—Open to public examination.
43.37.180	Revocation, suspension, modification of license or permit.
43.37.190	Liability of state denied—Legal rights of private persons not affected.
43.37.200	Penalty.
43.37.210	Legislative declaration.
43.37.215	Program of emergency cloud seeding authorized.
43.37.220	Exemption of licensee from certain requirements.
43.37.910	Effective date—1973 c 64.

43.37.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Department" means the department of ecology;

(2) "Operation" means the performance of weather modification and control activities pursuant to a single contract

entered into for the purpose of producing or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding one year; or, in case the performance of weather modification and control activities is to be undertaken individually or jointly by a person or persons to be benefited and not undertaken pursuant to a contract, "operation" means the performance of weather modification and control activities entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding one year;

(3) "Research and development" means theoretical analysis exploration and experimentation, and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes;

(4) "Weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods, the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere. [1973 c 64 § 1; 1965 c 8 § 43.37.010. Prior: 1957 c 245 § 1.]

43.37.030 Powers and duties. In the performance of its functions the department may, in addition to any other acts authorized by law:

(1) Establish advisory committees to advise with and make recommendations to the department concerning legislation, policies, administration, research, and other matters;

(2) Establish by regulation or order such standards and instructions to govern the carrying out of research or projects in weather modification and control as the department may deem necessary or desirable to minimize danger to health or property; and make such rules and regulations as are necessary in the performance of its powers and duties;

(3) Make such studies, investigations, obtain such information, and hold such hearings as the department may deem necessary or proper to assist it in exercising its authority or in the administration or enforcement of this chapter or any regulations or orders issued thereunder;

(4) Appoint and fix the compensation of such personnel, including specialists and consultants, as are necessary to perform its duties and functions;

(5) Acquire, in the manner provided by law, such materials, equipment, and facilities as are necessary to perform its duties and functions;

(6) Cooperate with public or private agencies in the performance of the department's functions or duties and in furtherance of the purposes of this chapter;

(7) Represent the state in any and all matters pertaining to plans, procedures, or negotiations for interstate compacts relating to weather modification and control. [1973 c 64 § 2; 1965 c 8 § 43.37.030. Prior: 1957 c 245 § 3.]

43.37.040 Promotion of research and development activities—Contracts and agreements. The department shall exercise its powers in such manner as to promote the continued conduct of research and development activities in

the fields specified below by private or public institutions or persons and to assist in the acquisition of an expanding fund of theoretical and practical knowledge in such fields. To this end the department may conduct, and make arrangements, including contracts and agreements, for the conduct of, research and development activities relating to:

(1) The theory and development of methods of weather modification and control, including processes, materials, and devices related thereto;

(2) Utilization of weather modification and control for agricultural, industrial, commercial, and other purposes;

(3) The protection of life and property during research and operational activities. [1973 c 64 § 3; 1965 c 8 § 43.37.040. Prior: 1957 c 245 § 4.]

43.37.050 Hearing procedure. In the case of hearings pursuant to RCW 43.37.180 the department shall, and in other cases may, cause a record of the proceedings to be taken and filed with the department, together with its findings and conclusions. For any hearing, the director of the department or a representative designated by him or her is authorized to administer oaths and affirmations, examine witnesses, and issue, in the name of the department, notice of the hearing or subpoenas requiring any person to appear and testify, or to appear and produce documents, or both, at any designated place. [2009 c 549 § 5113; 1973 c 64 § 4; 1965 c 8 § 43.37.050. Prior: 1957 c 245 § 5.]

43.37.060 Acceptance of gifts, donations, etc. (1) The department may, subject to any limitations otherwise imposed by law, receive and accept for and in the name of the state any funds which may be offered or become available from federal grants or appropriations, private gifts, donations, or bequests, or any other source, and may expend such funds, subject to any limitations otherwise provided by law, for the encouragement of research and development by a state, public, or private agency, either by direct grant, by contract or other cooperative means.

(2) All license and permit fees paid to the department shall be deposited in the state general fund. [1973 c 64 § 5; 1965 c 8 § 43.37.060. Prior: 1957 c 245 § 6.]

43.37.080 License and permit required. Except as provided in RCW 43.37.090, no person shall engage in activities for weather modification and control except under and in accordance with a license and a permit issued by the department authorizing such activities. [1973 c 64 § 6; 1965 c 8 § 43.37.080. Prior: 1957 c 245 § 8.]

43.37.090 Exemptions. The department, to the extent it deems practical, shall provide by regulation for exempting from license, permit, and liability requirements, (1) research and development and experiments by state and federal agencies, institutions of higher learning, and bona fide nonprofit research organizations; (2) laboratory research and experiments; (3) activities of an emergent character for protection against fire, frost, sleet, or fog; and (4) activities normally engaged in for purposes other than those of inducing, increasing, decreasing, or preventing precipitation or hail. [1973 c 64 § 7; 1965 c 8 § 43.37.090. Prior: 1957 c 245 § 9.]

(2010 Ed.)

43.37.100 Licenses—Requirements, duration, renewal, fees. (1) Licenses to engage in activities for weather modification and control shall be issued to applicants therefor who pay the license fee required and who demonstrate competence in the field of meteorology to the satisfaction of the department, reasonably necessary to engage in activities for weather modification and control. If the applicant is an organization, these requirements must be met by the individual or individuals who will be in control and in charge of the operation for the applicant.

(2) The department shall issue licenses in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this chapter. Each license shall be issued for a period to expire at the end of the calendar year in which it is issued and, if the licensee possesses the qualifications necessary for the issuance of a new license, shall upon application be renewed at the expiration of such period. A license shall be issued or renewed only upon the payment to the department of one hundred dollars for the license or renewal thereof. [1973 c 64 § 8; 1965 c 8 § 43.37.100. Prior: 1957 c 245 § 10.]

43.37.110 Permits—Requirements—Hearing as to issuance. The department shall issue permits in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this chapter only:

(1) If the applicant is licensed pursuant to this chapter;

(2) If a sufficient notice of intention is published and proof of publication is filed as required by RCW 43.37.140;

(3) If the applicant furnishes proof of financial responsibility, as provided in RCW 43.37.150, in an amount to be determined by the department but not to exceed twenty thousand dollars;

(4) If the fee for a permit is paid as required by RCW 43.37.160;

(5) If the weather modification and control activities to be conducted under authority of the permit are determined by the department to be for the general welfare and public good;

(6) If the department has held an open public hearing in Olympia as to such issuance. [1973 c 64 § 9; 1965 c 8 § 43.37.110. Prior: 1961 c 154 § 2; 1957 c 245 § 11.]

43.37.120 Separate permit for each operation—Filing and publishing notice of intention—Activities restricted by permit and notice. A separate permit shall be issued for each operation. Prior to undertaking any weather modification and control activities the licensee shall file with the department and also cause to be published a notice of intention. The licensee, if a permit is issued, shall confine his or her activities for the permitted operation within the time and area limits set forth in the notice of intention, unless modified by the department; and his or her activities shall also conform to any conditions imposed by the department upon the issuance of the permit or to the terms of the permit as modified after issuance. [2009 c 549 § 5114; 1973 c 64 § 10; 1965 c 8 § 43.37.120. Prior: 1961 c 154 § 3; 1957 c 245 § 12.]

43.37.130 Notice of intention—Contents. The notice of intention shall set forth at least all the following:

- (1) The name and address of the licensee;
- (2) The nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;
- (3) The area in which and the approximate time during which the operation will be conducted;
- (4) The area which is intended to be affected by the operation;
- (5) The materials and methods to be used in conducting the operation. [1965 c 8 § 43.37.130. Prior: 1957 c 245 § 13.]

43.37.140 Notice of intention—Publication. (1) The applicant shall cause the notice of intention, or that portion thereof including the items specified in RCW 43.37.130, to be published at least once a week for three consecutive weeks in a legal newspaper having a general circulation and published within any county in which the operation is to be conducted and in which the affected area is located, or, if the operation is to be conducted in more than one county or if the affected area is located in more than one county or is located in a county other than the one in which the operation is to be conducted, then in a legal newspaper having a general circulation and published within each of such counties. In case there is no legal newspaper published within the appropriate county, publication shall be made in a legal newspaper having a general circulation within the county;

(2) Proof of publication, made in the manner provided by law, shall be filed by the licensee with the department within fifteen days from the date of the last publication of the notice. [1973 c 64 § 11; 1965 c 8 § 43.37.140. Prior: 1961 c 154 § 4; 1957 c 245 § 14.]

43.37.150 Financial responsibility. Proof of financial responsibility may be furnished by an applicant by his or her showing, to the satisfaction of the department, his or her ability to respond in damages for liability which might reasonably be attached to or result from his or her weather modification and control activities in connection with the operation for which he or she seeks a permit. [2009 c 549 § 5115; 1973 c 64 § 12; 1965 c 8 § 43.37.150. Prior: 1957 c 245 § 15.]

43.37.160 Fees—Sanctions for failure to pay. The fee to be paid by each applicant for a permit shall be equivalent to one and one-half percent of the estimated cost of such operation, the estimated cost to be computed by the department from the evidence available to it. The fee is due and payable to the department as of the date of the issuance of the permit; however, if the applicant is able to give to the department satisfactory security for the payment of the balance, he or she may be permitted to commence the operation, and a permit may be issued therefor, upon the payment of not less than fifty percent of the fee. The balance due shall be paid within three months from the date of the termination of the operation as prescribed in the permit. Failure to pay a permit fee as required shall be grounds for suspension or revocation of the license of the delinquent permit holder and grounds for refusal to renew his or her license or to issue any further permits to such person. [2009 c 549 § 5116; 1973 c 64 § 13; 1965 c 8 § 43.37.160. Prior: 1957 c 245 § 16.]

43.37.170 Records and reports—Open to public examination. (1) Every licensee shall keep and maintain a record of all operations conducted by him or her pursuant to his or her license and each permit, showing the method employed, the type of equipment used, materials and amounts thereof used, the times and places of operation of the equipment, the name and post office address of each individual participating or assisting in the operation other than the licensee, and such other general information as may be required by the department and shall report the same to the department at the time and in the manner required.

(2) The department shall require written reports in such manner as it provides but not inconsistent with the provisions of this chapter, covering each operation for which a permit is issued. Further, the department shall require written reports from such organizations as are exempted from license, permit, and liability requirements as provided in RCW 43.37.090.

(3) The reports and records in the custody of the department shall be open for public examination. [2009 c 549 § 5117; 1973 c 64 § 14; 1965 c 8 § 43.37.170. Prior: 1957 c 245 § 17.]

43.37.180 Revocation, suspension, modification of license or permit. (1) The department may suspend or revoke any license or permit issued if it appears that the licensee no longer possesses the qualifications necessary for the issuance of a new license or permit. The department may suspend or revoke any license or permit if it appears that the licensee has violated any of the provisions of this chapter. Such suspension or revocation shall occur only after notice to the licensee and a reasonable opportunity granted such licensee to be heard respecting the grounds of the proposed suspension or revocation. The department may refuse to renew the license of, or to issue another permit to, any applicant who has failed to comply with any provision of this chapter.

(2) The department may modify the terms of a permit after issuance thereof if the licensee is first given notice and a reasonable opportunity for a hearing respecting the grounds for the proposed modification and if it appears to the department that it is necessary for the protection of the health or the property of any person to make the modification proposed. [1973 c 64 § 15; 1965 c 8 § 43.37.180. Prior: 1957 c 245 § 18.]

43.37.190 Liability of state denied—Legal rights of private persons not affected. Nothing in this chapter shall be construed to impose or accept any liability or responsibility on the part of the state, the department, or any state officials or employees for any weather modification and control activities of any private person or group, nor to affect in any way any contractual, tortious, or other legal rights, duties, or liabilities between any private persons or groups. [1973 c 64 § 16; 1965 c 8 § 43.37.190. Prior: 1957 c 245 § 19.]

43.37.200 Penalty. Any person violating any of the provisions of this chapter or any lawful regulation or order issued pursuant thereto, shall be guilty of a misdemeanor; and a continuing violation is punishable as a separate offense for each day during which it occurs. [1965 c 8 § 43.37.200. Prior: 1957 c 245 § 20.]

43.37.210 Legislative declaration. The legislature finds and declares that when prolonged lack of precipitation or shortages of water supply in the state cause severe hardships affecting the health, safety, and welfare of the people of the state, a program to increase precipitation is occasionally needed for the generation of hydroelectric power, for domestic purposes, and to alleviate hardships created by the threat of forest fires and shortages of water for agriculture. Cloud seeding has been demonstrated to be such a program of weather modification with increasing scientific certainty. [1981 c 278 § 1.]

43.37.215 Program of emergency cloud seeding authorized. The director of ecology may establish by rule under chapter 34.05 RCW a program of emergency cloud seeding. The director may include in these rules standards and guidelines for determining the situations which warrant cloud seeding and the means to be used for cloud seeding. [1981 c 278 § 2.]

Actions during state of emergency exempt from chapter 43.21C RCW: RCW 43.21C.210.

43.37.220 Exemption of licensee from certain requirements. Upon a proclamation of a state of emergency, related to a lack of precipitation or a shortage of water supply, by the governor under RCW 43.06.210, the department shall exempt a licensee from the requirements of RCW 43.37.110 (2) and (6) and RCW 43.37.140. [1981 c 278 § 3.]

Actions during state of emergency exempt from chapter 43.21C RCW: RCW 43.21C.210.

43.37.910 Effective date—1973 c 64. The effective date of this 1973 amendatory act shall be July 1, 1973. [1973 c 64 § 18.]

Chapter 43.41 RCW

OFFICE OF FINANCIAL MANAGEMENT

Sections

43.41.030	Purpose.
43.41.035	Office of program planning and fiscal management redesignated office of financial management.
43.41.040	Definitions.
43.41.050	Office of financial management created—Transfer of powers, duties, and functions.
43.41.060	Director—Appointment—Salary—Vacancy—Delegation of powers and duties.
43.41.070	Personnel.
43.41.080	Deputy and assistant directors.
43.41.090	State civil service law—Certain personnel of office of financial management exempted.
43.41.100	Director's powers and duties.
43.41.102	Director—Contract for collection and tabulation of census block statistics.
43.41.104	Settlement and payment of accounts—Duty to require.
43.41.106	Settlement and payment of accounts—Authority to require testimony and evidence.
43.41.110	Powers and duties of office of financial management.
43.41.120	Advisory or coordinating councils.
43.41.130	Passenger motor vehicles owned or operated by state agencies—Duty to establish policies as to acquisition, operation, authorized use—Strategies to reduce fuel consumption and vehicle emissions—Implementation of fuel economy standards—Reports—Definitions.
43.41.140	Employee commuting in state-owned or leased vehicle—Policies and regulations.
43.41.150	Inventory of state land resources—Developing and maintaining—Summaries.

43.41.160	State health care cost containment policies.
43.41.170	Budgeting process—Agencies implementing energy conservation to retain cost savings.
43.41.180	Electronic funds and information transfer—State agency use.
43.41.190	Community network programs—Recommended legislation.
43.41.195	Community networks—Fund distribution formula.
43.41.220	Review of boards and commissions by governor—Report—Termination—Transfers.
43.41.230	Boards and commissions reviewed—Exceptions.
43.41.240	Approval of board or commission not established or required by statute.
43.41.250	Criteria for new board or commission not established or required by statute.
43.41.260	Monitoring enrollee level in basic health plan and medicaid caseload of children—Funding levels adjustment.
43.41.270	Natural resource-related and environmentally based grant and loan programs—Administration and monitoring assistance.
43.41.280	Risk management—Principles.
43.41.290	Risk management—Definitions applicable to RCW 43.19.19361 and 43.19.19362.
43.41.300	Risk management—Division created—Powers and duties.
43.41.310	Risk management—Procurement of insurance and bonds.
43.41.320	Risk management—Procurement of insurance for municipalities.
43.41.330	Risk management—Enforcement of bonds under RCW 39.59.010.
43.41.340	Risk management—Liability account—Actuarial studies.
43.41.350	Risk management—Safety and loss control program.
43.41.360	Bonds of state officers and employees—Fixing amount—Additional bonds—Exemptions—Duties of director.
43.41.370	Loss prevention review team—Appointment—Duties.
43.41.380	Loss prevention review team—Final report—Use of report and testimony limited—Response report.
43.41.390	Implementation of federal REAL ID Act of 2005.
43.41.400	Education data center.
43.41.405	K-12 data—Securing federal funds.
43.41.901	Construction—1977 ex.s. c 270.
43.41.905	Interagency task force on unintended pregnancy.
43.41.940	Central budget agency abolished.
43.41.950	Saving—1969 ex.s. c 239.
43.41.970	Federal requirements for receipt of federal funds.
43.41.980	Severability—1969 ex.s. c 239.

Reviser's note: Throughout this chapter the phrase "this 1969 amendatory act" or "this act" has been changed to "this chapter". The phrase also includes RCW 43.88.020, 43.88.025 and 41.06.075.

Adjustment of dollar thresholds for special purpose district per diem compensations, transmittal to office of the code reviser: RCW 35.61.150, 36.57A.050, 52.14.010, 53.12.260, 54.12.080, 57.12.010, 68.52.220, 70.44.050, 85.05.410, 85.06.380, 85.08.320, 85.24.080, 85.38.075, 86.09.283, and 87.03.460.

Assessments and charges against state lands: Chapter 79.44 RCW.

Budgeting, accounting, and reporting system, powers and duties: Chapter 43.88 RCW.

Checks and drafts, form prescribed by: RCW 43.88.160.

Classes and number of positions for agencies fixed by: RCW 43.88.160.

Corrective measures by agencies, duties to enforce: RCW 43.88.160.

Development of back-up plan for Vashon to Seattle passenger-only ferry route: RCW 47.01.360.

Development of methods and protocols for measuring educational costs—Schedule of educational cost study reports: RCW 28B.76.310.

Efficiency surveys and analyses of agencies: RCW 43.88.160.

Employee training authorized: RCW 43.88.160.

Inventory of state-owned or leased facilities—Report: RCW 43.82.150.

Motor vehicle fund, distribution of amount to counties, office to furnish information: RCW 46.68.124.

Moving expenses of state officers and employees, approval by: RCW 43.03.110.

Occupational forecast—Agency consultation: RCW 50.38.030.

Pay and classification plans, review of: RCW 43.88.160.

Personal service contracts, filing with office of financial management, duties: Chapter 39.29 RCW.

Proposal of ten-year investment program for transportation investments, improvements, and preservation: RCW 47.05.030.

Public printing, duties concerning: Chapter 43.78 RCW.

Regulations, duty to promulgate: RCW 43.88.160.

Regulatory fairness act, office of financial management participation: Chapter 19.85 RCW.

Reports of agencies, authority to require: RCW 43.88.160.

Reports to governor, duplication of effort or lack of coordination between agencies: RCW 43.88.160.

Requirements to seek federal waivers and state law changes to medical assistance programs: RCW 43.20A.860.

Review and approval of matching funds in the rural arterial program: RCW 36.79.120.

Review of highway protection and restoration contracts: RCW 47.28.170.

Review of rural arterial trust account budget: RCW 36.79.130.

State employees' retirement system, duties: RCW 41.40.048.

State facility planning and management: Chapter 43.82 RCW.

State route No. 520 improvements, hiring a mediator and staff: RCW 47.01.405.

Substance allowance for officials and employees, director to prescribe: RCW 43.03.050.

Tort claims against state, duties: Chapter 4.92 RCW.

Transportation system policy goals, development and submittal of objectives and performance measures: RCW 47.04.280, 47.01.071.

Warrants or checks, form prescribed by: RCW 43.88.160.

43.41.030 Purpose. The legislature finds that the need for long-range state program planning and for the short-range planning carried on through the budget process, complement each other. The biennial budget submitted to the legislature must be considered in the light of the longer-range plans and goals of the state. The effectiveness of the short-range plan presented as budget proposals, cannot be measured without being aware of these longer-range goals. Thus efficient management requires that the planning and fiscal activities of state government be integrated into a unified process. It is the purpose of this chapter to bring these functions together in a new division of the office of the governor to be called the office of financial management. [1979 c 151 § 109; 1969 ex.s. c 239 § 1.]

43.41.035 Office of program planning and fiscal management redesignated office of financial management. From and after September 21, 1977, the office of program planning and fiscal management shall be known and designated as the office of financial management. [1977 ex.s. c 114 § 1.]

43.41.040 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "Office" means the office of financial management.
- (2) "Director" means the director of financial management.

- (3) "Agency" means and includes every state agency, office, officer, board, commission, department, state institution, or state institution of higher education, which includes all state universities, regional universities, The Evergreen State College, and community and technical colleges. [1993 c 500 § 4; 1979 c 151 § 110; 1969 ex.s. c 239 § 2.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.41.050 Office of financial management created—Transfer of powers, duties, and functions. There is created

in the office of the governor, the office of financial management which shall be composed of the present central budget agency and the state planning, program management, and population and research divisions of the present *planning and community affairs agency. Any powers, duties and functions assigned to the central budget agency, or any state planning, program management, or population and research functions assigned to the present *planning and community affairs agency by the 1969 legislature, shall be transferred to the office of financial management. [1979 c 151 § 111; 1969 ex.s. c 239 § 3.]

***Reviser's note:** "Planning and community affairs agency" means "department of community development." See RCW 43.63A.045.

43.41.060 Director—Appointment—Salary—Vacancy—Delegation of powers and duties. The executive head of the office of financial management shall be the director, who shall be appointed by the governor with the consent of the senate, and who shall serve at the pleasure of the governor. He or she shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in his or her position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he or she shall present to that body his or her nomination for the office. The director may delegate such of his or her powers, duties and functions to other officers and employees of the department as he or she may deem necessary to the fulfillment of the purposes of this chapter. [2009 c 549 § 5118; 1979 c 151 § 112; 1969 ex.s. c 239 § 4.]

43.41.070 Personnel. The director shall have the power to employ such personnel as may be necessary for the general administration of the office: PROVIDED, That, except as elsewhere specified in this chapter, such employment is in accordance with the rules of the state civil service law, chapter 41.06 RCW. [1969 ex.s. c 239 § 5.]

43.41.080 Deputy and assistant directors. The director may appoint such deputy directors and assistant directors as shall be needed to administer the office of financial management. The officers appointed under this section and exempt from the provisions of the state civil service law by the terms of RCW 41.06.075, shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. [1979 c 151 § 113; 1969 ex.s. c 239 § 6.]

43.41.090 State civil service law—Certain personnel of office of financial management exempted. See RCW 41.06.075.

43.41.100 Director's powers and duties. The director of financial management shall:

- (1) Supervise and administer the activities of the office of financial management.
- (2) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of the state budget and accounting system.

(3) Advise the governor and the legislature with respect to matters affecting program management and planning.

(4) Make efficiency surveys of all state departments and institutions, and the administrative and business methods pursued therein, examine into the physical needs and industrial activities thereof, and make confidential reports to the governor, recommending necessary betterments, repairs, and the installation of improved and more economical administrative methods, and advising such action as will result in a greater measure of self-support and remedies for inefficient functioning.

The director may enter into contracts on behalf of the state to carry out the purposes of this chapter; he or she may act for the state in the initiation of or participation in any multi-governmental agency program relative to the purposes of this chapter; and he or she may accept gifts and grants, whether such grants be of federal or other funds. [2009 c 549 § 5119; 1979 c 151 § 114; 1969 ex.s. c 239 § 8.]

43.41.102 Director—Contract for collection and tabulation of census block statistics. Subject to a specific appropriation for that purpose, the director of financial management is hereby authorized and directed to contract with the United States bureau of census for collection and tabulation of block statistics in any or all cities and towns. [1979 c 151 § 115; 1977 ex.s. c 128 § 5.]

Additional notes found at www.leg.wa.gov

43.41.104 Settlement and payment of accounts—Duty to require. Upon receipt of information from the state auditor as provided in *RCW 43.09.050(5) as now or hereafter amended, the director of financial management shall require all persons who have received any moneys belonging to the state and have not accounted therefor, to settle their accounts and make payment thereof. [1979 c 151 § 116; 1977 ex.s. c 144 § 10.]

*Reviser's note: RCW 43.09.050 was amended by 1992 c 118 § 6, changing subsection (5) to subsection (6).

43.41.106 Settlement and payment of accounts—Authority to require testimony and evidence. The director of financial management may, in his or her discretion, require any person presenting an account for settlement to be sworn before him or her, and to answer, orally or in writing, as to any facts relating to it. [2009 c 549 § 5120; 1979 c 151 § 117; 1977 ex.s. c 144 § 11.]

43.41.110 Powers and duties of office of financial management. The office of financial management shall:

(1) Provide technical assistance to the governor and the legislature in identifying needs and in planning to meet those needs through state programs and a plan for expenditures.

(2) Perform the comprehensive planning functions and processes necessary or advisable for state program planning and development, preparation of the budget, inter-departmental and inter-governmental coordination and cooperation, and determination of state capital improvement requirements.

(3) Provide assistance and coordination to state agencies and departments in their preparation of plans and programs.

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(4) Provide general coordination and review of plans in functional areas of state government as may be necessary for receipt of federal or state funds.

(5) Participate with other states or subdivisions thereof in interstate planning.

(6) Encourage educational and research programs that further planning and provide administrative and technical services therefor.

(7) Carry out the provisions of RCW 43.62.010 through 43.62.050 relating to the state census.

(8) Carry out the provisions of this chapter and chapter 4.92 RCW relating to risk management.

(9) Be the official state participant in the federal-state cooperative program for local population estimates and as such certify all city and county special censuses to be considered in the allocation of state and federal revenues.

(10) Be the official state center for processing and dissemination of federal decennial or quinquennial census data in cooperation with other state agencies.

(11) Be the official state agency certifying annexations, incorporations, or disincorporations to the United States bureau of the census.

(12) Review all United States bureau of the census population estimates used for federal revenue sharing purposes and provide a liaison for local governments with the United States bureau of the census in adjusting or correcting revenue sharing population estimates.

(13) Provide fiscal notes depicting the expected fiscal impact of proposed legislation in accordance with chapter 43.88A RCW.

(14) Be the official state agency to estimate and manage the cash flow of all public funds as provided in chapter 43.88 RCW. To this end, the office shall adopt such rules as are necessary to manage the cash flow of public funds. [2002 c 332 § 23; 1981 2nd ex.s. c 4 § 13; 1979 c 10 § 3. Prior: 1977 ex.s. c 110 § 4; 1977 ex.s. c 25 § 6; 1969 ex.s. c 239 § 11.]

Intent—Effective date—2002 c 332: See notes following RCW 43.41.280.

Additional notes found at www.leg.wa.gov

43.41.120 Advisory or coordinating councils. The director or the governor may establish such additional advisory or coordinating councils as may be necessary to carry out the purposes of this chapter. Members of such councils shall serve at the pleasure of the governor. They shall receive no compensation for their services, but shall be reimbursed for travel expenses while engaged in business of the councils in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 114; 1969 ex.s. c 239 § 12.]

Additional notes found at www.leg.wa.gov

43.41.130 Passenger motor vehicles owned or operated by state agencies—Duty to establish policies as to acquisition, operation, authorized use—Strategies to reduce fuel consumption and vehicle emissions—Implementation of fuel economy standards—Reports—Definitions. (1) The director of financial management, after consultation with other interested or affected state agencies, shall establish overall policies governing the acquisition, opera-

tion, management, maintenance, repair, and disposal of all motor vehicles owned or operated by any state agency. These policies shall include but not be limited to a definition of what constitutes authorized use of a state owned or controlled passenger motor vehicle and other motor vehicles on official state business. The definition shall include, but not be limited to, the use of state-owned motor vehicles for commuter ride sharing so long as the entire capital depreciation and operational expense of the commuter ride-sharing arrangement is paid by the commuters. Any use other than such defined use shall be considered as personal use.

(2)(a) By June 15, 2010, the director of the department of general administration, in consultation with the office and other interested or affected state agencies, shall develop strategies to assist state agencies in reducing fuel consumption and emissions from all classes of vehicles.

(b) In an effort to achieve lower overall emissions for all classes of vehicles, state agencies should, when financially comparable over the vehicle's useful life, consider purchasing or converting to ultra-low carbon fuel vehicles.

(3) State agencies shall phase in fuel economy standards for motor pools and leased petroleum-based fuel vehicles to achieve an average fuel economy standard of thirty-six miles per gallon for passenger vehicle fleets by 2015.

(4) After June 15, 2010, state agencies shall:

(a) When purchasing new petroleum-based fuel vehicles for vehicle fleets: (i) Achieve an average fuel economy of forty miles per gallon for light duty passenger vehicles; and (ii) achieve an average fuel economy of twenty-seven miles per gallon for light duty vans and sports utility vehicles; or

(b) Purchase ultra-low carbon fuel vehicles.

(5) State agencies must report annually on the progress made to achieve the goals under subsections (3) and (4) of this section beginning October 31, 2011.

(6) The department of general administration, in consultation with the office and other affected or interested agencies, shall develop a separate fleet fuel economy standard for all other classes of petroleum-based fuel vehicles and report the progress made toward meeting the fuel consumption and emissions goals established by this section to the governor and the relevant legislative committees by December 1, 2012.

(7) The following vehicles are excluded from the average fuel economy goals established in subsections (3) and (4) of this section: Emergency response vehicles, passenger vans with a gross vehicle weight of eight thousand five hundred pounds or greater, vehicles that are purchased for off-pavement use, ultra-low carbon fuel vehicles, and vehicles that are driven less than two thousand miles per year.

(8) Average fuel economy calculations used under this section for petroleum-based fuel vehicles must be based upon the current United States environmental protection agency composite city and highway mile per gallon rating.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Petroleum-based fuel vehicle" means a vehicle that uses, as a fuel source, more than ten percent gasoline or diesel fuel.

(b) "Ultra-low carbon fuel vehicle" means a vehicle that uses, as a fuel source, at least ninety percent natural gas, hydrogen, biomethane, or electricity. [2010 c 159 § 1; 2009

c 519 § 6; 1982 c 163 § 13; 1980 c 169 § 1; 1979 c 111 § 12; 1975 1st ex.s. c 167 § 5.]

Findings—2009 c 519: See RCW 43.21M.900.

Commuter ride sharing: Chapter 46.74 RCW.

Motor vehicle management and transportation: RCW 43.19.500 through 43.19.635.

Additional notes found at www.leg.wa.gov

43.41.140 Employee commuting in state-owned or leased vehicle—Policies and regulations. Pursuant to policies and regulations promulgated by the office of financial management, an elected state officer or delegate or a state agency director or delegate may permit an employee to commute in a state-owned or leased vehicle if such travel is on official business, as determined in accordance with RCW 43.41.130, and is determined to be economical and advantageous to the state, or as part of a commute trip reduction program as required by RCW 70.94.551. [1993 c 394 § 3; 1979 c 151 § 119; 1975 1st ex.s. c 167 § 15.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

Additional notes found at www.leg.wa.gov

43.41.150 Inventory of state land resources—Developing and maintaining—Summaries. The office of financial management shall provide by administrative regulation for the maintenance of an inventory of all state owned or controlled land resources by all state agencies owning or controlling land. That office shall cooperate with the state departments and agencies charged with administering state owned or controlled land resources to assist them in developing and maintaining land resources inventories that will permit their respective inventories to be summarized into meaningful reports for the purposes of providing executive agencies with information for planning, budgeting, and managing state owned or administered land resources and to provide the legislature, its members, committees, and staff with data needed for formulation of public policy.

Such departments or agencies shall maintain and make available such summary inventory information as may be prescribed by the rules of the office of financial management. That office shall give each affected department or agency specific written notice of hearings for consideration, adoption, or modification of such rules. All information submitted to that office under this section are a matter of public record and shall be available from said agency upon request. [1981 c 157 § 5.]

43.41.160 State health care cost containment policies.

(1) It is the purpose of this section to ensure implementation and coordination of chapter 70.14 RCW as well as other legislative and executive policies designed to contain the cost of health care that is purchased or provided by the state. In order to achieve that purpose, the director may:

(a) Establish within the office of financial management a health care cost containment program in cooperation with all state agencies;

(b) Implement lawful health care cost containment policies that have been adopted by the legislature or the governor, including appropriation provisos;

(c) Coordinate the activities of all state agencies with respect to health care cost containment policies;

(d) Study and make recommendations on health care cost containment policies;

(e) Monitor and report on the implementation of health care cost containment policies;

(f) Appoint a health care cost containment technical advisory committee that represents state agencies that are involved in the direct purchase, funding, or provision of health care; and

(g) Engage in other activities necessary to achieve the purposes of this section.

(2) All state agencies shall cooperate with the director in carrying out the purpose of this section. [1986 c 303 § 11.]

Health care authority: Chapter 41.05 RCW.

43.41.170 Budgeting process—Agencies implementing energy conservation to retain cost savings. The office of financial management shall ensure that to the extent possible the budget process shall allow state agencies implementing energy conservation to retain the resulting cost savings for other purposes, including further energy conservation. [1989 c 11 § 15; 1986 c 325 § 3.]

Findings—1986 c 325: "The legislature finds that:

(1) Capital investments in energy conservation in buildings can produce significant reductions in energy use, reducing the need to import or extract fossil fuels and lowering the cost of operating buildings.

(2) The state of Washington has an obligation to operate state buildings efficiently and to implement all cost-effective energy conservation measures so that citizens are assured that public funds are spent wisely and so that citizens have an example of the savings possible from energy conservation.

(3) The state has completed energy consumption and walk-through surveys of its buildings and other facilities and has established a schedule for technical assistance studies which is the basis for implementing energy conservation measure installations to meet the milestones in RCW 43.19.680. However, there is uncertainty that the milestones will be met.

(4) The potential savings from energy conservation can be more readily realized by explicitly considering conservation measures and procedures in the state's budgeting and long-range planning process." [1986 c 325 § 1.]

Additional notes found at www.leg.wa.gov

43.41.180 Electronic funds and information transfer—State agency use. (1) The office of financial management is authorized to approve the use of electronic and other technological means to transfer both funds and information whenever economically feasible, to eliminate paper documentation wherever possible, and to provide greater fiscal responsibility. This authorization includes but is not limited to the authority to approve use of electronic means to transfer payroll, vendor payments, and benefit payments and acceptance of credit cards, debit cards, and other consumer debt instruments for payment of taxes, licenses, and fees. The office of financial management shall adopt rules under *RCW 43.41.110(13) to specify the manner in which electronic and other technological means, including credit cards, are available to state agencies.

(2) No state agency may use electronic or other technological means, including credit cards, without specific continuing authorization from the office of financial management. [1993 c 500 § 2.]

***Reviser's note:** RCW 43.41.110 was amended by 2002 c 332 § 23, changing subsection (13) to subsection (14).

Finding—1993 c 500: "The legislature finds that:

(1) Effective and efficient management of the state's cash resources

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requires expeditious revenue collection, aggregation, and investment of available balances and timely payments;

(2) The use of credit cards, debit cards, and electronic transfers of funds and information are customary and economical business practices to improve cash management that the state should consider and use when appropriate;

(3) Statutory changes are necessary to aid the state in complying with the federal cash management improvement act of 1990; and

(4) The policies, procedures, and practices of cash management should be reviewed and revised as required to ensure that the state achieves the most effective cash management possible." [1993 c 500 § 1.]

Additional notes found at www.leg.wa.gov

43.41.190 Community network programs—Recommended legislation. The office of financial management shall review the administration of funds for programs identified under RCW 70.190.110 and propose legislation to complete interdepartmental transfers of funds or programs as necessary. The office of financial management shall review statutes that authorize the programs identified under RCW 70.190.110 and suggest legislation to eliminate statutory requirements that may interfere with the administration of that policy. [1994 sp.s. c 7 § 318.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.41.195 Community networks—Fund distribution formula. (1) The office of financial management, in consultation with affected parties, shall establish a fund distribution formula for determining allocations to the community networks authorized under RCW 70.190.130. The formula shall reflect the local needs assessment for at-risk children and consider:

(a) The number of arrests and convictions for juvenile violent offenses;

(b) The number of arrests and convictions for crimes relating to juvenile drug offenses and alcohol-related offenses;

(c) The number of teen pregnancies and parents;

(d) The number of child and teenage suicides and attempted suicides; and

(e) The high school graduation rate.

(2) In developing the formula, the office of financial management shall reserve five percent of the funds for the purpose of rewarding community networks.

(3) The reserve fund shall be used by the council to reward community networks that show exceptional reductions in: State-funded out-of-home placements, violent criminal acts by juveniles, substance abuse, teen pregnancy and male parentage, teen suicide attempts, or school dropout rates. [1999 c 372 § 8; 1994 sp.s. c 7 § 319.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.41.220 Review of boards and commissions by governor—Report—Termination—Transfers. (1) The governor shall conduct a review of all of the boards and commissions identified under RCW 43.41.230 and, by January 8th of every odd-numbered year, submit to the legislature a report recommending which boards and commissions should be terminated or consolidated based upon the criteria set forth in subsection (3) of this section. The report must state which of the criteria were relied upon with respect to each recommen-

dation. The governor shall submit an executive request bill by January 8th of every odd-numbered year to implement the recommendations by expressly terminating the appropriate boards and commissions and by providing for the transfer of duties and obligations under this section. The governor shall accept and review with special attention recommendations made, not later than June 1st of each even-numbered year, by the standing committees of the legislature in determining whether to include any board or commission in the report and bill required by this section.

(2) In addition to terminations and consolidations under subsection (1) of this section, the governor may recommend the transfer of duties and obligations from a board or commission to another existing state entity.

(3) In preparing his or her report and legislation, the governor shall make an evaluation based upon answers to the questions set forth in this subsection. The governor shall give these criteria priority in the order listed.

(a) Has the mission of the board or commission been completed or ceased to be critical to effective state government?

(b) Does the work of the board or commission directly affect public safety, welfare, or health?

(c) Can the work of the board or commission be effectively done by another state agency without adverse impact on public safety, welfare, or health?

(d) Will termination of the board or commission have a significant adverse impact on state revenue because of loss of federal funds?

(e) Will termination of the board or commission save revenues, be cost neutral, or result in greater expenditures?

(f) Is the work of the board or commission being done by another board, commission, or state agency?

(g) Could the work of the board or commission be effectively done by a nonpublic entity?

(h) Will termination of the board or commission result in a significant loss of expertise to state government?

(i) Will termination of the board or commission result in operational efficiencies that are other than fiscal in nature?

(j) Could the work of the board or commission be done by an ad hoc committee? [1994 sp.s. c 9 § 873.]

Declaration—Purpose—1994 sp.s. c 9: "The legislature declares there has been an excessive proliferation of boards and commissions within state government. These boards and commissions are often created without legislative review or input and without an assessment of whether there is a resulting duplication of purpose or process. Once created, they frequently duplicate the duties of existing governmental entities, create additional expense, and obscure responsibility. It has been difficult to control the growth of boards and commissions because of the many special interests involved. Accordingly, the legislature establishes the process in this chapter to eliminate redundant and obsolete boards and commissions and to restrict the establishment of new boards and commissions." [1994 sp.s. c 9 § 872.]

Additional notes found at www.leg.wa.gov

43.41.230 Boards and commissions reviewed—Exceptions. The boards and commissions to be reviewed by the governor must be all entities that are required to be included in the list prepared by the office of financial management under RCW 43.88.505, other than entities established under: (1) Constitutional mandate; (2) court order or rule; (3) requirement of federal law; or (4) requirement as a condition of the state or a local government receiving federal

financial assistance if, in the judgment of the governor, no other state agency, board, or commission would satisfy the requirement. [1994 sp.s. c 9 § 874.]

Declaration—Purpose—Effective date—1994 sp.s. c 9 §§ 872-876: See notes following RCW 43.41.220.

Additional notes found at www.leg.wa.gov

43.41.240 Approval of board or commission not established or required by statute. A new board or commission not established or required in statute that must be included in the report required by RCW 43.88.505 may not be established without the express approval of the director of financial management. [1998 c 245 § 64; 1994 sp.s. c 9 § 875.]

Declaration—Purpose—Effective date—1994 sp.s. c 9 §§ 872-876: See notes following RCW 43.41.220.

Additional notes found at www.leg.wa.gov

43.41.250 Criteria for new board or commission not established or required by statute. When acting on a request to establish a new board or commission under RCW 43.41.240, the director of the office of financial management shall consider the following criteria giving priority in the order listed:

(1) If approval is critical to public safety, health, or welfare or to the effectiveness of state government;

(2) If approval will not result in duplication of the work or responsibilities of another governmental agency;

(3) If approval will not have a significant impact on state revenues;

(4) If approval is for a limited duration or on an ad hoc basis;

(5) If the work of the board or commission could be effectively done by a nonpublic entity;

(6) If approval will result in significant enhancement of expertise in state government; and

(7) If approval will result in operational efficiencies other than fiscal savings. [1994 sp.s. c 9 § 876.]

Declaration—Purpose—Effective date—1994 sp.s. c 9 §§ 872-876: See notes following RCW 43.41.220.

Additional notes found at www.leg.wa.gov

43.41.260 Monitoring enrollee level in basic health plan and medicaid caseload of children—Funding levels adjustment. The health care authority, the office of financial management, and the department of social and health services shall together monitor the enrollee level in the basic health plan and the medicaid caseload of children. The office of financial management shall adjust the funding levels by interagency reimbursement of funds between the basic health plan and medicaid and adjust the funding levels between the health care authority and the medical assistance administration of the department of social and health services to maximize combined enrollment. [2009 c 479 § 28; 1995 c 265 § 21.]

Effective date—2009 c 479: See note following RCW 2.56.030.

Additional notes found at www.leg.wa.gov

43.41.270 Natural resource-related and environmentally based grant and loan programs—Administration

and monitoring assistance. (1) The office of financial management shall assist natural resource-related agencies in developing outcome-focused performance measures for administering natural resource-related and environmentally based grant and loan programs. These performance measures are to be used in determining grant eligibility, for program management and performance assessment.

(2) The office of financial management and the recreation and conservation office shall assist natural resource-related agencies in developing recommendations for a monitoring program to measure outcome-focused performance measures required by this section. The recommendations must be consistent with the framework and coordinated monitoring strategy developed by the monitoring oversight committee established in *RCW 77.85.210.

(3) Natural resource agencies shall consult with grant or loan recipients including local governments, tribes, nongovernmental organizations, and other interested parties, and report to the office of financial management on the implementation of this section.

(4) For purposes of this section, "natural resource-related agencies" include the department of ecology, the department of natural resources, the department of fish and wildlife, the state conservation commission, the recreation and conservation funding board, the salmon recovery funding board, and the public works board within the **department of community, trade, and economic development.

(5) For purposes of this section, "natural resource-related environmentally based grant and loan programs" includes the conservation reserve enhancement program; dairy nutrient management grants under chapter 90.64 RCW; state conservation commission water quality grants under chapter 89.08 RCW; coordinated prevention grants, public participation grants, and remedial action grants under RCW 70.105D.070; water pollution control facilities financing under chapter 70.146 RCW; aquatic lands enhancement grants under RCW 79.105.150; habitat grants under the Washington wildlife and recreation program under RCW 79A.15.040; salmon recovery grants under chapter 77.85 RCW; and the public works trust fund program under chapter 43.155 RCW. The term also includes programs administered by the department of fish and wildlife related to protection or recovery of fish stocks which are funded with moneys from the capital budget. [2009 c 345 § 12. Prior: 2007 c 444 § 7; 2007 c 241 § 5; 2001 c 227 § 2.]

Reviser's note: *(1) RCW 77.85.210 was repealed by 2005 c 309 § 10.

** (2) The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—Intent—2009 c 345: See notes following RCW 77.85.030.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Findings—Intent—2001 c 227: "The legislature finds that the amount of overall requests for funding for natural resource-related programs in the capital budget has been steadily growing. The legislature also finds that there is an increasing interest by the public in examining the performance of the projects and programs to determine the return on their investments and that a coordinated and integrated response by state agencies will allow for better targeting of resources. The legislature further finds that there is a need to improve the data and the integration of data that is collected by state agencies and grant and loan recipients in order to better measure the outcomes of projects and programs. The legislature intends to begin implementing the recommendations contained in the joint legislative audit and review committee's report number 01-1 on investing in the environment in order to improve

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the efficiency, effectiveness, and accountability of these natural resource-related programs funded in the state capital budget." [2001 c 227 § 1.]

43.41.280 Risk management—Principles. It is the policy of the state for the management of risks to which it is exposed to apply the following principles consistently in a state program of risk management:

(1) To identify those liability and property risks which may have a significant economic impact on the state;

(2) To evaluate risk in terms of the state's ability to fund potential loss rather than the ability of an individual agency to fund potential loss;

(3) To eliminate or improve conditions and practices which contribute to loss whenever practical;

(4) To assume risks to the maximum extent practical;

(5) To provide flexibility within the state program to meet the unique requirements of any state agency for insurance coverage or service;

(6) To purchase commercial insurance:

(a) When the size and nature of the potential loss make it in the best interest of the state to purchase commercial insurance; or

(b) When the fiduciary of encumbered property insists on commercial insurance; or

(c) When the interest protected is not a state interest and an insurance company is desirable as an intermediary; or

(d) When services provided by an insurance company are considered necessary; or

(e) When services or coverages provided by an insurance company are cost-effective; or

(f) When otherwise required by statute; and

(7) To develop plans for the management and protection of the revenues and assets of the state. [1985 c 188 § 2; 1977 ex.s. c 270 § 1. Formerly RCW 43.19.19361.]

Intent—2002 c 332: "It is the intent of the legislature that state risk management should have increased visibility at a policy level in state government. This increased visibility can best be accomplished by the transfer of the statewide risk management function from the department of general administration to the office of financial management. The legislature intends that this transfer will result in increasing visibility for the management and funding of statewide risk, increasing executive involvement in risk management issues, and improving statewide risk management accountability." [2002 c 332 § 1.]

Effective date—2002 c 332: "This act shall take effect July 1, 2002." [2002 c 332 § 26.]

Additional notes found at www.leg.wa.gov

43.41.290 Risk management—Definitions applicable to *RCW 43.19.19361 and 43.19.19362. As used in *RCW 43.19.19361 and 43.19.19362:

(1) "State agency" includes any state office, agency, commission, department, or institution, including colleges, universities, and community colleges, financed in whole or part from funds appropriated by the legislature; and

(2) "Risk management" means the total effort and continuous step by step process of risk identification, measurement, minimization, assumption, transfer, and loss adjustment which is aimed at protecting assets and revenues against accidental loss. [1977 ex.s. c 270 § 3. Formerly RCW 43.19.19363.]

***Reviser's note:** RCW 43.19.19361 and 43.19.19362 were recodified as RCW 43.41.280 and 43.41.300, respectively, pursuant to 2002 c 332 § 25, effective July 1, 2002.

Intent—2002 c 332: See note following RCW 43.41.280.

Additional notes found at www.leg.wa.gov

43.41.300 Risk management—Division created—Powers and duties. There is hereby created a risk management division within the office of financial management. The director shall implement the risk management policy in RCW 43.41.280 through the risk management division. The director shall appoint a risk manager to supervise the risk management division. The risk management division shall make recommendations when appropriate to state agencies on the application of prudent safety, security, loss prevention, and loss minimization methods so as to reduce or avoid risk or loss. [2002 c 332 § 7; 1998 c 245 § 55; 1987 c 505 § 25; 1985 c 188 § 3; 1977 ex.s. c 270 § 2. Formerly RCW 43.19.19362.]

Intent—Effective date—2002 c 332: See notes following RCW 43.41.280.

Additional notes found at www.leg.wa.gov

43.41.310 Risk management—Procurement of insurance and bonds. As a means of providing for the procurement of insurance and bonds on a volume rate basis, the director shall purchase or contract for the needs of state agencies in relation to all such insurance and bonds: PROVIDED, That authority to purchase insurance may be delegated to state agencies. Insurance in force shall be reported to the risk management division periodically under rules established by the director. Nothing contained in this section shall prohibit the use of licensed agents or brokers for the procurement and service of insurance.

The amounts of insurance or bond coverage shall be as fixed by law, or if not fixed by law, such amounts shall be as fixed by the director.

The premium cost for insurance acquired and bonds furnished shall be paid from appropriations or other appropriate resources available to the state agency or agencies for which procurement is made, and all vouchers drawn in payment therefor shall bear the written approval of the risk management division prior to the issuance of the warrant in payment therefor. Where deemed advisable the premium cost for insurance and bonds may be paid by the risk management administration account which shall be reimbursed by the agency or agencies for which procurement is made. [2002 c 332 § 5; 1998 c 105 § 8; 1985 c 188 § 1; 1977 ex.s. c 270 § 6; 1975 c 40 § 9; 1965 c 8 § 43.19.1935. Prior: 1959 c 178 § 18. Formerly RCW 43.19.1935.]

Intent—Effective date—2002 c 332: See notes following RCW 43.41.280.

Powers and duties of director of general administration as to official bonds: RCW 43.41.360.

Additional notes found at www.leg.wa.gov

43.41.320 Risk management—Procurement of insurance for municipalities. The director, through the risk management division, may purchase, or contract for the purchase of, property and liability insurance for any municipality upon request of the municipality.

As used in this section, "municipality" means any city, town, county, special purpose district, municipal corporation, or political subdivision of the state of Washington. [2002 c 332 § 6; 1985 c 188 § 5. Formerly RCW 43.19.1936.]

[Title 43 RCW—page 258]

Intent—Effective date—2002 c 332: See notes following RCW 43.41.280.

43.41.330 Risk management—Enforcement of bonds under RCW 39.59.010. The director, through the risk management division, shall receive and enforce bonds posted pursuant to RCW 39.59.010 (3) and (4). [2002 c 332 § 8; 1988 c 281 § 6. Formerly RCW 43.19.19367.]

Intent—Effective date—2002 c 332: See notes following RCW 43.41.280.

Additional notes found at www.leg.wa.gov

43.41.340 Risk management—Liability account—Actuarial studies. The office shall conduct periodic actuarial studies to determine the amount of money needed to adequately fund the liability account. [2002 c 332 § 9; 1989 c 419 § 11. Formerly RCW 43.19.19369.]

Intent—Effective date—2002 c 332: See notes following RCW 43.41.280.

Intent—Effective date—1989 c 419: See notes following RCW 4.92.006.

Liability account created: RCW 4.92.130.

43.41.350 Risk management—Safety and loss control program. (1) The office of risk management shall establish a coordinated safety and loss control program to reduce liability exposure, safeguard state assets, and reduce costs associated with state liability and property losses.

(2) State agencies shall provide top management support and commitment to safety and loss control, and develop awareness through education, training, and information sharing.

(3) The office of risk management shall develop and maintain centralized loss history information for the purpose of identifying and analyzing risk exposures. Loss history information shall be privileged and confidential and reported only to appropriate agencies.

(4) The office of risk management shall develop methods of statistically monitoring agency and statewide effectiveness in controlling losses.

(5) The office of risk management will routinely review agency loss control programs as appropriate to suggest improvements, and observe and recognize successful safety policies and procedures.

(6) The office of risk management shall provide direct assistance to smaller state agencies in technical aspects of proper safety and loss control procedures, upon request. [1989 c 419 § 6. Formerly RCW 43.19.19368.]

Intent—2002 c 332: See note following RCW 43.41.280.

Intent—Effective date—1989 c 419: See notes following RCW 4.92.006.

43.41.360 Bonds of state officers and employees—Fixing amount—Additional bonds—Exemptions—Duties of director. In addition to other powers and duties prescribed by this chapter, the director shall:

(1) Fix the amount of bond to be given by each appointive state officer and each employee of the state in all cases where it is not fixed by law;

(2) Require the giving of an additional bond, or a bond in a greater amount than provided by law, in all cases where in

his or her judgment the statutory bond is not sufficient in amount to cover the liabilities of the officer or employee;

(3) Exempt subordinate employees from giving bond when in his or her judgment their powers and duties are such as not to require a bond. [2009 c 549 § 5121; 1975 c 40 § 13. Formerly RCW 43.19.540.]

Intent—2002 c 332: See note following RCW 43.41.280.

43.41.370 Loss prevention review team—Appointment—Duties. (1) The director of financial management shall appoint a loss prevention review team when the death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency, unless the director in his or her discretion determines that the incident does not merit review. A loss prevention review team may also be appointed when any other substantial loss occurs as a result of agency policies, litigation or defense practices, or other management practices. When the director decides not to appoint a loss prevention review team he or she shall issue a statement of the reasons for the director's decision. The statement shall be made available on the web site of the office of financial management. The director's decision pursuant to this section to appoint or not appoint a loss prevention review team shall not be admitted into evidence in a civil or administrative proceeding.

(2) A loss prevention review team shall consist of at least three but no more than five persons, and may include independent consultants, contractors, or state employees, but it shall not include any person employed by the agency involved in the loss or risk of loss giving rise to the review, nor any person with testimonial knowledge of the incident to be reviewed. At least one member of the review team shall have expertise relevant to the matter under review.

(3) The loss prevention review team shall review the death, serious injury, or other incident and the circumstances surrounding it, evaluate its causes, and recommend steps to reduce the risk of such incidents occurring in the future. The loss prevention review team shall accomplish these tasks by reviewing relevant documents, interviewing persons with relevant knowledge, and reporting its recommendations in writing to the director of financial management and the director of the agency involved in the loss or risk of loss within the time requested by the director of financial management. The final report shall not disclose the contents of any documents required by law to be kept confidential.

(4) Pursuant to guidelines established by the director, state agencies must notify the office of financial management immediately upon becoming aware of a death, serious injury, or other substantial loss that is alleged or suspected to be caused at least in part by the actions of the state agency. State agencies shall provide the loss prevention review team ready access to relevant documents in their possession and ready access to their employees. [2002 c 333 § 2.]

Intent—2002 c 333: "The legislature intends that when the death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency, a loss prevention review shall be conducted. The legislature recognizes the tension inherent in a loss prevention review and the need to balance the prevention of harm to the public with state agencies' accountability to the public. The legislature intends to minimize this tension and to foster open and frank discussions by granting members of the loss prevention review teams protection from having to testify, and by declaring a general rule that the work product

of these teams is inadmissible in civil actions or administrative proceedings." [2002 c 333 § 1.]

43.41.380 Loss prevention review team—Final report—Use of report and testimony limited—Response report. (1) The final report from a loss prevention review team to the director of financial management shall be made public by the director promptly upon receipt, and shall be subject to public disclosure. The final report shall be subject to discovery in a civil or administrative proceeding. However, the final report shall not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to subsection (2) of this section.

(2) The relevant excerpt or excerpts from the final report of a loss prevention review team may be used to impeach a fact witness in a civil or administrative proceeding only if the party wishing to use the excerpt or excerpts from the report first shows the court by clear and convincing evidence that the witness, in testimony provided in deposition or at trial in the present proceeding, has contradicted his or her previous statements to the loss prevention review team on an issue of fact material to the present proceeding. In that case, the party may use only the excerpt or excerpts necessary to demonstrate the contradiction. This section shall not be interpreted as expanding the scope of material that may be used to impeach a witness.

(3) No member of a loss prevention review team may be examined in a civil or administrative proceeding as to (a) the work of the loss prevention review team, (b) the incident under review, (c) his or her statements, deliberations, thoughts, analyses, or impressions relating to the work of the loss prevention review team or the incident under review, or (d) the statements, deliberations, thoughts, analyses, or impressions of any other member of the loss prevention review team, or any person who provided information to it, relating to the work of the loss prevention review team or the incident under review.

(4) Any document that exists prior to the appointment of a loss prevention review team, or that is created independently of such a team, does not become inadmissible merely because it is reviewed or used by the loss prevention review team. A person does not become unavailable as a witness merely because the person has been interviewed by or has provided a statement to a loss prevention review team. However, if called as a witness, the person may not be examined regarding the person's interactions with the loss prevention review team, including without limitation whether the loss prevention review team interviewed the person, what questions the loss prevention review team asked, and what answers the person provided to the loss prevention review team. This section shall not be construed as restricting the person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(5) Documents prepared by or for the loss prevention review team are inadmissible and may not be used in a civil or administrative proceeding, except that excerpts may be used to impeach the credibility of a witness under the same circumstances that excerpts of the final report may be used pursuant to subsection (2) of this section.

(6) The restrictions set forth in this section shall not apply in a licensing or disciplinary proceeding arising from

an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with the death, injury, or other incident reviewed by the loss prevention review team.

(7) Within one hundred twenty days after completion of the final report of a loss prevention review team, the agency under review shall issue to the office of financial management a response to the report. The response will indicate (a) which of the report's recommendations the agency hopes to implement, (b) whether implementation of those recommendations will require additional funding or legislation, and (c) whatever other information the director may require. This response shall be considered part of the final report and shall be subject to all provisions of this section that apply to the final report, including without limitation the restrictions on admissibility and use in civil or administrative proceedings and the obligation of the director to make the final report public.

(8) Nothing in RCW 43.41.370 or this section is intended to limit the scope of a legislative inquiry into or review of an incident that is the subject of a loss prevention review.

(9) Nothing in RCW 43.41.370 or in this section affects chapter 70.41 RCW and application of that chapter to state-owned or managed hospitals licensed under chapter 70.41 RCW. [2002 c 333 § 3.]

Intent—2002 c 333: See note following RCW 43.41.370.

43.41.390 Implementation of federal REAL ID Act of 2005. A state agency or program may not expend funds to implement or comply with the REAL ID Act of 2005, P.L. 109-13, unless: (1) The requirements of RCW 46.20.191 are met; and (2) federal funds are received by the state of Washington and are (a) allocated to fund the implementation of the REAL ID Act of 2005 in the state, and (b) in amounts sufficient to cover the costs of the state implementing or complying with the REAL ID Act of 2005, as those costs are estimated by the office of financial management. The director of the office of financial management shall ensure compliance with this section. [2007 c 85 § 1.]

43.41.400 Education data center. (1) An education data center shall be established in the office of financial management. The education data center shall jointly, with the legislative evaluation and accountability program committee, conduct collaborative analyses of early learning, K-12, and higher education programs and education issues across the P-20 system, which includes the department of early learning, the superintendent of public instruction, the professional educator standards board, the state board of education, the state board for community and technical colleges, the workforce training and education coordinating board, the higher education coordinating board, public and private nonprofit four-year institutions of higher education, and the employment security department. The education data center shall conduct collaborative analyses under this section with the legislative evaluation and accountability program committee and provide data electronically to the legislative evaluation and accountability program committee, to the extent permitted by state and federal confidentiality requirements. The education data center shall be considered an authorized representative

of the state educational agencies in this section under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

(2) The education data center shall:

(a) In consultation with the legislative evaluation and accountability program committee and the agencies and organizations participating in the education data center, identify the critical research and policy questions that are intended to be addressed by the education data center and the data needed to address the questions;

(b) Coordinate with other state education agencies to compile and analyze education data, including data on student demographics that is disaggregated by distinct ethnic categories within racial subgroups, and complete P-20 research projects;

(c) Collaborate with the legislative evaluation and accountability program committee and the education and fiscal committees of the legislature in identifying the data to be compiled and analyzed to ensure that legislative interests are served;

(d) Annually provide to the K-12 data governance group a list of data elements and data quality improvements that are necessary to answer the research and policy questions identified by the education data center and have been identified by the legislative committees in (c) of this subsection. Within three months of receiving the list, the K-12 data governance group shall develop and transmit to the education data center a feasibility analysis of obtaining or improving the data, including the steps required, estimated time frame, and the financial and other resources that would be required. Based on the analysis, the education data center shall submit, if necessary, a recommendation to the legislature regarding any statutory changes or resources that would be needed to collect or improve the data;

(e) Monitor and evaluate the education data collection systems of the organizations and agencies represented in the education data center ensuring that data systems are flexible, able to adapt to evolving needs for information, and to the extent feasible and necessary, include data that are needed to conduct the analyses and provide answers to the research and policy questions identified in (a) of this subsection;

(f) Track enrollment and outcomes through the public centralized higher education enrollment system;

(g) Assist other state educational agencies' collaborative efforts to develop a long-range enrollment plan for higher education including estimates to meet demographic and workforce needs;

(h) Provide research that focuses on student transitions within and among the early learning, K-12, and higher education sectors in the P-20 system; and

(i) Make recommendations to the legislature as necessary to help ensure the goals and objectives of this section and RCW 28A.655.210 and 28A.300.507 are met.

(3) The department of early learning, superintendent of public instruction, professional educator standards board, state board of education, state board for community and technical colleges, workforce training and education coordinating board, higher education coordinating board, public four-year institutions of higher education, and employment security department shall work with the education data center to develop data-sharing and research agreements, consistent

with applicable security and confidentiality requirements, to facilitate the work of the center. Private, nonprofit institutions of higher education that provide programs of education beyond the high school level leading at least to the baccalaureate degree and are accredited by the Northwest association of schools and colleges or their peer accreditation bodies may also develop data-sharing and research agreements with the education data center, consistent with applicable security and confidentiality requirements. The education data center shall make data from collaborative analyses available to the education agencies and institutions that contribute data to the education data center to the extent allowed by federal and state security and confidentiality requirements applicable to the data of each contributing agency or institution. [2009 c 548 § 201; 2007 c 401 § 3.]

Intent—2009 c 548: See note following RCW 28A.150.198.

Finding—2009 c 548: See note following RCW 28A.410.270.

Intent—Finding—2009 c 548: See note following RCW 28A.305.130.

Findings—2007 c 401: See note following RCW 28A.300.500.

43.41.405 K-12 data—Securing federal funds. The education data center and the superintendent of public instruction shall take all actions necessary to secure federal funds to implement RCW 43.41.400, 28A.655.210, and 28A.300.507. [2009 c 548 § 204.]

Intent—2009 c 548: See note following RCW 28A.150.198.

Finding—2009 c 548: See note following RCW 28A.410.270.

Intent—Finding—2009 c 548: See note following RCW 28A.305.130.

43.41.901 Construction—1977 ex.s. c 270. Nothing in this 1977 amendatory act shall be construed as amending, repealing, or otherwise affecting RCW 28B.20.250 through 28B.20.255. [1977 ex.s. c 270 § 9. Formerly RCW 43.19.19364.]

Intent—2002 c 332: See note following RCW 43.41.280.

43.41.905 Interagency task force on unintended pregnancy. The legislature finds that, according to the department of health's monitoring system, sixty percent of births to women on medicaid were identified as unintended by the women themselves. The director of the office of financial management shall establish an interagency task force on unintended pregnancy in order to:

(1) Review existing research on the short and long-range costs;

(2) Analyze the impact on the temporary assistance for needy families program; and

(3) Develop and implement a state strategy to reduce unintended pregnancy. [1997 c 58 § 1001.]

Additional notes found at www.leg.wa.gov

43.41.940 Central budget agency abolished. On August 11, 1969, the central budget agency is abolished. [1969 ex.s. c 239 § 17.]

43.41.950 Saving—1969 ex.s. c 239. Nothing in this chapter shall be construed as affecting any existing rights acquired under the sections amended or repealed herein except as to the governmental agencies referred to and their officials and employees, nor as affecting any actions, activi-

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ties or proceedings validated thereunder, nor as affecting any civil or criminal proceedings instituted thereunder, nor any rule, regulation, resolution or order promulgated thereunder, nor any administrative action taken thereunder; nor shall the transfer of powers, duties and functions provided for herein affect the validity of any act performed by such agency or any officer thereof prior to August 11, 1969. [1969 ex.s. c 239 § 18.]

43.41.970 Federal requirements for receipt of federal funds. If any part of this chapter is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, such conflicting part of this chapter is declared to be inoperative solely to the extent of the conflict. No such ruling shall affect the operation of the remainder of this chapter. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1969 ex.s. c 239 § 20.]

43.41.980 Severability—1969 ex.s. c 239. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances shall not be affected. [1969 ex.s. c 239 § 21.]

Chapter 43.42 RCW

OFFICE OF REGULATORY ASSISTANCE

(Formerly: Office of permit assistance)

Sections

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43.42.902	Authority of participating permit agency retained.

43.42.005 Findings—Intent. (1) The legislature finds that: The health and safety of its citizens and environment are of vital interest to the state's long-term quality of life; Washington state is a national leader in protecting its environment; and Washington state has a vibrant and diverse economy that is dependent on the state maintaining high environmental standards. Further, the legislature finds that a complex and confusing network of environmental and land use laws and business regulations can create obstacles to sustainable growth.

It is the intent of the legislature to promote accountability, timeliness, and predictability for citizens, business, and state, federal, and local permitting agencies, and to provide

information and assistance on the regulatory process through the creation of the office of regulatory assistance in the governor's office.

(2) The office of regulatory assistance is created to work to continually improve the function of environmental and business regulatory processes by identifying conflicts and overlap in the state's rules, statutes, and operational practices; the office is to provide project proponents and business owners with active assistance for all permitting, licensing, and other regulatory procedures required for completion of specific projects; and the office is to ensure that citizens, businesses, and local governments have access to, and clear information regarding, regulatory processes for permitting and business regulation, including state rules, permit and license requirements, and agency rule-making processes.

(3) The legislature declares that the purpose of this chapter is to provide direction, practical resources, and a range of innovative and optional service delivery options for improving the regulatory process and for providing assistance through the regulatory process on individual projects in furtherance of the state's goals of governmental transparency and accountability.

(4) The legislature intends that establishing an office of regulatory assistance will provide these services without abrogating or limiting the authority of any agency to make decisions on permits, licenses, regulatory requirements, or agency rule making. The legislature further intends that the office of regulatory assistance shall have authority to provide services but shall not have any authority to make decisions on permits. [2010 c 162 § 1; 2009 c 97 § 1; 2007 c 94 § 1; 2003 c 71 § 1; 2002 c 153 § 1.]

Reviser's note—Sunset Act application: The office of regulatory assistance is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.401, RCW 43.42.005 through 43.42.070, 43.42.900, and 43.42.901 are scheduled for future repeal under RCW 43.131.402.

Effective date—2010 c 162: See note following RCW 43.42.090.

Effective date—2003 c 71 § 2: "Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 18, 2003]." [2003 c 71 § 7.]

43.42.010 Office created—Appointment of director—Duties. (1) The office of regulatory assistance is created in the office of financial management and shall be administered by the office of the governor to help improve the regulatory system and assist citizens, businesses, and project proponents.

(2) The governor shall appoint a director. The director may employ a deputy director and a confidential secretary and such staff as are necessary, or contract with another state agency pursuant to chapter 39.34 RCW for support in carrying out the purposes of this chapter.

(3) The office shall offer to:

(a) Act as the central point of contact for the project proponent in communicating about defined issues;

(b) Conduct project scoping as provided in RCW 43.42.050;

(c) Verify that the project proponent has all the information needed to correctly apply for all necessary permits;

(d) Provide general coordination services;

(e) Coordinate the efficient completion among participating agencies of administrative procedures, such as collecting fees or providing public notice;

(f) Maintain contact with the project proponent and the permit agencies to promote adherence to agreed schedules;

(g) Assist in resolving any conflict or inconsistency among permit requirements and conditions;

(h) Coordinate, to the extent practicable, with relevant federal permit agencies and tribal governments;

(i) Facilitate meetings;

(j) Manage a fully coordinated permit process, as provided in RCW 43.42.060;

(k) Help local jurisdictions comply with the requirements of chapter 36.70B RCW by providing information about best permitting practices methods to improve communication with, and solicit early involvement of, state agencies when needed; and

(l) Maintain and furnish information as provided in RCW 43.42.040.

(4) The office shall provide the following by September 1, 2009, and biennially thereafter, to the governor and the appropriate committees of the legislature:

(a) A performance report including:

(i) Information regarding use of the office's voluntary cost-reimbursement services as provided in RCW 43.42.070;

(ii) The number and type of projects where the office provided services and the resolution provided by the office on any conflicts that arose on such projects; and

(iii) The agencies involved on specific projects; and

(b) Recommendations on system improvements including recommendations regarding:

(i) Measurement of overall system performance; and

(ii) Resolving any conflicts or inconsistencies arising from differing statutory or regulatory authorities, roles and missions of agencies, timing and sequencing of permitting and procedural requirements as identified by the office in the course of its duties. [2009 c 97 § 4. Prior: 2007 c 231 § 5; 2007 c 94 § 2; 2003 c 71 § 2; 2002 c 153 § 2.]

Sunset Act application: See note following RCW 43.42.005.

Findings—Recommendations—Reports encouraged—2007 c 231: See note following RCW 43.155.070.

43.42.020 Operating principle—Providing information regarding permits. (1) Principles of accountability and transparency shall guide the office in its operations. The office shall provide the following information regarding permits to citizens and businesses:

(a) An agency's average turnaround time from the date of application to date of decision for the required permit, licenses, or other necessary regulatory decisions, or the most relevant information the agency can provide, for projects of a comparable size and complexity;

(b) The information required for an agency to make a decision on a permit or regulatory requirement, including the agency's best estimate of the number of times projects of a similar size and complexity have been asked to clarify, improve, or provide supplemental information before a decision, and the expected agency response time, recognizing that changes in the project or other circumstances may change the information required; and

(c) An estimate of the maximum amount of costs in fees to be paid to state agencies, the type of any studies an agency expects to need, and the timing of any expected public processes for the project.

(2) This section does not create an independent cause of action, affect any existing cause of action, or establish time limits for purposes of RCW 64.40.020. [2009 c 97 § 2; 2007 c 94 § 3; 2002 c 153 § 3.]

Sunset Act application: See note following RCW 43.42.005.

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

(1) "Director" means the director of the office of regulatory assistance.

(2) "Fully coordinated permit process" means a comprehensive coordinated permitting assistance approach supported by a written agreement between the project proponent, the office of regulatory assistance, and the agencies participating in the fully coordinated permit process.

(3) "General coordination services" means services that bring interested parties together to explore opportunities for cooperation and to resolve conflicts. General coordination services may be provided as a stand-alone event or as an element of broader project assistance, nonproject-related inter-agency coordination, or policy and planning teamwork.

(4) "Office" means the office of regulatory assistance established in RCW 43.42.010.

(5) "Permit" means any permit, license, certificate, use authorization, or other form of governmental review or approval required in order to construct, expand, or operate a project in the state of Washington.

(6) "Permit agency" means any state, local, or federal agency authorized by law to issue permits.

(7) "Project" means any activity, the conduct of which requires a permit or permits from one or more permit agencies.

(8) "Project proponent" means a citizen, business, or any entity applying for or seeking a permit or permits in the state of Washington.

(9) "Project scoping" means the identification of relevant issues and information needs of a project proponent and the permitting agencies, and reaching a common understanding regarding the process, timing, and sequencing for obtaining applicable permits. [2009 c 97 § 3; 2007 c 94 § 4; 2003 c 71 § 3; 2002 c 153 § 4.]

Sunset Act application: See note following RCW 43.42.005.

43.42.040 Maintaining and furnishing information—Contact point—Service center—Web site. (1) The office shall assist citizens, businesses, and project proponents by maintaining and furnishing information, including, but not limited to:

(a) To the extent possible, compiling and periodically updating one or more handbooks containing lists and explanations of permit laws, including all relevant local, state, federal, and tribal laws. In providing this information, the office shall seek the cooperation of relevant local, state, and federal agencies and tribal governments;

(b) Establishing and providing notice of a point of contact for obtaining information;

(c) Working closely and cooperatively with business license centers to provide efficient and nonduplicative service; and

(d) Developing a service center and a web site.

(2) The office shall coordinate among state agencies to develop an office web site that is linked through the office of the governor's web site and that contains information regarding permitting and regulatory requirements for businesses and citizens in Washington state. At a minimum, the web site shall provide information or links to information on:

(a) Federal, state, and local rule-making processes and permitting and regulatory requirements applicable to Washington businesses and citizens;

(b) Federal, state, and local licenses, permits, and approvals necessary to start and operate a business or develop real property in Washington;

(c) State and local building codes;

(d) Federal, state, and local economic development programs that may be available to businesses in Washington; and

(e) State and local agencies regulating or providing assistance to citizens and businesses operating a business or developing real property in Washington.

(3) This section does not create an independent cause of action, affect any existing cause of action, or create any new cause of action regarding the application of regulatory or permit requirements. [2007 c 94 § 5; 2003 c 71 § 4; 2002 c 153 § 5.]

Sunset Act application: See note following RCW 43.42.005.

43.42.050 Project scoping—Factors. (1) Upon request of a project proponent, the office shall determine the level of project scoping needed by the project proponent, taking into consideration the complexity of the project and the experience of those expected to be involved in the project application and review process.

(2) Project scoping shall consider the complexity, size, and needs for assistance of the project and shall address as appropriate:

(a) The permits that are required for the project;

(b) The permit application forms and other application requirements of the participating permit agencies;

(c) The specific information needs and issues of concern of each participant and their significance;

(d) Any statutory or regulatory conflicts that might arise from the differing authorities and roles of the permit agencies;

(e) Any natural resources, including federal or state listed species, that might be adversely affected by the project and might cause an alteration of the project or require mitigation; and

(f) The anticipated time required for permit decisions by each participating permit agency, including the estimated time required to determine if the permit application is complete, to conduct environmental review, and to review and process the application. In determining the estimated time required, full consideration must be given to achieving the greatest possible efficiencies through any concurrent studies

and any consolidated applications, hearings, and comment periods.

(3) The outcome of the project scoping shall be documented in writing, furnished to the project proponent, and be made available to the public.

(4) The project scoping shall be completed prior to the passage of sixty days of the project proponent's request for a project scoping unless the director finds that better results can be obtained by delaying the project scoping meeting or meetings to ensure full participation.

(5) Upon completion of the project scoping, the participating permit agencies shall proceed under their respective authorities. The agencies may remain in communication with the office as needed.

(6) This section does not create an independent cause of action, affect any existing cause of action, or establish time limits for purposes of RCW 64.40.020. [2009 c 97 § 5; 2007 c 94 § 6; 2003 c 54 § 4; 2002 c 153 § 6.]

Sunset Act application: See note following RCW 43.42.005.

43.42.060 Fully coordinated permit process—Requirements—Procedure. (1) A project proponent may submit a written request to the director of the office for participation in a fully coordinated permit process. Designation as a fully coordinated project requires that:

(a) The project proponent enters into a cost-reimbursement agreement pursuant to RCW 43.42.070;

(b) The project has a designation under chapter 43.157 RCW; or

(c) The director determine that (i)(A) the project raises complex coordination, permit processing, or substantive permit review issues; or (B) if completed, the project would provide substantial benefits to the state; and (ii) the office, as well as the participating permit review agencies, have sufficient capacity within existing resources to undertake the full coordination process without reimbursement and without seriously affecting other services.

(2) A project proponent who requests designation as a fully coordinated permit process project must provide the office with a full description of the project. The office may request any information from the project proponent that is necessary to make the designation under this section, and may convene a scoping meeting or a work plan meeting of the likely participating permit agencies.

(3) When a project is designated for the fully coordinated permit process, the office shall serve as the main point of contact for the project proponent and participating agencies with regard to the permit process for the project as a whole. The office shall keep an up-to-date project management log and schedule illustrating required procedural steps in the permitting process, and highlighting substantive issues as appropriate that must be resolved in order for the project to move forward. In carrying out these responsibilities, the office shall:

(a) Ensure that the project proponent has been informed of all the information needed to apply for the permits that are included in the coordinated permit process;

(b) Coordinate the timing of review for those permits by the respective participating permit agencies;

(c) Facilitate communication between project proponents, consultants, and agency staff to promote timely permit decisions;

(d) Assist in resolving any conflict or inconsistency among the permit requirements and conditions that are expected to be imposed by the participating permit agencies; and

(e) Make contact, at least once, with any local, tribal, or federal jurisdiction that is responsible for issuing a permit for the project and invite them to participate in the coordinated permit process or to receive periodic updates in the project.

(4) Within thirty days, or longer with agreement of the project proponent, of the date that the office designates a project for the fully coordinated permit process, it shall convene a work plan meeting with the project proponent and the participating permit agencies to develop a coordinated permit process schedule. The meeting agenda shall include at least the following:

(a) Review of the permits that are required for the project;

(b) A review of the permit application forms and other application requirements of the agencies that are participating in the coordinated permit process;

(c) An estimation of the timelines that will be used by each participating permit agency to make permit decisions, including the estimated time periods required to determine if the permit applications are complete and to review or respond to each application or submittal of new information.

(i) The estimation must also include the estimated number of revision cycles for the project, or the typical number of revision cycles for projects of similar size and complexity.

(ii) In the development of this timeline, full attention shall be given to achieving the maximum efficiencies possible through concurrent studies and consolidated applications, hearings, and comment periods.

(iii) Estimated action or response times for activities of the office that are required before or trigger further action by a participant must also be included;

(d) Available information regarding the timing of any public hearings that are required to issue permits for the project and a determination of the feasibility of coordinating or consolidating any of those required public hearings; and

(e) A discussion of fee arrangements for the coordinated permit process, including an estimate of the costs allowed by statute, any reimbursable agency costs, and billing schedules, if applicable.

(5) Each agency shall send at least one representative qualified to discuss the applicability and timelines associated with all permits administered by that agency or jurisdiction. At the request of the project proponent, the office shall notify any relevant local or federal agency or federally recognized Indian tribe of the date of the meeting and invite that agency's participation in the process.

(6) Any accelerated time period for the consideration of a permit application shall be consistent with any statute, rule, or regulation, or adopted state policy, standard, or guideline that requires the participation of other agencies, federally recognized Indian tribes, or interested persons in the application process.

(7) If a permit agency or the project proponent foresees, at any time, that it will be unable to meet the estimated time-

lines or other obligations under the agreement, it shall notify the office of the reasons for the problem and offer potential solutions or an amended timeline for resolving the problem. The office shall notify the participating permit agencies and the project proponent and, upon agreement of all parties, adjust the schedule, or, if necessary, schedule another work plan meeting.

(8) The project proponent may withdraw from the coordinated permit process by submitting to the office a written request that the process be terminated. Upon receipt of the request, the office shall notify each participating permit agency that a coordinated permit process is no longer applicable to the project. [2009 c 421 § 8; 2009 c 97 § 6; 2007 c 94 § 7; 2003 c 54 § 5; 2002 c 153 § 7.]

Reviser's note: This section was amended by 2009 c 97 § 6 and by 2009 c 421 § 8, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Sunset Act application: See note following RCW 43.42.005.

Effective date—2009 c 421: See note following RCW 43.157.005.

43.42.070 Cost-reimbursement agreements. (1) The office may enter into cost-reimbursement agreements with a project proponent to recover from the project proponent the reasonable costs incurred by the office in carrying out the provisions of RCW 43.42.050, 43.42.060, 43.42.090, and 43.42.092. The agreement must include the permit agencies that are participating in the cost-reimbursement project and carrying out permit processing tasks referenced in the agreement.

(2) The office must maintain policies or guidelines for coordinating cost-reimbursement agreements with participating agencies, project proponents, and outside independent consultants. Policies or guidelines must ensure that, in developing cost-reimbursement agreements, conflicts of interest are eliminated. Contracts with independent consultants hired by the office under this section must be based on competitive bids that are awarded for each agreement from a prequalified consultant roster.

(3) For fully coordinated permit processes, the office must coordinate the negotiation of all cost-reimbursement agreements executed under RCW 43.21A.690, 43.30.490, 43.70.630, 43.300.080, and 70.94.085. The office, project proponent, and the permit agencies must be signatories to the agreement or agreements. Each permit agency must manage performance of its portion of the agreement. Independent consultants hired under a cost-reimbursement agreement shall report directly to the hiring office or permit agency. Any cost-reimbursement agreement must require that final decisions are made by the permit agency and not by a hired consultant.

(4) For a fully coordinated project using cost reimbursement, the office and participating permit agencies must include a cost-reimbursement work plan, including deliverables and schedules for invoicing and reimbursement in the fully coordinated project work plan described in RCW 43.42.060. Upon request, the office must verify that the agencies have met the obligations contained in the cost-reimbursement work plan and agreement. The cost-reimbursement agreement must identify the tasks of each agency and

the maximum costs for work conducted under the agreement. The agreement must include a schedule that states:

(a) The estimated number of weeks for initial review of the permit application for comparable projects;

(b) The anticipated number of revision cycles;

(c) The estimated number of weeks for review of subsequent revision submittals;

(d) The estimated number of billable hours of employee time;

(e) The rate per hour; and

(f) A process for revision of the agreement if necessary.

(5) If a permit agency or the project proponent foresees, at any time, that it will be unable to meet its obligations under the cost-reimbursement agreement and fully coordinated project work plan, it must notify the office and state the reasons, along with proposals for resolving the problems and potentially amending the timelines. The office must notify the participating permit agencies and the project proponent and, upon agreement of all parties, adjust the schedule, or, if necessary, coordinate revision of the cost-reimbursement agreement and fully coordinated project work plan. [2010 c 162 § 4; 2009 c 97 § 7; 2007 c 94 § 8; 2003 c 70 § 7; 2002 c 153 § 8.]

Sunset Act application: See note following RCW 43.42.005.

Effective date—2010 c 162: See note following RCW 43.42.090.

43.42.080 Participating permit agencies—Timelines.

With the agreement of all participating permitting agencies and the permit applicant or project proponent, state permitting agencies may establish timelines to make permit decisions, including the time periods required to determine that the permit applications are complete, to review the applications, and to process the permits. Established timelines shall not be shorter than those otherwise required for each permit under other applicable provisions of law, but may extend and coordinate such timelines. The goal of the established timelines is to achieve the maximum efficiencies possible through concurrent studies and consolidation of applications, permit review, hearings, and comment periods. A timeline established under this subsection with the agreement of each permitting agency shall commit each permitting agency to act within the established timeline. [2007 c 94 § 9; 2004 c 32 § 1.]

43.42.090 Multiagency permitting teams—Findings—Intent—Purpose.

(1) The legislature finds that the state of Washington has implemented a number of successful measures to streamline, coordinate, and consolidate the multiparty, multijurisdictional permitting and regulatory decision-making process. The office of regulatory assistance was developed and implemented at a time when the state faced a crisis in its economic competitiveness. The multiagency permitting team for transportation was developed and implemented at a time when the state's transportation system faced a crisis in public confidence concerning transportation project delivery. The legislature further finds that the state of Washington is now facing an economic and financial crisis that requires immediate action to spur economic development and the creation of jobs without sacrificing the quality of the state's environment.

(2) The legislature intends to:

(a) Draw from and extend the benefits of proven permit streamlining solutions to future project proponents and aid the state's recovery by authorizing optional multiagency permitting teams modeled after the multiagency permitting team developed and implemented for state transportation projects. It is the purpose of chapter 162, Laws of 2010 to provide willing permit applicants and project proponents with permit coordination and integrated regulatory decision-making services on a cost-reimbursed basis; and

(b) Phase-in a revenue-neutral permit streamlining approach to expedite permit and regulatory decision making while ensuring a high level of environmental protection. [2010 c 162 § 2.]

Effective date—2010 c 162: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 22, 2010]." [2010 c 162 § 8.]

43.42.092 Multiagency permitting teams. (1)(a) The office of regulatory assistance is authorized to develop and advertise the availability of optional multiagency permitting teams to provide coordinated permitting and integrated regulatory decision making starting in the Puget Sound basin.

(b) New expenses associated with operating the optional multiagency permitting teams must be recovered by the office of regulatory assistance using existing state cost-reimbursement and interagency cost-sharing authorities as applicable. The cost-reimbursement process is subject to the requirements and limitations set forth in RCW 43.42.070. Initial administrative costs and other costs that may not be recoverable through cost-reimbursement or cost-sharing mechanisms may be covered by funds from the multiagency permitting team account created in RCW 43.42.095.

(c) The director of the office of regulatory assistance must solicit donations and such other funds as the director deems appropriate from public and private sources for the purposes of covering the initial administrative costs and other costs associated with operation of optional multiagency permitting teams which are not recoverable through cost-reimbursement or cost-sharing mechanisms. All such solicited funds must be placed in the multiagency permitting team account created in RCW 43.42.095.

(2) Optional multiagency permitting teams must be:

(a) Mobile, capable of traveling or working together as teams, initially throughout the Puget Sound basin;

(b) Located initially in central Puget Sound;

(c) Staffed by appropriate senior-level permitting and regulatory decision-making personnel representing the Washington state departments of ecology, fish and wildlife, and natural resources and having expertise in regulatory issues relating to the project; and

(d) Managed by the office of regulatory assistance through a team leader responsible for:

(i) Managing or monitoring team activities to ensure the cost-reimbursement schedule and agreement is followed;

(ii) Developing and maintaining partnerships and working relationships with local, state, tribal, and federal organizations not core to the optional multiagency permitting teams that can be called upon to join the team on a project-by-project basis;

(iii) Developing, defining, and providing a set of coordinated permitting and integrated decision-making services consistent with those set forth in subsection (3) of this section;

(iv) Developing and executing funding agreements with applicants, project proponents, regulatory agencies, and others as necessary to ensure the financial viability of the optional multiagency permitting teams;

(v) Measuring and regularly reporting on team performance, results and outcomes achieved, including improved: Permitting predictability, interagency early project coordination, interagency accessibility, interagency relationships, project delivery, and environmental results, including the avoidance or prevention of environmental harm and the effectiveness of mitigation;

(vi) Conducting outreach, marketing, and advertising of team services and team availability, focusing initially on projects such as large-scale public, private, and port development projects with complex aquatics, wetland, or other environmental impacts; environmental cleanup, restoration, and enhancement projects; aquaculture projects; and energy, power generation, and utility projects;

(vii) Implementing issue and dispute resolution protocols;

(viii) Incorporating and using virtual tools for online collaboration to support permitting and regulatory coordination and expedited decision making; and

(ix) Extending and subsequently implementing the optional multiagency permitting team approach to other significant geographic regions of the state.

(3) The optional multiagency permitting teams must at a minimum work with the office of regulatory assistance to provide the following core services:

(a) Project scoping, as set forth in RCW 43.42.050 (1) through (4), to help applicants identify applicable permits and regulatory approvals;

(b) A preapplication coordination service, which may be combined with project scoping, to help applicants understand applicable requirements and plan out with the assistance of the regulatory agencies an optimally sequenced permitting and regulatory decision-making strategy and approach for the overall project;

(c) Fully coordinated project review as set forth in RCW 43.42.060 to set schedules and agreed-upon time frames for the applicant and regulatory decision makers consistent with statutory requirements and with regard to available agency resources and to track, monitor, and report progress made in meeting those schedules and time frames;

(d) Mitigation coordination to help applicants and regulatory agencies collaborate on and implement mitigation obligations within a watershed context so superior environmental results can be achieved when impacts cannot be avoided or further minimized.

(4) Local and federal permitting and regulatory personnel should be incorporated into the optional multiagency permitting teams whenever possible and at least on a project-by-project basis. Moneys recouped through state cost-reimbursement and interagency cost-sharing authorities, or as otherwise solicited for deposit into the multiagency permitting team account created in RCW 43.42.095, may also be used to cover local and federal participation.

(5) The optional multiagency permitting teams will provide services for complex projects requiring multiple permits and regulatory approvals and having multiple points of regulatory jurisdiction. The optional multiagency permitting teams are not intended to support state transportation projects capable of being serviced by multiagency permitting teams specifically established for state transportation projects. Use of the optional multiagency permitting teams for a fully coordinated permit process must be allowed unless the office of regulatory assistance notifies a project proponent in writing of other means of effective and efficient project review that are available and are recommended. [2010 c 162 § 3.]

Effective date—2010 c 162: See note following RCW 43.42.090.

43.42.095 Multiagency permitting team account. The multiagency permitting team account is created in the state treasury. All receipts from solicitations authorized in RCW 43.42.092 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for covering the initial administrative costs of multiagency permitting teams and such other costs associated with the teams as may arise that are not recoverable through cost-reimbursement or cost-sharing mechanisms. [2010 c 162 § 5.]

Effective date—2010 c 162: See note following RCW 43.42.090.

43.42.900 Jurisdiction of energy facility site evaluation council not affected. Nothing in this chapter affects the jurisdiction of the energy facility site evaluation council under chapter 80.50 RCW. [2002 c 153 § 11.]

Sunset Act application: See note following RCW 43.42.005.

43.42.901 Authority of permit agencies not affected.

(1) Nothing in this chapter shall be construed to abrogate or diminish the functions, powers, or duties granted to any permit agency by law.

(2) Nothing in this chapter grants the office authority to decide if a permit shall be issued. The authority for determining if a permit shall be issued shall remain with the permit agency. [2002 c 153 § 12.]

Sunset Act application: See note following RCW 43.42.005.

43.42.902 Authority of participating permit agency retained. This chapter shall not be construed to limit or abridge the powers and duties granted to a participating permit agency under the law that authorizes or requires the agency to issue a permit for a project. Each participating permit agency shall retain its authority to make all decisions on all nonprocedural matters with regard to the respective component permit that is within its scope of its responsibility including, but not limited to, the determination of permit application completeness, permit approval or approval with conditions, or permit denial. The office may not substitute its judgment for that of a participating permit agency on any such nonprocedural matters. [2009 c 97 § 13.]

(2010 Ed.)

Chapter 43.43 RCW

WASHINGTON STATE PATROL

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size, weight and load limits, duties: Chapter 46.44 RCW.

Off-road and nonhighway vehicles: Chapter 46.09 RCW.

Portability of public retirement benefits: Chapter 41.54 RCW.

Private carrier drivers, rules: RCW 46.73.010.

Prohibited practices relating to motor vehicle inspection by members of: RCW 46.32.050.

Requests for nonconviction criminal history fingerprint record checks for agency heads: RCW 43.06.013.

School buses, regulations for design, marking and mode of operation, chief to advise on: RCW 46.61.380.

Snowmobile act enforcement: RCW 46.10.200.

State patrol highway account: RCW 46.68.030.

Teletypewriter communications network, powers and duties of chief: Chapter 43.89 RCW.

Towing operators, appointment by the state patrol: RCW 46.55.115.

Traffic safety commission, chief of state patrol member of: RCW 43.59.030.

Transportation of hazardous materials, chief's powers and duties relating to: RCW 46.48.170, 46.48.175.

43.43.010 Patrol created. There shall be a department of state government known as the "Washington state patrol."

(2010 Ed.)

The chief thereof shall be known as the chief of the Washington state patrol, and members thereof shall be known as Washington state patrol officers. [1965 c 8 § 43.43.010. Prior: 1933 c 25 § 1; RRS § 6362-59.]

43.43.012 Chief for a day program. (1) To promote positive relationships between law enforcement and the citizens of the state of Washington, the Washington state patrol may participate in the chief for a day program. The chief of the Washington state patrol may designate staff who may participate in organizing the event. The Washington state patrol may accept grants of funds and gifts to be utilized in furtherance of this purpose, and may use their public facilities for such purpose. At all times, the participation of the Washington state patrol must comply with chapter 42.52 RCW.

(2) For the purposes of this section, "chief for a day program" means a program in which the Washington state patrol partners with other local, state, and federal law enforcement agencies, hospitals, and the community to provide a day of special attention to chronically ill children. Each child is selected and sponsored by a law enforcement agency. The event, chief for a day, may occur on the grounds and in the facilities of the Washington state patrol. The program may include any appropriate honoring of the child as a chief, such as a certificate swearing them in as a chief, a badge, a uniform, and donated gifts. The gifts may include, but are not limited to, games, puzzles, and art supplies. [2010 c 10 § 2.]

Finding—2010 c 10: "The legislature finds that the Washington state patrol's participation in charitable work, such as the chief for a day program that provides special attention to chronically ill children through recognition by various law enforcement agencies within the state, advances the overall purposes of the department by promoting positive relationships between law enforcement and the citizens of the state of Washington." [2010 c 10 § 1.]

43.43.013 Donations, gifts, conveyances, devises, and grants. The Washington state patrol may accept any and all donations, bequests, gifts, conveyances, devices [devises], and grants conditional or otherwise; or money, property, service, or other things of value which may be received from the United States or any agency thereof, any governmental agency, institution, person, firm, or corporation, public and private, to be held, used, or applied for the purpose of fulfilling its mission. [2009 c 108 § 1.]

43.43.015 Affirmative action. For the purposes of this chapter, "affirmative action" means a procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system. [1985 c 365 § 4.]

43.43.020 Appointment of personnel. The governor, with the advice and consent of the senate, shall appoint the chief of the Washington state patrol, determine his compensation, and may remove him at will.

The chief shall appoint a sufficient number of competent persons to act as Washington state patrol officers, may remove them for cause, as provided in this chapter, and shall make promotional appointments, determine their compensation, and define their rank and duties, as hereinafter provided.

Before a person may be appointed to act as a Washington state patrol officer, the person shall meet the minimum standards for employment with the Washington state patrol, including successful completion of a psychological examination and polygraph examination or similar assessment procedure administered by the chief or his or her designee in accordance with the requirements of RCW 43.101.095(2).

The chief may appoint employees of the Washington state patrol to serve as special deputies, with such restricted police authority as the chief shall designate as being necessary and consistent with their assignment to duty. Such appointment and conferral of authority shall not qualify said employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol.

The chief may personally appoint, with the consent of the state treasurer, employees of the office of the state treasurer who are qualified under the standards of the criminal justice training commission, or who have comparable training and experience, to serve as special deputies. The law enforcement powers of any special deputies appointed in the office of the state treasurer shall be designated by the chief and shall be restricted to those powers necessary to provide for statewide security of the holdings or property of or under the custody of the office of the state treasurer. These appointments may be revoked by the chief at any time and shall be revoked upon the written request of the state treasurer or by operation of law upon termination of the special deputy's employment with the office of the state treasurer or thirty days after the chief who made the appointment leaves office. The chief shall be civilly immune for the acts of such special deputies. Such appointment and conferral of authority shall not qualify such employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol. [2005 c 434 § 4; 1983 c 144 § 1; 1981 c 338 § 4; 1973 1st ex.s. c 80 § 1; 1965 c 8 § 43.43.020. Prior: 1949 c 192 § 1; 1933 c 25 § 3; Rem. Supp. 1949 § 6362-61.]

Civil service exemptions: RCW 41.06.070.

43.43.030 Powers and duties—Peace officers. The chief and other officers of the Washington state patrol shall have and exercise, throughout the state, such police powers and duties as are vested in sheriffs and peace officers generally, and such other powers and duties as are prescribed by law. [1965 c 8 § 43.43.030. Prior: 1933 c 25 § 2; RRS § 6362-60.]

General authority law enforcement agency: RCW 10.93.020.

43.43.035 Governor, lieutenant governor, and governor-elect—Security and protection—Duty to provide. The chief of the Washington state patrol is directed to provide security and protection for the governor, the governor's family, and the lieutenant governor to the extent and in the manner the governor and the chief of the Washington state patrol deem adequate and appropriate.

In the same manner the chief of the Washington state patrol is directed to provide security and protection for the governor-elect from the time of the November election. [1991 c 63 § 1; 1965 ex.s. c 96 § 1.]

[Title 43 RCW—page 270]

43.43.037 Legislature—Security and protection—Duty to provide. The chief of the Washington state patrol is directed to provide such security and protection for both houses of the legislative building while in session as in the opinion of the speaker of the house and the president of the senate may be necessary therefor upon the advice of the respective sergeant-at-arms of each legislative body. [1965 ex.s. c 96 § 2.]

43.43.040 Disability of patrol officers. (1) The chief of the Washington state patrol shall relieve from active duty Washington state patrol officers who, while in the performance of their official duties, or while on standby or available for duty, have been or hereafter may be injured or incapacitated to such an extent as to be mentally or physically incapable of active service: PROVIDED, That:

(a) Any officer disabled while performing line duty who is found by the chief to be physically incapacitated shall be placed on disability leave for a period not to exceed six months from the date of injury or the date incapacitated. During this period, the officer shall be entitled to all pay, benefits, insurance, leave, and retirement contributions awarded to an officer on active status, less any compensation received through the department of labor and industries. No such disability leave shall be approved until an officer has been unavailable for duty for more than forty consecutive work hours. Prior to the end of the six-month period, the chief shall either place the officer on disability status or return the officer to active status.

For the purposes of this section, "line duty" is active service which encompasses the traffic law enforcement duties and/or other law enforcement responsibilities of the state patrol. These activities encompass all enforcement practices of the laws, accident and criminal investigations, or actions requiring physical exertion or exposure to hazardous elements.

The chief shall define by rule the situations where a disability has occurred during line duty;

(b) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the officer receives or is entitled to receive from workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability;

(c) An officer injured while engaged in willfully tortious or criminal conduct shall not be entitled to disability benefits under this section; and

(d) Should a disability beneficiary whose disability was not incurred in line of duty, prior to attaining age fifty, engage in a gainful occupation, the chief shall reduce the amount of his or her retirement allowance to an amount which when added to the compensation earned by him or her in such occupation shall not exceed the basic salary currently being paid for the rank the retired officer held at the time he or she was disabled. All such disability beneficiaries under age fifty shall file with the chief every six months a signed and sworn statement of earnings and any person who shall knowingly swear falsely on such statement shall be subject to prosecution for perjury. Should the earning capacity of such beneficiary be further altered, the chief may further alter his or her disability retirement allowance as indicated above.

(2010 Ed.)

The failure of any officer to file the required statement of earnings shall be cause for cancellation of retirement benefits.

(2)(a) Officers on disability status shall receive one-half of their compensation at the existing wage, during the time the disability continues in effect, less any compensation received through the department of labor and industries. They shall be subject to mental or physical examination at any state institution or otherwise under the direction of the chief of the patrol at any time during such relief from duty to ascertain whether or not they are able to resume active duty.

(b) In addition to the compensation provided in (a) of this subsection, the compensation of an officer who is totally disabled during line duty shall include reimbursement for any payments of premiums made after June 10, 2010, for employer-provided medical insurance. An officer is considered totally disabled if he or she is unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or that has lasted or is expected to last at least twelve months. Substantial gainful activity is defined as average earnings in excess of eight hundred sixty dollars a month in 2006 adjusted annually as determined by the department of retirement systems based on federal social security disability standards. An officer in receipt of reimbursement for any payments of premium rates for employer-provided medical insurance under this subsection is required to file with the chief any financial records that are necessary to determine continued eligibility for such reimbursement. The failure of any officer to file the required financial records is cause for cancellation of the reimbursement. The legislature reserves the right to amend or repeal the benefits provided in this subsection (2)(b) in the future and no member or beneficiary has a contractual right to receive any distribution not granted prior to that time. [2010 c 259 § 3; 2009 c 549 § 5122; 1998 c 194 § 1; 1987 c 185 § 17; 1981 c 165 § 1; 1973 2nd ex.s. c 20 § 1; 1965 c 8 § 43.43.040. Prior: 1947 c 174 § 1; 1943 c 215 § 1; RRS § 6362-65.]

Short title—2010 c 259: See note following RCW 41.26.470.

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Additional notes found at www.leg.wa.gov

43.43.050 Tenure of patrol officers. Washington state patrol officers shall be entitled to retain their ranks and positions until death or resignation, or until suspended, demoted, or discharged in the manner hereinafter provided. [1965 c 8 § 43.43.050. Prior: 1943 c 205 § 1; Rem. Supp. 1943 § 6362-66.]

43.43.060 Suspension or demotion of probationary officers. The chief of the Washington state patrol may suspend or demote any officer with probationary status, without preferring charges against the officer, and without a hearing. [1984 c 141 § 1; 1965 c 8 § 43.43.060. Prior: 1943 c 205 § 2; Rem. Supp. 1943 § 6362-67.]

43.43.070 Discharge of probationary officers—Discharge, demotion, or suspension of nonprobationary officers—Complaint—Hearing. Discharge of any officer

with probationary status and discharge, demotion, or suspension of any officer with nonprobationary status shall be only for cause, which shall be clearly stated in a written complaint, sworn to by the person preferring the charges, and served upon the officer complained of.

Upon being so served, any such officer shall be entitled to a public hearing before a trial board consisting of two Washington state patrol officers of the rank of captain, and one officer of equal rank with the officer complained of, who shall be selected by the chief of the Washington state patrol by lot from the roster of the patrol. In the case of complaint by an officer, such officer shall not be a member of the trial board. [1984 c 141 § 2; 1965 c 8 § 43.43.070. Prior: 1943 c 205 § 3; Rem. Supp. 1943 § 6362-68.]

43.43.080 Criminal complaint—Authority to suspend officer—Hearing. When the complaint served upon an officer is of a criminal nature calling for the discharge of the officer, the chief of the patrol may immediately suspend the officer without pay pending a trial board hearing. The board shall be convened no later than forty-five days from the date of suspension. However, this does not preclude the granting of a mutually agreed upon extension; in such cases the officer shall remain on suspension without pay.

An officer complained of may waive a hearing and accept the proposed discipline by written notice to the chief of the patrol. [1989 c 28 § 1; 1965 c 8 § 43.43.080. Prior: 1943 c 205 § 4; Rem. Supp. 1943 § 6362-69.]

43.43.090 Procedure at hearing. At the hearing, an administrative law judge appointed under chapter 34.12 RCW shall be the presiding officer, and shall make all necessary rulings in the course of the hearing, but shall not be entitled to vote.

The complainant and the officer complained of may submit evidence, and be represented by counsel, and a full and complete record of the proceedings, and all testimony, shall be taken down by a stenographer.

After hearing, the findings of the trial board shall be submitted to the chief. Such findings shall be final if the charges are not sustained. In the event the charges are sustained the chief may determine the proper disciplinary action and declare it by written order served upon the officer complained of. [1989 c 28 § 2; 1984 c 141 § 3; 1965 c 8 § 43.43.090. Prior: 1943 c 205 § 5; Rem. Supp. 1943 § 6362-70.]

43.43.100 Review of order. Any officer subjected to disciplinary action may, within ten days after the service of the order upon the officer, apply to the superior court of Thurston county for a writ of review to have the reasonableness and lawfulness of the order inquired into and determined.

The superior court shall review the determination of the chief of the Washington state patrol in a summary manner, based upon the record of the hearing before the trial board, and shall render its decision within ninety days, either affirming or reversing the order of the chief, or remanding the matter to the chief for further action. A transcript of the trial board hearing shall be provided to the court by the state patrol after being paid for by the officer subjected to disciplinary action. However, if the officer prevails before the court, the

state patrol shall reimburse the officer for the cost of the transcript. [1984 c 141 § 4; 1965 c 8 § 43.43.100. Prior: 1943 c 205 § 6; Rem. Supp. 1943 § 6362-71.]

43.43.110 Reinstatement on acquittal. If as a result of any trial board hearing, or review proceeding, an officer complained of is found not guilty of the charges against him or her, he or she shall be immediately reinstated to his or her former position, and be reimbursed for any loss of salary suffered by reason of the previous disciplinary action. [2009 c 549 § 5123; 1965 c 8 § 43.43.110. Prior: 1943 c 205 § 7; Rem. Supp. 1943 § 6362-72.]

43.43.111 Patrol officer vehicle accidents. To ensure transparency, integrity, and credibility during Washington state patrol vehicle accident investigations, the agency will continue to review and reform the agency policies and procedures regarding Washington state patrol officers that are involved in vehicle accidents. The agency shall develop agency policies and include as part of the terms of their collective bargaining agreements a progressive corrective process addressing Washington state patrol officer vehicle accidents that may include retraining in vehicle handling, wage or benefit reductions, and termination of employment. The agency shall develop a process for tracking accidents and an accident review process. Annually, a collision data report must be produced designating each accident during the year as minor or severe and any resulting disciplinary actions and be available for review by the legislature. The agency shall implement communication procedures for the victims involved in the accidents from the time the accident occurs until the investigative process has been concluded. The policies must also provide for outside supervision of accident investigations by a qualified independent agency under certain circumstances.

Before the legislative committee assembly in September 2005, the Washington state patrol shall have an outside entity that has a reputation for and has proven experience in law enforcement management and reviewing law enforcement and criminal justice policies and procedures review the agency's proposed law enforcement vehicle accident policies and procedures where a law enforcement officer is involved. The agency will present the proposed policies and procedures to the legislature and finalize the policies and procedures based on input from the legislature. The Washington state patrol shall report to the house and senate transportation committees by November 30, 2005, on the updated policies, processes, and procedures. Once the policies and procedures are completed, other law enforcement agencies may adopt the policies and procedures for their agencies. [2005 c 27 § 2.]

Intent—2005 c 27: "It is the intent of the legislature that accidents involving Washington state patrol officers follow a process that provides a high degree of integrity and credibility both within the investigation of the accident and the perception of the investigation from persons outside the investigation. It is the intent of the legislature to have a communication process in place for the Washington state patrol to communicate accident information to the persons and their families who are involved in the vehicle accidents. It is the intent of the legislature to have early detections in place to reduce future vehicle accidents." [2005 c 27 § 1.]

Short title—2005 c 27: "This act may be known and cited as the "Brock Loshbaugh Act."" [2005 c 27 § 3.]

Effective date—2005 c 27: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 13, 2005]." [2005 c 27 § 4.]

43.43.112 Private law enforcement off-duty employment—Guidelines. Washington state patrol officers may engage in private law enforcement off-duty employment, in uniform or in plainclothes for private benefit, subject to guidelines adopted by the chief of the Washington state patrol. These guidelines must ensure that the integrity and professionalism of the Washington state patrol is preserved. Use of Washington state patrol officer's uniforms shall be considered de minimis use of state property. [2005 c 124 § 1; 1997 c 375 § 1.]

43.43.115 Real property—Sale of surplus at fair market value—Distribution of proceeds. Whenever real property owned by the state of Washington and under the jurisdiction of the Washington state patrol is no longer required, it may be sold at fair market value. All proceeds received from the sale of real property, less any real estate broker commissions, shall be deposited into the state patrol highway account: PROVIDED, That if accounts or funds other than the state patrol highway account have contributed to the purchase or improvement of the real property, the office of financial management shall determine the proportional equity of each account or fund in the property and improvements, and shall direct the proceeds to be deposited proportionally therein. [1993 c 438 § 1.]

43.43.120 Patrol retirement system—Definitions. As used in this section and RCW 43.43.130 through 43.43.320, unless a different meaning is plainly required by the context:

(1) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(2) "Annual increase" means as of July 1, 1999, seventy-seven cents per month per year of service which amount shall be increased each subsequent July 1st by three percent, rounded to the nearest cent.

(3)(a) "Average final salary," for members commissioned prior to January 1, 2003, shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

(b) "Average final salary," for members commissioned on or after January 1, 2003, shall mean the average monthly salary received by a member for the highest consecutive sixty service credit months; or if the member has less than sixty months of service, then the average monthly salary received by the member during the member's total months of service.

(c) In calculating average final salary under (a) or (b) of this subsection, the department of retirement systems shall include any compensation forgone by the member during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, or temporary lay-

offs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief.

(4) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(5)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet, patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrol officers; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehouse workers.

(6) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under chapter 41.45 RCW.

(7) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(8) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(9) "Director" means the director of the department of retirement systems.

(10) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.040.

(11) "Employee" means any commissioned employee of the Washington state patrol.

(12) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(13) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(14) "Member" means any person included in the membership of the retirement fund.

(15) "Plan 2" means the Washington state patrol retirement system plan 2, providing the benefits and funding provisions covering commissioned employees who first become members of the system on or after January 1, 2003.

(16) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(17) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(18) "Retirement board" means the board provided for in this chapter.

(19) "Retirement fund" means the Washington state patrol retirement fund.

(20) "Retirement system" means the Washington state patrol retirement system.

(21)(a) "Salary," for members commissioned prior to July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040, or any voluntary overtime, earned on or after July 1, 2001.

(b) "Salary," for members commissioned on or after July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or any form of severance pay.

(22) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(23) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(24) "State treasurer" means the treasurer of the state of Washington.

Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender. [2010 1st sp.s. c 32 § 9. Prior: 2009 c 549 § 5124; 2009 c 522 § 1; 2001 c 329 § 3; 1999 c 74 § 1; 1983 c 81 § 1; 1982 1st ex.s. c 52 § 24; 1980 c 77 § 1; 1973 1st ex.s. c 180 § 1; 1969 c 12 § 1; 1965 c 8 § 43.43.120; prior: 1955 c 244 § 1; 1953 c 262 § 1; 1951 c 140 § 1; 1947 c 250 § 1; Rem. Supp. 1947 § 6362-81.]

Intent—Conflict with federal requirements—Effective date—2010 1st sp.s. c 32: See notes following RCW 42.04.060.

Effective date—2001 c 329: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 329 § 14.]

Additional notes found at www.leg.wa.gov

43.43.130 Retirement fund created—Membership.

(1) A Washington state patrol retirement fund is hereby established for members of the Washington state patrol which shall include funds created and placed under the management of a retirement board for the payment of retirement allowances and other benefits under the provisions hereof.

(2) Any employee of the Washington state patrol, upon date of commissioning, shall be eligible to participate in the retirement plan and shall start contributing to the fund immediately. Any employee of the Washington state patrol employed by the state of Washington or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington shall receive full credit for such prior service but after that date each new commissioned employee must automatically participate in the fund. If a member shall terminate service in the patrol and later reenter, he or she shall be treated in all respects as a new employee.

(3)(a) A member who reenters or has reentered service within ten years from the date of his or her termination, shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions, plus interest as determined by the director, which restoration must be completed within five years after resumption of service, be returned to the status of membership he or she earned at the time of termination.

(b) A member who does not meet the time limitations for restoration under (a) of this subsection, may restore the service credit destroyed by the withdrawn contributions by paying the amount required under RCW 41.50.165(2) prior to retirement.

(4)(a) An employee of the Washington state patrol who becomes a member of the retirement system after June 12, 1980, and who has service as a cadet in the patrol training program may make an irrevocable election to transfer the service to the retirement system. Any member upon making such election shall have transferred all existing service credited in a prior public retirement system in this state for periods of employment as a cadet. Transfer of credit under this subsection is contingent on completion of the transfer of funds specified in (b) of this subsection.

(b) Within sixty days of notification of a member's cadet service transfer as provided in (a) of this subsection, the department of retirement systems shall transfer the employee's accumulated contributions attributable to the periods of service as a cadet, including accumulated interest.

(5) A member of the retirement system who has served or shall serve on active federal service in the armed forces of the United States pursuant to and by reason of orders by competent federal authority, who left or shall leave the Washington state patrol to enter such service, and who within one year from termination of such active federal service, resumes employment as a state employee, shall have his or her service in such armed forces credited to him or her as a member of the retirement system: PROVIDED, That no such service in excess of five years shall be credited unless such service was actually rendered during time of war or emergency.

(6) An active employee of the Washington state patrol who either became a member of the retirement system prior to June 12, 1980, and who has prior service as a cadet in the public employees' retirement system may make an irrevocable election to transfer such service to the retirement system within a period ending June 30, 1985, or, if not an active employee on July 1, 1983, within one year of returning to commissioned service, whichever date is later. Any member upon making such election shall have transferred all existing service credited in the public employees' retirement system which constituted service as a cadet together with the employee's contributions plus credited interest. If the employee has withdrawn the employee's contributions, the contributions must be restored to the public employees' retirement system before the transfer of credit can occur and such restoration must be completed within the time limits specified in this subsection for making the elective transfer.

(7) An active employee of the Washington state patrol who either became a member of the retirement system prior to June 12, 1980, or who has prior service as a cadet in the public employees' retirement system may make an irrevocable election to transfer such service to the retirement system

if they have not met the time limitations of subsection (6) of this section by paying the amount required under RCW 41.50.165(2) less the contributions transferred. Any member upon making such election shall have transferred all existing service credited in the public employees' retirement system that constituted service as a cadet together with the employee's contributions plus credited interest. If the employee has withdrawn the employee's contributions, the contributions must be restored to the public employees' retirement system before the transfer of credit can occur and such restoration must be completed within the time limits specified in subsection (6) of this section for making the elective transfer.

(8) An active employee of the Washington state patrol may establish up to six months' retirement service credit in the state patrol retirement system for any period of employment by the Washington state patrol as a cadet if service credit for such employment was not previously established in the public employees' retirement system, subject to the following:

(a) Certification by the patrol that such employment as a cadet was for the express purpose of receiving on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper.

(b) Payment by the member of employee contributions in the amount of seven percent of the total salary paid for each month of service to be established, plus interest at seven percent from the date of the probationary service to the date of payment. This payment shall be made by the member no later than July 1, 1988.

(c) If the payment required under (b) of this subsection was not made by July 1, 1988, the member may establish the probationary service by paying the amount required under RCW 41.50.165(2).

(d) A written waiver by the member of the member's right to ever establish the same service in the public employees' retirement system at any time in the future.

(9) The department of retirement systems shall make the requested transfer subject to the conditions specified in subsections (6) and (7) of this section or establish additional credit as provided in subsection (8) of this section. Employee contributions and credited interest transferred shall be credited to the employee's account in the Washington state patrol retirement system. [2009 c 549 § 5125; 1994 c 197 § 33; 1987 c 215 § 1; 1986 c 154 § 1; 1983 c 81 § 2; 1980 c 77 § 2; 1965 c 8 § 43.43.130. Prior: 1953 c 262 § 2; 1951 c 140 § 2; 1947 c 250 § 2; Rem. Supp. 1947 § 6362-82.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Additional notes found at www.leg.wa.gov

43.43.135 Membership in more than one retirement system. In any case where the Washington state patrol retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, an employee holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who is by reason of his or her current employment contributing to or otherwise estab-

lishing the right to receive benefits from any such retirement plan, shall be allowed membership rights should the agreement so provide. [2009 c 549 § 5126; 1965 c 8 § 43.43.135. Prior: 1951 c 140 § 10.]

43.43.137 Reestablishment of service credit by former members who are members of the public employees' retirement system—Conditions. Former members of the retirement system established under this chapter who are currently members of the retirement system governed by chapter 41.40 RCW are permitted to reestablish service credit with the system subject to the following:

- (1) The former member must have separated and withdrawn contributions from the system prior to January 1, 1966, and not returned to membership since that date;
- (2) The former member must have been employed by the department of licensing, or its predecessor agency, in a capacity related to drivers' license examining within thirty days after leaving commissioned status with the state patrol; and
- (3) The former member must make payment to the system of the contributions withdrawn with interest at the rate set by the director from the date of withdrawal to the date of repayment. Such payment must be made no later than June 30, 1986. [1986 c 154 § 2.]

43.43.138 Establishing, restoring service credit. Notwithstanding any provision to the contrary, persons who fail to:

- (1) Establish allowable membership service not previously credited;
- (2) Restore all or a part of that previously credited membership service represented by withdrawn contributions; or
- (3) Restore service credit represented by a lump sum payment in lieu of benefits, before the deadline established by statute, may do so under the conditions set forth in RCW 41.50.165. [1998 c 17 § 5.]

43.43.139 Membership while serving as state legislator—Conditions. Any member of the retirement system who, on or after January 1, 1995, is on leave of absence for the purpose of serving as a state legislator, may elect to continue to be a member of this retirement system. The member shall continue to receive service credit subject to the following:

- (1) The member will not receive more than one month's service credit in a calendar month;
- (2) Employer contributions shall be paid by the legislature;
- (3) Contributions shall be based on the regular compensation which the member would have received had such a member not served in the legislature;
- (4) The service and compensation credit under this section shall be granted only for periods during which the legislature is in session; and
- (5) No service credit for service as a legislator will be allowed after a member separates from employment with the Washington state patrol. [1997 c 123 § 1.]

(2010 Ed.)

43.43.142 Retirement board abolished—Transfer of powers, duties, and functions. The retirement board established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the director of retirement systems. [1982 c 163 § 18.]

Additional notes found at www.leg.wa.gov

43.43.165 Board may receive contributions from any source. Contributions may be received by the Washington state patrol retirement board from any public or private source for deposit into the Washington state patrol retirement fund, and said contributions shall be dealt with in the same manner as other state patrol retirement funds and subject to the terms of the contribution. [1965 c 8 § 43.43.165. Prior: 1955 c 244 § 4.]

43.43.220 Retirement fund—Expenses. The Washington state patrol retirement fund shall be the fund from which shall be paid all retirement allowances or benefits in lieu thereof which are payable as provided herein. The expenses of operating the retirement system shall be paid from appropriations made for the operation of the Washington state patrol. [1989 c 273 § 25; 1973 1st ex.s. c 180 § 2; 1965 c 8 § 43.43.220. Prior: 1961 c 93 § 1; 1957 c 162 § 2; 1951 c 140 § 3; 1947 c 250 § 11; Rem. Supp. 1947 § 6362-91.]

Additional notes found at www.leg.wa.gov

43.43.230 Total service credit. Subject to the provisions of RCW 43.43.260, at retirement, the total service credited to a member shall consist of all the member's current service and accredited prior service. [1982 1st ex.s. c 52 § 25; 1965 c 8 § 43.43.230. Prior: 1953 c 262 § 3; 1947 c 250 § 12; Rem. Supp. 1947 § 6362-92.]

Additional notes found at www.leg.wa.gov

43.43.233 Purchase of additional service credit—Costs—Rules. (1) A member eligible to retire under RCW 43.43.250 may, at the time of filing a written application for retirement with the department, apply to the department to make a one-time purchase of up to five years of additional service credit.

(2) To purchase additional service credit under this section, a member shall pay the actuarial equivalent value of the resulting increase in the member's benefit.

(3) Subject to rules adopted by the department, a member purchasing additional service credit under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(4) Additional service credit purchased under this section is not membership service and shall be used exclusively to provide the member with a monthly annuity that is paid in addition to the member's retirement allowance. [2006 c 214 § 6.]

Effective date—2006 c 214: See note following RCW 41.40.034.

43.43.235 Service credit for paid leave of absence. (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided under the provisions of RCW 43.43.120 through 43.43.310.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The basic salary reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement. [2000 c 78 § 1.]

Retroactive application—2000 c 78 § 1: "Section 1 of this act applies on a retroactive basis to members for whom compensation and hours were reported under the circumstances described in section 1 of this act. Section 1 of this act may also be applied on a retroactive basis to November 23, 1987, to members for whom compensation and hours would have been reported except for explicit instructions from the department of retirement systems." [2000 c 78 § 2.]

43.43.240 Legal adviser. The attorney general shall be the legal adviser of the retirement board. [1965 c 8 § 43.43.240. Prior: 1947 c 250 § 13; Rem. Supp. 1947 § 6362-93.]

43.43.250 Retirement of members. (1)(a) Until July 1, 2007, any member who has attained the age of sixty years shall be retired on the first day of the calendar month next succeeding that in which the member has attained the age of sixty. However, the requirement to retire at age sixty does not apply to a member serving as chief of the Washington state patrol.

(b) Beginning July 1, 2007, any active member who has obtained the age of sixty-five years shall be retired on the first day of the calendar month next succeeding that in which the member has attained the age of sixty-five. However, the requirement to retire at age sixty-five does not apply to a member serving as chief of the Washington state patrol.

(2) Any member who has completed twenty-five years of credited service or has attained the age of fifty-five may apply to retire as provided in RCW 43.43.260, by completing and submitting an application form to the department, setting forth at what time the member desires to be retired. [2007 c 87 § 1; 1982 1st ex.s. c 52 § 26; 1975-'76 2nd ex.s. c 116 § 1; 1969 c 12 § 3; 1965 c 8 § 43.43.250. Prior: 1963 c 175 § 1; 1957 c 162 § 3; 1951 c 140 § 4; 1947 c 250 § 14; Rem. Supp. 1947 § 6362-94.]

Additional notes found at www.leg.wa.gov

43.43.260 Benefits—Military service credit. Upon retirement from service as provided in RCW 43.43.250, a member shall be granted a retirement allowance which shall consist of:

(1) A prior service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of prior service rendered by the member.

(2) A current service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of service rendered while a member of the retirement system.

(3)(a) Any member commissioned prior to January 1, 2003, with twenty-five years service in the Washington state patrol may have the member's service in the uniformed services credited as a member whether or not the individual left the employ of the Washington state patrol to enter such uniformed services: PROVIDED, That in no instance shall military service in excess of five years be credited: AND PROVIDED FURTHER, That in each instance, a member must restore all withdrawn accumulated contributions, which restoration must be completed on the date of the member's retirement, or as provided under RCW 43.43.130, whichever occurs first: AND PROVIDED FURTHER, That this section shall not apply to any individual, not a veteran within the meaning of RCW 41.06.150.

(b) A member who leaves the Washington state patrol to enter the uniformed services of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(i) The member qualifies for service credit under this subsection if:

(A) Within ninety days of the member's honorable discharge from the uniformed services of the United States, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the uniformed services; and

(B) The member makes the employee contributions required under RCW 41.45.0631 and 41.45.067 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(C) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2); or

(D) If the member was commissioned on or after January 1, 2003, and, prior to retirement, the member provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. Any member who made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005 may, prior to retirement and on a form provided by the department, request a refund of the funds standing to his or her credit for up to five years of such service, and this amount shall be paid to him or her. Members with one or more periods of interruptive military service credit during a

period of war may receive no more than five years of free retirement system service credit under this subsection.

(ii) Upon receipt of member contributions under (b)(i)(B), (b)(iv)(C), and (b)(v)(C) of this subsection, or adequate proof under (b)(i)(D), (b)(iv)(D), or (b)(v)(D) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under RCW 41.45.060 for the period of military service, plus interest as determined by the department.

(iii) The contributions required under (b)(i)(B), (b)(iv)(C), and (b)(v)(C) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

(iv) The surviving spouse or lawful domestic partner or eligible child or children of a member who left the employ of an employer to enter the uniformed services of the United States and died while serving in the uniformed services may, on behalf of the deceased member, apply for retirement system service credit under this subsection up to the date of the member's death in the uniformed services. The department shall establish the deceased member's service credit if the surviving spouse or lawful domestic partner or eligible child or children:

(A) Provides to the director proof of the member's death while serving in the uniformed services;

(B) Provides to the director proof of the member's honorable service in the uniformed services prior to the date of death; and

(C) If the member was commissioned on or after January 1, 2003, pays the employee contributions required under chapter 41.45 RCW within five years of the date of death or prior to the distribution of any benefit, whichever comes first; or

(D) If the member was commissioned on or after January 1, 2003, and, prior to the distribution of any benefit, provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. If the deceased member made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005, the surviving spouse or eligible child or children may, prior to the distribution of any benefit and on a form provided by the department, request a refund of the funds standing to the deceased member's credit for up to five years of such service, and this amount shall be paid to the surviving spouse or children. Members with one or more periods of interruptive military service during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(v) A member who leaves the employ of an employer to enter the uniformed services of the United States and becomes totally incapacitated for continued employment by an employer while serving in the uniformed services is entitled to retirement system service credit under this subsection up to the date of discharge from the uniformed services if:

(A) The member obtains a determination from the director that he or she is totally incapacitated for continued employment due to conditions or events that occurred while serving in the uniformed services;

(B) The member provides to the director proof of honorable discharge from the uniformed services; and

(C) If the member was commissioned on or after January 1, 2003, the member pays the employee contributions required under chapter 41.45 RCW within five years of the director's determination of total disability or prior to the distribution of any benefit, whichever comes first; or

(D) If the member was commissioned on or after January 1, 2003, and, prior to retirement, the member provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. Any member who made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005 may, prior to retirement and on a form provided by the department, request a refund of the funds standing to his or her credit for up to five years of such service, and this amount shall be paid to him or her. Members with one or more periods of interruptive military service during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(4) In no event shall the total retirement benefits from subsections (1), (2), and (3) of this section, of any member exceed seventy-five percent of the member's average final salary.

(5) Beginning July 1, 2001, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

(a) The original dollar amount of the retirement allowance;

(b) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";

(c) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(d) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

(i) Produce a retirement allowance which is lower than the original retirement allowance;

(ii) Exceed three percent in the initial annual adjustment; or

(iii) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index for the Seattle-Tacoma-Bremerton Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

The provisions of this section shall apply to all members presently retired and to all members who shall retire in the future. [2009 c 522 § 2; 2009 c 205 § 9; 2005 c 64 § 10; 2002 c 27 § 3; 2001 c 329 § 4; 1994 c 197 § 34; 1982 1st ex.s. c 52 § 27; 1973 1st ex.s. c 180 § 3; 1971 ex.s. c 278 § 1; 1969 c 12 § 4; 1965 c 8 § 43.43.260. Prior: 1963 c 175 § 2; 1957 c 162 § 4; 1955 c 244 § 2; 1951 c 140 § 5; 1947 c 250 § 15; Rem. Supp. 1947 § 6362-95.]

Reviser's note: This section was amended by 2009 c 205 § 9 and by 2009 c 522 § 2, each without reference to the other. Both amendments are

incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2001 c 329: See note following RCW 43.43.120.

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Additional notes found at www.leg.wa.gov

43.43.263 Effect of certain accumulated vacation leave on retirement benefits. RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter. [1983 c 283 § 5.]

43.43.264 Benefit calculation—Limitation. (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section. [1995 c 145 § 4.]

43.43.270 Retirement allowances—Survivors of disabled members—Members commissioned before January 1, 2003. For members commissioned prior to January 1, 2003:

(1) The normal form of retirement allowance shall be an allowance which shall continue as long as the member lives.

(2) If a member should die while in service, or a member leaves the employ of the employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, the member's lawful spouse or lawful domestic partner shall be paid an allowance which shall be equal to fifty percent of the average final salary of the member. If the member should die after retirement the member's lawful spouse or lawful domestic partner shall be paid an allowance which shall be equal to the retirement allowance then payable to the member or fifty percent of the final average salary used in computing the member's retirement allowance, whichever is less. The allowance paid to the lawful spouse or lawful domestic partner shall continue as long as the spouse or domestic partner lives: PROVIDED, That if a surviving spouse or domestic partner who is receiving benefits under this subsection marries, or enters into a domestic partnership with, another member of this retirement system who subsequently predeceases such spouse or domestic partner, the spouse or domestic partner shall then be entitled to receive the higher of the two survivors' allowances for which eligibility requirements were met, but a surviving spouse or domestic partner shall not receive more than one survivor's allowance from this system at the same time under this subsection. To be eligible for an allowance the lawful surviving spouse or lawful domestic partner of a retired member shall have been married to, or in a domestic partnership with, the member prior to the member's retirement and continuously thereafter until the date of the member's death or shall have been married to, or in a domestic partnership with, the retired member at least two years prior to the member's death. The allowance paid to the lawful spouse or lawful domestic partner may be divided with an

ex spouse or ex domestic partner of the member by a dissolution order as defined in RCW 41.50.500(3) incident to a dissolution occurring after July 1, 2002. The dissolution order must specifically divide both the member's benefit and any spousal or domestic partner survivor benefit, and must fully comply with RCW 41.50.670 and 41.50.700.

(3) If a member should die, either while in service or after retirement, the member's surviving unmarried children under the age of eighteen years shall be provided for in the following manner:

(a) If there is a surviving spouse or domestic partner, each child shall be entitled to a benefit equal to five percent of the final average salary of the member or retired member. The combined benefits to the surviving spouse or domestic partner and all children shall not exceed sixty percent of the final average salary of the member or retired member; and

(b) If there is no surviving spouse or domestic partner or the spouse or domestic partner should die, the child or children shall be entitled to a benefit equal to thirty percent of the final average salary of the member or retired member for one child and an additional ten percent for each additional child. The combined benefits to the children under this subsection shall not exceed sixty percent of the final average salary of the member or retired member. Payments under this subsection shall be prorated equally among the children, if more than one.

(4) If a member should die in the line of duty while employed by the Washington state patrol, or a member leaves the employ of the employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, the member's surviving children under the age of twenty years and eleven months if attending any high school, college, university, or vocational or other educational institution accredited or approved by the state of Washington shall be provided for in the following manner:

(a) If there is a surviving spouse or domestic partner, each child shall be entitled to a benefit equal to five percent of the final average salary of the member. The combined benefits to the surviving spouse or domestic partner and all children shall not exceed sixty percent of the final average salary of the member;

(b) If there is no surviving spouse or domestic partner or the spouse or domestic partner should die, the unmarried child or children shall be entitled to receive a benefit equal to thirty percent of the final average salary of the member or retired member for one child and an additional ten percent for each additional child. The combined benefits to the children under this subsection shall not exceed sixty percent of the final average salary. Payments under this subsection shall be prorated equally among the children, if more than one; and

(c) If a beneficiary under this subsection reaches the age of twenty-one years during the middle of a term of enrollment the benefit shall continue until the end of that term.

(5)(a) The provisions of this section shall apply to members who have been retired on disability as provided in RCW 43.43.040 if the officer was a member of the Washington state patrol retirement system at the time of such disability retirement.

(b) For the purposes of this subsection, average final salary as used in subsection (2) of this section means:

(i) For members commissioned prior to January 1, 2003, the average monthly salary received by active members of the patrol of the rank at which the member became disabled, during the two years prior to the death of the disabled member; and

(ii) For members commissioned on or after January 1, 2003, the average monthly salary received by active members of the patrol of the rank at which the member became disabled, during the five years prior to the death of the disabled member.

(c) The changes to the definitions of average final salary for the survivors of disabled members in this subsection shall apply retroactively. The department shall correct future payments to eligible survivors of members disabled prior to June 7, 2006, and, as soon as administratively practicable, pay each survivor a lump sum payment reflecting the difference, as determined by the director, between the survivor benefits previously received by the member, and those the member would have received under the definitions of average final salary created in chapter 94, Laws of 2006. [2009 c 522 § 3; 2009 c 226 § 3; 2006 c 94 § 1; 2002 c 158 § 15; 2001 c 329 § 6; 1989 c 108 § 1; 1984 c 206 § 1; 1982 1st ex.s. c 52 § 28; 1973 2nd ex.s. c 14 § 3; 1973 1st ex.s. c 180 § 4. Prior: 1969 c 12 § 6; 1965 c 8 § 43.43.270; prior: 1963 c 175 § 3; 1961 c 93 § 2; 1951 c 140 § 6; 1947 c 250 § 16; Rem. Supp. 1947 § 6362-96.]

Reviser's note: This section was amended by 2009 c 226 § 3 and by 2009 c 522 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2001 c 329: See note following RCW 43.43.120.

Additional notes found at www.leg.wa.gov

43.43.271 Retirement allowances—Members commissioned on or after January 1, 2003—Court-approved property settlement. (1) A member commissioned on or after January 1, 2003, upon retirement for service as prescribed in RCW 43.43.250 shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout the member's life. However, if the retiree dies before the total of the retirement allowance paid to the retiree equals the amount of the retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse or domestic partner; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse or domestic partner, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and

paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married or in a domestic partnership, must provide the written consent of his or her spouse or domestic partner to the option selected under this section, except as provided in (b) of this subsection. If a member is married or in a domestic partnership and both the member and member's spouse or domestic partner do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse or domestic partner as the beneficiary. This benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless consent by the spouse or domestic partner is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spouse or domestic partner consent provisions of (a) of this subsection do not apply.

(3) No later than January 1, 2003, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse or domestic partner from a postretirement marriage or domestic partnership as a survivor during a one-year period beginning one year after the date of the postretirement marriage or domestic partnership provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage or domestic partnership prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse or domestic partner as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a non-spouse or a nondomestic partner as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who has completed at least five years of service and the member's divorcing spouse or

former domestic partner be divided into two separate benefits payable over the life of each spouse or domestic partner.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried or in a domestic partnership at the time of retirement remains subject to the spouse or domestic partner consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse or former domestic partner shall be eligible to commence receiving their separate benefit upon reaching the ages provided in RCW 43.43.250(2) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse or domestic partner if the nonmember ex spouse or former domestic partner was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse or former domestic partner shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution. [2009 c 522 § 4; 2003 c 294 § 14; 2002 c 158 § 16; 2001 c 329 § 5.]

Effective date—2001 c 329: See note following RCW 43.43.120.

43.43.274 Minimum retirement allowance—Annual adjustment. Effective January 1, 2003, the minimum retirement allowance under RCW 43.43.260 and 43.43.270(2) in effect on January 1, 2002, shall be increased by three percent. Each January 1st thereafter, the minimum retirement allowance of the preceding year shall be increased by three percent. [2001 c 329 § 8; 1999 c 74 § 3; 1997 c 72 § 1.]

Effective date—2001 c 329: See note following RCW 43.43.120.

43.43.278 Retirement option. By July 1, 2000, the department of retirement systems shall adopt rules that allow a member to select an actuarially equivalent retirement option that pays the member a reduced retirement allowance and upon death shall be continued throughout the life of a lawful surviving spouse or lawful domestic partner. The continuing allowance to the lawful surviving spouse or lawful domestic partner shall be subject to the yearly increase provided by RCW 43.43.260(5). The allowance to the lawful surviving spouse or lawful domestic partner under this section, and the allowance for an eligible child or children under RCW 43.43.270, shall not be subject to the limit for combined benefits under RCW 43.43.270. [2009 c 522 § 5; 2001 c 329 § 9; 2000 c 186 § 9; 1999 c 74 § 4.]

Effective date—2001 c 329: See note following RCW 43.43.120.

43.43.280 Repayment of contributions on death or termination of employment—Election to receive reduced retirement allowance at age fifty-five. (1) If a member dies before retirement, and has no surviving spouse or domestic partner or children under the age of eighteen years, all contributions made by the member, including any amount paid under RCW 41.50.165(2), with interest as determined by the director, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to such person or persons as the member shall have nominated by written designation duly executed and filed with the department, or if there be no such designated person or persons, then to the member's legal representative.

(2) If a member should cease to be an employee before attaining age sixty for reasons other than the member's death, or retirement, the individual shall thereupon cease to be a member except as provided under RCW 43.43.130 (2), (3), and (4) and, the individual may withdraw the member's contributions to the retirement fund, including any amount paid under RCW 41.50.165(2), with interest as determined by the director, by making application therefor to the department, except that: A member who ceases to be an employee after having completed at least five years of service shall remain a member during the period of the member's absence from employment for the exclusive purpose only of receiving a retirement allowance to begin at attainment of age sixty, however such a member may upon written notice to the department elect to receive a reduced retirement allowance on or after age fifty-five which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions, the individual shall thereupon cease to be a member and this subsection shall not apply. [2009 c 522 § 6; 1994 c 197 § 35; 1991 c 365 § 32; 1987 c 215 § 2; 1982 1st ex.s. c 52 § 29; 1973 1st ex.s. c 180 § 5; 1969 c 12 § 7; 1965 c 8 § 43.43.280. Prior: 1961 c 93 § 3; 1951 c 140 § 7; 1947 c 250 § 17; Rem. Supp. 1947 § 6363-97.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Additional notes found at www.leg.wa.gov

43.43.285 Special death benefit—Course of employment—Occupational disease or infection—Annual adjustment. (1) A two hundred fourteen thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2)(a) The benefit under this section shall be paid only where death occurs as a result of (i) injuries sustained in the course of employment; or (ii) an occupational disease or

infection that arises naturally and proximately out of employment covered under this chapter. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(b) The retirement allowance paid to the spouse or domestic partner and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(16), shall include reimbursement for any payments of premium rates to the Washington state health care authority under RCW 41.05.080.

(3)(a) Beginning July 1, 2010, and every year thereafter, the department shall determine the following information:

(i) The index for the 2008 calendar year, to be known as "index A";

(ii) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(iii) The ratio obtained when index B is divided by index A.

(b) The value of the ratio obtained shall be the annual adjustment to the original death benefit and shall be applied beginning every July 1st. In no event, however, shall the annual adjustment:

(i) Produce a benefit which is lower than two hundred fourteen thousand dollars;

(ii) Exceed three percent in the initial annual adjustment; or

(iii) Differ from the previous year's annual adjustment by more than three percent.

(c) For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. [2010 c 261 § 7; 2009 c 522 § 7. Prior: 2007 c 488 § 1; 2007 c 487 § 9; 1996 c 226 § 2.]

Application—2010 c 261: See note following RCW 41.26.048.

Short title—2007 c 488: "This act shall be known as "The Steve Frink's and Jim Saunder's Law" in honor of Steve Frink and Jim Saunders, Washington state patrol officers who were killed in the line of duty." [2007 c 488 § 5.]

Additional notes found at www.leg.wa.gov

43.43.286 Rights reserved to the legislature—No future contractual rights. The legislature reserves the right to amend or repeal the reimbursement provisions of chapter 488, Laws of 2007 in the future and no member or beneficiary has a contractual right to receive any distribution not granted prior to that time. [2007 c 488 § 4.]

Short title—2007 c 488: See note following RCW 43.43.285.

43.43.290 Status in case of disablement. A person receiving benefits under RCW 43.43.040 will be a nonactive member. If any person who is or has been receiving benefits under RCW 43.43.040 returns or has returned to active duty with the Washington state patrol, the person shall become an active member of the retirement system on the first day of reemployment. The person may acquire service credit for the period of disablement by paying into the retirement fund all contributions required based on the compensation which

would have been received had the person not been disabled. To acquire service credit, the person shall complete the required payment within five years of return to active service or prior to retirement, whichever occurs first. Persons who return to active service prior to July 1, 1982, shall complete the required payment within five years of July 1, 1982, or prior to retirement, whichever occurs first. No service credit for the disability period may be allowed unless full payment is made. Interest shall be charged at the rate set by the director of retirement systems from the date of return to active duty or from July 1, 1982, whichever is later, until the date of payment. The Washington state patrol shall pay into the retirement system the amount which it would have contributed had the person not been disabled. The payment shall become due and payable, in total, when the person makes the first payment. If the person fails to complete the full payment required within the time period specified, any payments made to the retirement fund under this section shall be refunded with interest and any payment by the Washington state patrol to the retirement fund for this purpose shall be refunded. [1982 1st ex.s. c 52 § 30; 1965 c 8 § 43.43.290. Prior: 1947 c 250 § 18; Rem. Supp. 1947 § 6362-98.]

Additional notes found at www.leg.wa.gov

43.43.295 Accumulated contributions—Payment upon death of member. (1) For members commissioned on or after January 1, 2003, except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) If a member who is killed in the course of employment or a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or domestic partner or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 43.43.260, actuarially reduced, except under subsection (4) of this section, by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 43.43.278 and if the member was not eligible for normal retirement at

the date of death a further reduction from age fifty-five or when the member could have attained twenty-five years of service, whichever is less; if a surviving spouse or domestic partner who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse or domestic partner, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse or domestic partner eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated under this section making the assumption that the ages of the spouse or domestic partner and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, and is not survived by a spouse or domestic partner or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) The retirement allowance of a member who is killed in the course of employment, as determined by the director of the department of labor and industries, or the retirement allowance of a member who has left the employ of an employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, is not subject to an actuarial reduction for early retirement if the member was not eligible for normal retirement or an actuarial reduction to reflect a joint and one hundred percent survivor option under RCW 43.43.278. The member is entitled to a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five. [2010 c 261 § 6. Prior: 2009 c 522 § 8; 2009 c 226 § 4; 2004 c 171 § 1; 2004 c 170 § 1; 2003 c 294 § 15; 2001 c 329 § 7.]

Application—2010 c 261 § 6: "Section 6 of this act applies prospectively to the benefits of all members killed in the course of employment since January 1, 2003." [2010 c 261 § 10.]

Effective date—2001 c 329: See note following RCW 43.43.120.

43.43.310 Benefits exempt from taxation and legal process—Assignability—Exceptions—Deductions for group insurance premiums or for state patrol memorial foundation contributions. (1) Except as provided in subsections (2) and (3) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions hereof and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of members of the Washington state patrol or other public employees of the state of Washington, or for contributions to the Washington state patrol memorial foundation. [1991 c 365 § 23; 1989 c 360 § 29. Prior: 1987 c 326 § 25; 1987 c 63 § 1; 1982 1st ex.s. c 52 § 31; 1979 ex.s. c 205 § 8; 1977 ex.s. c 256 § 1; 1965 c 8 § 43.43.310; prior: 1951 c 140 § 8; 1947 c 250 § 20; Rem. Supp. 1947 § 6362-100.]

Additional notes found at www.leg.wa.gov

43.43.320 Penalty for falsification. Any person who knowingly makes any false statement or falsifies or permits to be falsified any record or records of the Washington state patrol retirement fund in any attempt to defraud such fund shall be guilty of a gross misdemeanor. [1965 c 8 § 43.43.320. Prior: 1947 c 250 § 21; Rem. Supp. 1947 § 6362-101.]

43.43.330 Examinations for promotion. Appropriate examinations shall be conducted for the promotion of commissioned patrol officers to the rank of sergeant and lieutenant. The examinations shall be prepared and conducted under the supervision of the chief of the Washington state patrol, who shall cause at least thirty days written notice thereof to be given to all patrol officers eligible for such examinations. The written notice shall specify the expected type of examination and relative weights to be assigned if a combination of tests is to be used. Examinations shall be given once every

two years, or whenever the eligible list becomes exhausted as the case may be. After the giving of each such examination a new eligible list shall be compiled replacing any existing eligible list for such rank. Only grades attained in the last examination given for a particular rank shall be used in compiling each eligible list therefor. The chief, or in his or her discretion a committee of three individuals appointed by him or her, shall prepare and conduct the examinations, and thereafter grade and evaluate them in accordance with the following provisions, or factors: For promotion to the rank of sergeant or lieutenant, the examination shall consist of one or more of the following components: (1) Oral examination; (2) written examination; (3) service rating; (4) personnel record; (5) assessment center or other valid tests that measures the skills, knowledge, and qualities needed to perform these jobs. A cutoff score may be set for each testing component that allows only those scoring above the cutoff on one component to proceed to take a subsequent component. [2009 c 549 § 5127; 1993 c 155 § 1; 1985 c 4 § 1; 1969 ex.s. c 20 § 1; 1965 c 8 § 43.43.330. Prior: 1959 c 115 § 1; 1949 c 192 § 2; Rem. Supp. 1949 § 6362-61a.]

43.43.340 Eligible list, and promotions therefrom—Affirmative action. (1) The names of all officers who have passed examinations satisfactorily shall be placed on an eligible list in the order of the grade attained in the examinations. The chief, or the committee mentioned in RCW 43.43.330 at the chief's request, may determine the lowest examination grade which will qualify an officer for inclusion of his or her name on an eligible list. Examination papers shall be graded promptly and an eligible list shall be made up immediately thereafter. All officers taking an examination shall be informed of the grade earned.

(2) After an eligible list is made up all promotions shall be made from the five top names on the applicable list, and if needed to comply with affirmative action goals three additional names referred under subsection (3) of this section. Not all three additional names need be promoted at the time they are referred and they may be referred more than once. Each officer shall be informed in writing as his or her name is included in the top five on an eligible list or referred under subsection (3) of this section. No officer whose name appears within the top five on any eligible list shall be passed over for promotion more than three times.

(3) If the vacancy to be filled is identified as part of the state patrol's affirmative action goals as established under its affirmative action plan, the chief may refer for consideration up to three additional names per vacancy of individuals who are on the eligible list and who are members of one or more of the protected groups under Title VII of the 1964 Civil Rights Act and chapter 49.60 RCW, or for federal contract compliance purposes, veterans and disabled veterans as defined in the Vietnam Era Veterans Readjustment Act of 1974, Title 41 C.F.R., chapter 60, part 60-250.

The three additional names referred for each vacancy shall be the top three members of the protected groups designated by the chief for referral for that vacancy in accordance with the state patrol's affirmative action goals. These names shall be drawn in rank order from the remaining names of protected group members on the eligible list, after ranking by

examination grade. For each vacancy, a total of three supplementary names may be referred.

(4) After having qualified for promotion hereunder an officer must pass a medical examination and must be certified as to physical fitness to perform the duties of the advanced position by one of three doctors designated by the chief of the Washington state patrol.

(5) The state patrol shall consult with the human rights commission in the development of rules pertaining to affirmative action. The state patrol shall transmit a report annually to the human rights commission which states the progress the state patrol has made in meeting affirmative action goals and timetables. [1985 c 365 § 6; 1965 c 8 § 43.43.340. Prior: 1949 c 192 § 3; Rem. Supp. 1949 § 6362-61b.]

43.43.350 Determination of eligibility for examination for promotion. Eligibility for examination for promotion shall be determined as follows:

Patrol officers with one year of probationary experience, in addition to three years experience as a regular patrol officer before the date of the first examination occurrence, shall be eligible for examination for the rank of sergeant; patrol officers with one year of probationary experience in the rank of sergeant before the date of the first examination occurrence, in addition to two years as a regular sergeant, shall be eligible for examination for the rank of lieutenant. [2009 c 549 § 5128; 1998 c 193 § 1; 1969 ex.s. c 20 § 2; 1965 c 8 § 43.43.350. Prior: 1949 c 192 § 4, part; Rem. Supp. 1949 § 6362-61c, part.]

43.43.360 Probationary period. All newly appointed or promoted officers shall serve a probationary period of one year after appointment or promotion, whereupon their probationary status shall terminate, and they shall acquire regular status in the particular grade, unless given notice in writing to the contrary by the chief prior to the expiration of the probationary period. [1984 c 141 § 5; 1965 c 8 § 43.43.360. Prior: 1949 c 192 § 4, part; Rem. Supp. 1949 § 6362-61c, part.]

43.43.370 Staff or technical officers. The chief of the Washington state patrol may appoint such staff or technical officers as he or she deems necessary for the efficient operation of the patrol, and he or she may assign whatever rank he or she deems necessary to such staff or technical officers for the duration of their service as such.

Staff or technical officers may be returned to their line rank or position whenever the chief so desires. Staff or technical officers without line command assignment and whose duties are of a special or technical nature shall hold their staff or technical rank on a continuing probationary basis; however, such staff or technical officers, if otherwise eligible, shall not be prevented from taking the line promotion examinations, and qualifying for promotion whenever the examinations may be held.

If a staff or technical officer returns to line operations he or she shall return in the rank that he or she holds in the line command, unless promoted to a higher rank through examination and appointment as herein provided: PROVIDED, Nothing contained herein shall be construed as giving the

chief the right to demote or to reduce the rank of any officer of the patrol who was holding such office on April 1, 1949. [2009 c 549 § 5129; 1965 c 8 § 43.43.370. Prior: 1949 c 192 § 5; Rem. Supp. 1949 § 6362-61d.]

43.43.380 Minimum salaries. The minimum monthly salary paid to state patrol officers shall be as follows: Officers, three hundred dollars; staff or technical sergeants, three hundred twenty-five dollars; line sergeants, three hundred fifty dollars; lieutenants, three hundred seventy-five dollars; captains, four hundred twenty-five dollars. [1965 c 8 § 43.43.380. Prior: 1949 c 192 § 6; Rem. Supp. 1949 § 6362-61e.]

43.43.390 Bicycle awareness program—Generally. Bicycling is increasing in popularity as a form of recreation and as an alternative mode of transportation. To make bicycling safer, the various law enforcement agencies should enforce traffic regulations for bicyclists. By enforcing bicycle regulations, law enforcement officers are reinforcing educational programs. Bicycling takes more skill than most people realize. Since bicyclists have a low profile in traffic and are unprotected, they need more defensive riding skills than motorists do.

A bicycle awareness program is created within the Washington state patrol. In developing the curriculum for the bicycle awareness program the patrol shall consult with the traffic safety commission and with bicycling groups providing bicycle safety education. The patrol shall conduct the program in conjunction with the safety education officer program and may use other law enforcement personnel and volunteers to implement the program for children in grades kindergarten through six. The patrol shall ensure that each safety educator presenting the bicycle awareness program has received specialized training in bicycle safety education and has been trained in effective defensive bicycle riding skills. [1991 c 214 § 1.]

Bicycle transportation management program: RCW 47.04.190.

43.43.395 Ignition interlock devices—Standards—Compliance. (1) The state patrol shall by rule provide standards for the certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, as defined under RCW 46.04.215, and equipment as outlined under this section, and may inspect the records and equipment of manufacturers and vendors during regular business hours for compliance with statutes and rules and may suspend or revoke certification for any noncompliance. The state patrol may only inspect ignition interlock devices in the vehicles of customers for proper installation and functioning when installation is being done at the vendors' place of business.

(2)(a) When a certified service provider or individual installer of ignition interlock devices is found to be out of compliance, the installation privileges of that certified service provider or individual installer may be suspended or revoked until the certified service provider or individual installer comes into compliance. During any suspension or revocation period, the certified service provider or individual

installer is responsible for notifying affected customers of any changes in their service agreement.

(b) A certified service provider or individual installer whose certification is suspended or revoked for noncompliance has a right to an administrative hearing under chapter 34.05 RCW to contest the suspension or revocation, or both. For the administrative hearing, the procedure and rules of evidence are as specified in chapter 34.05 RCW, except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the receipt of the notice of suspension or revocation.

(3)(a) An ignition interlock device must employ fuel cell technology. For the purposes of this subsection, "fuel cell technology" consists of the following electrochemical method: An electrolyte designed to oxidize the alcohol and release electrons to be collected by an active electrode; a current flow is generated within the electrode proportional to the amount of alcohol oxidized on the fuel cell surface; and the electrical current is measured and reported as breath alcohol concentration. Fuel cell technology is highly specific for alcohols.

(b) To be certified, an ignition interlock device must:

(i) Meet or exceed the minimum test standards according to rules adopted by the state patrol. Only a notarized statement from a laboratory that is certified by the international organization of standardization and is capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards. The notarized statement must include the name and signature of the person in charge of the tests under the following statement:

"Two samples of (model name), manufactured by (manufacturer) were tested by (laboratory) certified by the International Organization of Standardization. They do meet or exceed all specifications listed in the Federal Register, Volume 71, Number 31 (57 FR 11772), Breath Alcohol Ignition Interlock Devices (BAIID), NHTSA 2005-23470."; and

(ii) Be maintained in accordance with the rules and standards adopted by the state patrol. [2010 c 268 § 2.]

43.43.3951 Ignition interlock devices—Limited exemption for companies not using devices employing fuel cell technology. For the purposes of RCW 43.43.395, companies not using ignition interlock devices that employ fuel cell technology as of June 10, 2010, shall have five years from June 10, 2010, to begin using ignition interlock devices that employ fuel cell technology. [2010 c 268 § 3.]

43.43.400 Aquatic invasive species enforcement account—Aquatic invasive species enforcement program for recreational and commercial watercraft—Reports to the legislature. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise:

(a) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under *RCW 77.08.010 (49) through (54), aquatic noxious weeds as defined under RCW

17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

(b) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.

(2) The aquatic invasive species enforcement account is created in the state treasury. Moneys directed to the account from **RCW 88.02.050 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(3) Funds in the aquatic invasive species enforcement account may be appropriated to the Washington state patrol and the department of fish and wildlife to develop an aquatic invasive species enforcement program for recreational and commercial watercraft, which includes equipment used to transport the watercraft and auxiliary equipment such as attached or detached outboard motors. Funds must be expended as follows:

(a) By the Washington state patrol, to inspect recreational and commercial watercraft that are required to stop at port of entry weigh stations managed by the Washington state patrol. The watercraft must be inspected for the presence of aquatic invasive species; and

(b) By the department of fish and wildlife to:

(i) Establish random check stations, to inspect recreational and commercial watercraft as provided for in RCW 77.12.879(3);

(ii) Inspect or delegate inspection of recreational and commercial watercraft. If the department conducts the inspection, there will be no cost to the person requesting the inspection;

(iii) Provide training to all department employees that are deployed in the field to inspect recreational and commercial watercraft; and

(iv) Provide an inspection receipt verifying that the watercraft is not contaminated after the watercraft has been inspected at a check station or has been inspected at the request of the owner of the recreational or commercial watercraft. The inspection receipt is valid until the watercraft is used again.

(4) The Washington state patrol and the department of fish and wildlife shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of chapter 464, Laws of 2005. The first report is due December 1, 2007. [2007 c 350 § 1; 2005 c 464 § 5.]

Reviser's note: *(1) RCW 77.08.010 was amended by 2007 c 254 § 1, changing subsections (49) through (54) to subsections (48) through (53). RCW 77.08.010 was subsequently amended by 2008 c 277 § 2, changing subsections (48) through (53) to subsections (3), (25), (34), (38), (51), and (52). RCW 77.08.010 was subsequently amended by 2009 c 333 § 12, changing subsections (25), (34), (38), (51), and (52) to subsections (28), (40), (44), (58), and (59).

** (2) RCW 88.02.050 was recodified as RCW 88.02.560 pursuant to 2010 c 161 § 1233, effective July 1, 2011.

Findings—Intent—2005 c 464: See note following RCW 88.02.560.

43.43.480 Routine traffic enforcement information—Report to the legislature. (1) Beginning May 1, 2000, the (2010 Ed.)

Washington state patrol shall collect, and report semiannually to the criminal justice training commission, the following information:

(a) The number of individuals stopped for routine traffic enforcement, whether or not a citation or warning was issued;

(b) Identifying characteristics of the individual stopped, including the race or ethnicity, approximate age, and gender;

(c) The nature of the alleged violation that led to the stop;

(d) Whether a search was instituted as a result of the stop; and

(e) Whether an arrest was made, or a written citation issued, as a result of either the stop or the search.

(2) The criminal justice training commission and the Washington state patrol shall compile the information required under subsection (1) of this section and make a report to the legislature no later than December 1, 2000. [2000 c 118 § 1.]

Effective date—2000 c 118: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 24, 2000]." [2000 c 118 § 4.]

43.43.490 Routine traffic enforcement information—Data collection—Training materials on racial profiling.

(1) The Washington state patrol shall work with the criminal justice training commission and the Washington association of sheriffs and police chiefs to develop (a) further criteria for collection and evaluation of the data collected under RCW 43.43.480, and (b) training materials for use by the state patrol and local law enforcement agencies on the issue of racial profiling.

(2) The Washington state patrol, criminal justice training commission, and Washington association of sheriffs and police chiefs shall encourage local law enforcement agencies to voluntarily collect the data set forth under RCW 43.43.480(1). [2000 c 118 § 2.]

Effective date—2000 c 118: See note following RCW 43.43.480.

43.43.500 Crime information center—Established—Purpose—Functions.

There is established the Washington state crime information center to be located in the records division of the Washington state patrol and to function under the direction of the chief of the Washington state patrol. The center shall serve to coordinate crime information, by means of data processing, for all law enforcement agencies in the state. It shall make such use of the facilities of the law enforcement teletype system as is practical. It shall provide access to the national crime information center, to motor vehicle and driver license information, to the sex offender central registry, and to such other public records as may be accessed by data processing and which are pertinent to law enforcement. [1998 c 67 § 1; 1967 ex.s. c 27 § 1.]

Additional notes found at www.leg.wa.gov

43.43.510 Crime information center—Files of general assistance to law enforcement agencies established—Runaway children—Information publicly available. (1) As soon as is practical and feasible there shall be established, by means of data processing, files listing stolen and wanted vehicles, outstanding warrants, identifying children whose parents, custodians, or legal guardians have reported as hav-

ing run away from home or the custodial residence, identifiable stolen property, files maintaining the central registry of sex offenders required to register under chapter 9A.44 RCW, and such other files as may be of general assistance to law enforcement agencies.

(2)(a) At the request of a parent, legal custodian, or guardian who has reported a child as having run away from home or the custodial residence, the Washington state patrol shall make the information about the runaway child as is filed in subsection (1) of this section publicly available.

(b) The information that can be made publicly available under (a) of this subsection is limited to the information that will facilitate the safe return of the child to his or her home or custodial residence and so long as making the information publicly available incurs no additional costs. [2010 c 229 § 4; 1998 c 67 § 2; 1995 c 312 § 45; 1967 ex.s. c 27 § 2.]

Findings—2010 c 229: See note following RCW 13.32A.082.

Additional notes found at www.leg.wa.gov

43.43.530 Crime information center—Cost of terminal facilities. The cost of additional terminal facilities necessary to gain access to the Washington state crime information center shall be borne by the respective agencies operating the terminal facilities. [1967 ex.s. c 27 § 4.]

43.43.540 Sex offenders and kidnapping offenders—Central registry—Reimbursement to counties. The county sheriff shall (1) forward the information, photographs, and fingerprints obtained pursuant to RCW 9A.44.130, including the sex offender's risk level classification and any notice of change of address, to the Washington state patrol within five working days; and (2) upon implementation of RCW 4.24.550(5)(a), the Washington state patrol will forward the information necessary to operate the registered sex offender web site described in RCW 4.24.550(5)(a) to the Washington association of sheriffs and police chiefs within five working days of receiving the information, including any notice of change of address or change in risk level notification. The state patrol shall maintain a central registry of sex offenders and kidnapping offenders required to register under RCW 9A.44.130 and shall adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes of RCW 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The Washington state patrol shall reimburse the counties for the costs of processing the offender registration, including taking the fingerprints and the photographs. [2006 c 136 § 1; 2002 c 118 § 2; 1998 c 220 § 4; 1997 c 113 § 6; 1990 c 3 § 403.]

Reviser's note: The definitions in RCW 9A.44.128 apply to this section.

Conflict with federal requirements—2002 c 118: See note following RCW 4.24.550.

Findings—1997 c 113: See note following RCW 4.24.550.

Sex offense and kidnapping offense defined: RCW 9A.44.128.

Additional notes found at www.leg.wa.gov

43.43.550 Traffic safety education officers—Powers—Pay and reimbursement. (1) The chief of the Washington state patrol shall designate twenty-four or more officers as traffic safety education officers. The chief of the Wash-

ington state patrol shall make the designations in a manner designed to ensure that the programs under subsection (2) of this section are reasonably available in all areas of the state.

(2) The chief of the Washington state patrol may permit these traffic safety education officers to appear in their off-duty hours in uniform to give programs in schools or the community on the duties of the state patrol, traffic safety, or crime prevention.

(3) The traffic safety education officers may accept such pay and reimbursement of expenses as are approved by the state patrol from the sponsoring organization.

(4) The state patrol is encouraged to work with community organizations to set up these programs statewide. [1984 c 217 § 1.]

43.43.560 Automatic fingerprint information system—Report. (1) To support criminal justice services in the local communities throughout this state, the state patrol shall develop a plan for and implement an automatic fingerprint information system. In implementing the automatic fingerprint information system, the state patrol shall either purchase or lease the appropriate computer systems. If the state patrol leases a system, the lease agreement shall include purchase options. The state patrol shall procure the most efficient system available.

(2) The state patrol shall report on the automatic fingerprint information system to the legislature no later than January 1, 1987. The report shall include a time line for implementing each stage, a local agency financial participation analysis, a system analysis, a full cost/purchase analysis, a vendor bid evaluation, and a space location analysis that includes a site determination. The state patrol shall coordinate the preparation of this report with the office of financial management. [1986 c 196 § 1.]

43.43.565 Automatic fingerprint information system account. (1) The automatic fingerprint information system account is established in the custody of the state treasurer. Moneys in the account may be spent only for the purposes of purchasing or leasing automatic fingerprint information systems after appropriation by the legislature.

(2) Any moneys received by the state from bureau of justice assistance grants shall be deposited in the automatic fingerprint information system account if not inconsistent with the terms of the grant. [1986 c 196 § 2.]

43.43.570 Automatic fingerprint identification system—Conditions for local establishment or operation—Rules. (1) No local law enforcement agency may establish or operate an automatic fingerprint identification system unless both the hardware and software of the local system use an interface compatible with the state system under RCW 43.43.560. The local law enforcement agency shall be able to transmit a tenprint record to the state system through any available protocol which meets accepted industry standards, and the state system must be able to accept tenprint records which comply with those requirements. When industry transmission protocols change, the Washington state patrol shall incorporate these new standards as funding and reasonable system engineering practices permit. The tenprint transmis-

sion from any local law enforcement agency must be in accordance with the current version of the state electronic fingerprint transmission specification.

(2) No later than January 1, 2007, the Washington state patrol's automatic fingerprint identification system shall be capable of instantly accepting electronic latent search records from any Washington state local law enforcement agency. *If specific funding for the purposes of this subsection is not provided by June 30, 2006, in the omnibus appropriations act, or if funding is not obtained from another source by June 30, 2006, this subsection is null and void.

(3) A local law enforcement agency operating an automatic fingerprint identification system shall transmit data on fingerprint entries to the Washington state patrol electronically. This requirement shall be in addition to those under RCW 10.98.050 and 43.43.740.

(4) Any personnel functions necessary to prepare fingerprints for searches under this section shall be the responsibility of the submitting agency.

(5) The Washington state patrol shall adopt rules to implement this section. [2005 c 373 § 2; 1987 c 450 § 1.]

*Reviser's note: Specific funding was not provided in chapter 518, Laws of 2005 (omnibus appropriations act).

43.43.600 Drug control assistance unit—Created. There is hereby created in the Washington state patrol a drug control assistance unit. [1970 ex.s. c 63 § 1.]

43.43.610 Drug control assistance unit—Duties. The drug control assistance unit shall provide investigative assistance for the purpose of enforcement of the provisions of chapter 69.40 RCW. [1983 c 3 § 107; 1980 c 69 § 1; 1970 ex.s. c 63 § 2.]

43.43.620 Drug control assistance unit—Additional duties—Information system on violations—Inter-unit communications network. The drug control assistance unit shall:

(1) Establish a record system to coordinate with all law enforcement agencies in the state a comprehensive system of information concerning violations of the narcotic and drug laws.

(2) Provide a communications network capable of interconnecting all offices and investigators of the unit. [1970 ex.s. c 63 § 3.]

43.43.630 Drug control assistance unit—Use of existing facilities and systems. In order to maximize the efficiency and effectiveness of state resources, the drug control assistance unit shall, where feasible, use existing facilities and systems. [1970 ex.s. c 63 § 4.]

43.43.640 Drug control assistance unit—Certain investigators exempt from state civil service act. Any investigators employed pursuant to RCW 43.43.610 shall be exempt from the state civil service act, chapter 41.06 RCW. [1980 c 69 § 3; 1970 ex.s. c 63 § 5.]

43.43.650 Drug control assistance unit—Employment of necessary personnel. The chief of the Washington

state patrol may employ such criminalists, chemists, clerical and other personnel as are necessary for the conduct of the affairs of the drug control assistance unit. [1970 ex.s. c 63 § 6.]

43.43.655 Drug control assistance unit—Special narcotics enforcement unit. A special narcotics enforcement unit is established within the Washington state patrol drug control assistance unit. The unit shall be coordinated between the Washington state patrol, the attorney general, and the Washington association of sheriffs and police chiefs. The initial unit shall consist of attorneys, investigators, and the necessary accountants and support staff. It is the responsibility of the unit to: (1) Conduct criminal narcotic profiteering investigations and assist with prosecutions, (2) train local undercover narcotic agents, and (3) coordinate federal, state, and local interjurisdictional narcotic investigations. [1989 c 271 § 235.]

Reviser's note: 1989 c 271 § 235 directed that this section be added to chapter 9A.82 RCW. Since this placement appears inappropriate, this section has been codified in chapter 43.43 RCW.

Additional notes found at www.leg.wa.gov

43.43.670 Bureau of forensic laboratory services—Powers—Priorities. (1) There is created in the Washington state patrol a bureau of forensic laboratory services system which is authorized to:

(a) Provide laboratory services for the purpose of analyzing and scientifically handling any physical evidence relating to any crime.

(b) Provide training assistance for local law enforcement personnel.

(c) Provide all necessary toxicology services requested by all coroners, medical examiners, and prosecuting attorneys.

(2) The bureau of forensic laboratory services shall assign priority to a request for services with due regard to whether the case involves criminal activity against persons. The Washington state forensic investigations council shall assist the bureau of forensic laboratory services in devising policies to promote the most efficient use of laboratory services consistent with this section. The forensic investigations council shall be actively involved in the preparation of the bureau of forensic laboratory services budget and shall approve the bureau of forensic laboratory services budget prior to its formal submission by the state patrol to the office of financial management pursuant to RCW 43.88.030. [1999 c 40 § 6; 1995 c 398 § 1; 1980 c 69 § 2.]

Additional notes found at www.leg.wa.gov

43.43.680 Controlled substance, simulator solution analysis—Prima facie evidence. (1) In all prosecutions involving the analysis of a controlled substance or a sample of a controlled substance by the crime laboratory system of the state patrol, a certified copy of the analytical report signed by the supervisor of the state patrol's crime laboratory or the forensic scientist conducting the analysis is prima facie evidence of the results of the analytical findings.

(2) The defendant or a prosecutor may subpoena the forensic scientist who conducted the analysis of the substance to testify at the preliminary hearing and trial of the issue at no

cost to the defendant, if the subpoena is issued at least ten days prior to the trial date.

(3) In all prosecutions involving the analysis of a certified simulator solution by the Washington state toxicology laboratory of the University of Washington, a certified copy of the analytical report signed by the state toxicologist or the toxicologist conducting the analysis is prima facie evidence of the results of the analytical findings, and of certification of the simulator solution used in the BAC verifier datamaster or any other alcohol/breath-testing equipment subsequently adopted by rule.

(4) The defendant of a prosecution may subpoena the toxicologist who conducted the analysis of the simulator solution to testify at the preliminary hearing and trial of the issue at no cost to the defendant, if thirty days prior to issuing the subpoena the defendant gives the state toxicologist notice of the defendant's intention to require the toxicologist's appearance. [1994 c 271 § 501; 1992 c 129 § 1.]

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

43.43.690 Crime laboratory analysis—Guilty persons to pay fee. (1) When a person has been adjudged guilty of violating any criminal statute of this state and a crime laboratory analysis was performed by a state crime laboratory, in addition to any other disposition, penalty, or fine imposed, the court shall levy a crime laboratory analysis fee of one hundred dollars for each offense for which the person was convicted. Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay the fee.

(2) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of any criminal statute of this state and a crime laboratory analysis was performed, in addition to any other disposition imposed, the court shall assess a crime laboratory analysis fee of one hundred dollars for each adjudication. Upon a verified petition by a minor assessed the fee, the court may suspend payment of all or part of the fee [if] it finds that the minor does not have the ability to pay the fee.

(3) All crime laboratory analysis fees assessed under this section shall be collected by the clerk of the court and forwarded to the state general fund, to be used only for crime laboratories. The clerk may retain five dollars to defray the costs of collecting the fees. [1992 c 129 § 2.]

43.43.700 Identification and criminal history section. There is hereby established within the Washington state patrol a section on identification and criminal history hereafter referred to as the section.

In order to aid the administration of justice the section shall install systems for the identification of individuals, including the fingerprint system and such other systems as the chief deems necessary. The section shall keep a complete record and index of all information received in convenient form for consultation and comparison.

The section shall obtain from whatever source available and file for record the fingerprints, palmprints, photographs, or such other identification data as it deems necessary, of persons who have been or shall hereafter be lawfully arrested

and charged with, or convicted of any criminal offense. The section may obtain like information concerning persons arrested for or convicted of crimes under the laws of another state or government. [2006 c 294 § 1; 1998 c 141 § 2; 1989 c 334 § 6; 1987 c 486 § 9; 1985 c 201 § 7; 1984 c 17 § 17; 1972 ex.s. c 152 § 1.]

43.43.705 Identification data—Processing procedure—Definitions. Upon the receipt of identification data from criminal justice agencies within this state, the section shall immediately cause the files to be examined and upon request shall promptly return to the contributor of such data a transcript of the record of previous arrests and dispositions of the persons described in the data submitted.

Upon application, the section shall furnish to criminal justice agencies a transcript of the criminal history record information available pertaining to any person of whom the section has a record.

For the purposes of RCW 43.43.700 through 43.43.785 the following words and phrases shall have the following meanings:

"Criminal history record information" includes, and shall be restricted to identifying data and information recorded as the result of an arrest or other initiation of criminal proceedings and the consequent proceedings related thereto. "Criminal history record information" shall not include intelligence, analytical, or investigative reports and files.

"Criminal justice agencies" are those public agencies within or outside the state which perform, as a principal function, activities directly relating to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders.

The section may refuse to furnish any information pertaining to the identification or history of any person or persons of whom it has a record, or other information in its files and records, to any applicant if the chief determines that the applicant has previously misused information furnished to such applicant by the section or the chief believes that the applicant will not use the information requested solely for the purpose of due administration of the criminal laws or for the purposes enumerated in RCW 43.43.760(4). The applicant may appeal such determination by notifying the chief in writing within thirty days. The hearing shall be before an administrative law judge appointed under chapter 34.12 RCW and in accordance with procedures for adjudicative proceedings under chapter 34.05 RCW. [2006 c 294 § 2; 1999 c 151 § 1101; 1989 c 334 § 7; 1987 c 486 § 10; 1985 c 201 § 8; 1977 ex.s. c 314 § 14; 1972 ex.s. c 152 § 2.]

Additional notes found at www.leg.wa.gov

43.43.710 Availability of information. Information contained in the files and records of the section relative to the commission of any crime by any person shall be considered privileged and shall not be made public or disclosed for any personal purpose or in any civil court proceedings except upon a written order of the judge of a court wherein such civil proceedings are had. All information contained in the files of the section relative to criminal records and personal histories of persons arrested for the commission of a crime shall be available to all criminal justice agencies upon the filing of an application as provided in RCW 43.43.705.

Although no application for information has been made to the section as provided in RCW 43.43.705, the section may transmit such information in the chief's discretion, to such agencies as are authorized by RCW 43.43.705 to make application for it. [1995 c 369 § 13; 1987 c 486 § 11; 1986 c 266 § 87; 1985 c 201 § 9; 1979 ex.s. c 36 § 7. Prior: 1977 ex.s. c 314 § 15; 1977 ex.s. c 30 § 1; 1972 ex.s. c 152 § 3.]

Additional notes found at www.leg.wa.gov

43.43.715 Identification—Cooperation with other criminal justice agencies. The section shall, consistent with the procedures set forth in chapter 152, Laws of 1972 ex. sess., cooperate with all other criminal justice agencies within or without the state, in an exchange of information regarding convicted criminals and those suspected of or wanted for the commission of crimes to the end that proper identification may rapidly be made and the ends of justice served. [2006 c 294 § 3; 1989 c 334 § 8; 1985 c 201 § 10; 1972 ex.s. c 152 § 4.]

43.43.720 Local identification and records systems—Assistance. At the request of any criminal justice agency within this state, the section may assist such agency in the establishment of local identification and records systems. [1972 ex.s. c 152 § 5.]

43.43.725 Records as evidence. Any copy of a criminal history record, photograph, fingerprint, or other paper or document in the files of the section, certified by the chief or his or her designee to be a true and complete copy of the original or of information on file with the section, shall be admissible in evidence in any court of this state pursuant to the provisions of RCW 5.44.040. [2006 c 294 § 4; 1985 c 201 § 11; 1972 ex.s. c 152 § 6.]

43.43.730 Records—Inspection—Requests for purge or modification—Appeals. (1) Any individual shall have the right to inspect criminal history record information on file with the section which refers to the individual. If the individual believes such information to be inaccurate or incomplete, he or she may request the section to purge, modify or supplement it and to advise such persons or agencies who have received his or her record and whom the individual designates to modify it accordingly. Should the section decline to so act, or should the individual believe the section's decision to be otherwise unsatisfactory, the individual may appeal such decision to the superior court in the county in which he or she is resident, or the county from which the disputed record emanated or Thurston county. The court shall in such case conduct a de novo hearing, and may order such relief as it finds to be just and equitable.

(2) The section may prescribe reasonable hours and a place for inspection, and may impose such additional restrictions, including fingerprinting, as are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them: PROVIDED, That the section may charge a reasonable fee for fingerprinting. [2006 c 294 § 5; 1985 c 201 § 12; 1977 ex.s. c 314 § 16; 1972 ex.s. c 152 § 7.]

(2010 Ed.)

43.43.735 Photographing and fingerprinting—Powers and duties of law enforcement agencies—Other data. (1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state, to cause the photographing and fingerprinting of all adults and juveniles lawfully arrested for the commission of any criminal offense constituting a felony or gross misdemeanor. (a) When such juveniles are brought directly to a juvenile detention facility, the juvenile court administrator is also authorized, but not required, to cause the photographing, fingerprinting, and record transmittal to the appropriate law enforcement agency; and (b) a further exception may be made when the arrest is for a violation punishable as a gross misdemeanor and the arrested person is not taken into custody.

(2) It shall be the right, but not the duty, of the sheriff or director of public safety of every county, and the chief of police of every city or town, and every chief officer of other law enforcement agencies operating within this state to photograph and record the fingerprints of all adults lawfully arrested.

(3) Such sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may record, in addition to photographs and fingerprints, the palmprints, soleprints, toeprints, or any other identification data of all persons whose photograph and fingerprints are required or allowed to be taken under this section when in the discretion of such law enforcement officers it is necessary for proper identification of the arrested person or the investigation of the crime with which he or she is charged. [2009 c 549 § 5130; 2006 c 294 § 6; 1991 c 3 § 297. Prior: 1989 c 334 § 9; 1989 c 6 § 2; prior: 1987 c 486 § 12; 1987 c 450 § 2; 1985 c 201 § 13; 1972 ex.s. c 152 § 8.]

43.43.740 Photographing and fingerprinting—Transmittal of data. (1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state to furnish within seventy-two hours from the time of arrest to the section the required sets of fingerprints together with other identifying data as may be prescribed by the chief, of any person lawfully arrested, fingerprinted, and photographed pursuant to RCW 43.43.735.

(2) Law enforcement agencies may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. Said records shall remain in the possession of the law enforcement agency as part of the identification record and are not returnable to the subjects thereof. [2006 c 294 § 7; 1989 c 334 § 10. Prior: 1987 c 486 § 13; 1987 c 450 § 3; 1985 c 201 § 14; 1972 ex.s. c 152 § 9.]

43.43.742 Submission of fingerprints taken from persons for noncriminal purposes—Fees. The Washington state patrol shall adopt rules concerning submission of fingerprints taken by local agencies after July 26, 1987, from persons for license application or other noncriminal purposes. The Washington state patrol may charge fees for submission of fingerprints which will cover as nearly as practicable the

direct and indirect costs to the Washington state patrol of processing such submission. [1987 c 450 § 4.]

43.43.745 Convicted persons, fingerprinting required, records—Furloughs, information to section, notice to local agencies—Arrests, disposition information—Convicts, information to section, notice to local agencies—Registration of sex offenders. (1) It shall be the duty of the sheriff or director of public safety of every county, of the chief of police of each city or town, or of every chief officer of other law enforcement agencies operating within this state, to record the fingerprints of all persons held in or remanded to their custody when convicted of any crime as provided for in RCW 43.43.735 for which the penalty of imprisonment might be imposed and to disseminate and file such fingerprints in the same manner as those recorded upon arrest pursuant to RCW 43.43.735 and 43.43.740.

(2) Every time the secretary authorizes a furlough as provided for in RCW 72.66.012 the department of corrections shall notify, thirty days prior to the beginning of such furlough, the sheriff or director of public safety of the county to which the prisoner is being furloughed, the nearest Washington state patrol district facility in the county wherein the furloughed prisoner is to be residing, and other similar criminal justice agencies that the named prisoner has been granted a furlough, the place to which furloughed, and the dates and times during which the prisoner will be on furlough status. In the case of an emergency furlough the thirty-day time period shall not be required but notification shall be made as promptly as possible and before the prisoner is released on furlough.

(3) Disposition of the charge for which the arrest was made shall be reported to the section at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, county prosecutor, city attorney, or court having jurisdiction over the offense: PROVIDED, That the chief shall promulgate rules pursuant to chapter 34.05 RCW to carry out the provisions of this subsection.

(4) Whenever a person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, is released on an order of the state indeterminate sentence review board, or is discharged from custody on expiration of sentence, the department of corrections shall promptly notify the sheriff or director of public safety, the nearest Washington state patrol district facility, and other similar criminal justice agencies that the named person has been released or discharged, the place to which such person has been released or discharged, and the conditions of his or her release or discharge.

Local law enforcement agencies shall require persons convicted of sex offenses to register pursuant to RCW 9A.44.130. In addition, nothing in this section shall be construed to prevent any local law enforcement authority from recording the residency and other information concerning any convicted felon or other person convicted of a criminal offense when such information is obtained from a source other than from registration pursuant to RCW 9A.44.130 which source may include any officer or other agency or subdivision of the state.

(5) The existence of the notice requirement in subsection (2) of this section will not require any extension of the release

date in the event the release plan changes after notification. [1994 c 129 § 7; 1993 c 24 § 1; 1990 c 3 § 409; 1985 c 346 § 6; 1973 c 20 § 1; 1972 ex.s. c 152 § 10.]

Findings—Intent—1994 c 129: See note following RCW 4.24.550.

Additional notes found at www.leg.wa.gov

43.43.750 Use of force to obtain identification information—Liability. In exercising their duties and authority under RCW 43.43.735 and 43.43.740, the sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may, consistent with constitutional and legal requirements, use such reasonable force as is necessary to compel an unwilling person to submit to being photographed, or fingerprinted, or to submit to any other identification procedure, except interrogation, which will result in obtaining physical evidence serving to identify such person. No one having the custody of any person subject to the identification procedures provided for in chapter 152, Laws of 1972 ex. sess., and no one acting in his or her aid or under his or her direction, and no one concerned in such publication as is provided for in RCW 43.43.740, shall incur any liability, civil or criminal, for anything lawfully done in the exercise of the provisions of chapter 152, Laws of 1972 ex. sess. [2009 c 549 § 5131; 1972 ex.s. c 152 § 11.]

43.43.751 Biological samples for missing persons investigations. Biological samples taken for a missing person's investigation under RCW 68.50.320 shall be forwarded to the appropriate laboratory as soon as possible. The crime laboratory of the Washington state patrol will provide guidance to agencies regarding where samples should be sent. If substantial delays in testing occur or federal testing is no longer available, the legislature should be requested to provide funding to implement mitochondrial technology in the state of Washington. [2007 c 10 § 6; 2006 c 102 § 7.]

Intent—2007 c 10: See note following RCW 43.103.110.

Finding—Intent—2006 c 102: See note following RCW 36.28A.100.

43.43.752 DNA identification system—Plan—Report. (1) To support criminal justice services in the local communities throughout this state, the state patrol in consultation with the University of Washington school of medicine shall develop a plan for and establish a DNA identification system. In implementing the plan, the state patrol shall purchase the appropriate equipment and supplies. The state patrol shall procure the most efficient equipment available.

(2) The DNA identification system as established shall be compatible with that utilized by the federal bureau of investigation.

(3) The state patrol and the University of Washington school of medicine shall report on the DNA identification system to the legislature no later than November 1, 1989. The report shall include a timeline for implementing each stage, a local agency financial participation analysis, a system analysis, a full cost/purchase analysis, a vendor bid evaluation, and a space location analysis that includes a site determination. The state patrol shall coordinate the preparation of this report with the office of financial management. [1989 c 350 § 2.]

Additional notes found at www.leg.wa.gov

43.43.753 Findings—DNA identification system—DNA database—DNA data bank. The legislature finds that recent developments in molecular biology and genetics have important applications for forensic science. It has been scientifically established that there is a unique pattern to the chemical structure of the deoxyribonucleic acid (DNA) contained in each cell of the human body. The process for identifying this pattern is called "DNA identification."

The legislature further finds that DNA databases are important tools in criminal investigations, in the exclusion of individuals who are the subject of investigations or prosecutions, and in detecting recidivist acts. It is the policy of this state to assist federal, state, and local criminal justice and law enforcement agencies in both the identification and detection of individuals in criminal investigations and the identification and location of missing and unidentified persons. Therefore, it is in the best interest of the state to establish a DNA database and DNA data bank containing DNA samples submitted by persons convicted of felony offenses and other crimes as specified in RCW 43.43.754. DNA samples necessary for the identification of missing persons and unidentified human remains shall also be included in the DNA database.

The legislature further finds that the DNA identification system used by the federal bureau of investigation and the Washington state patrol has no ability to predict genetic disease or predisposal to illness. Nonetheless, the legislature intends that biological samples collected under RCW 43.43.754, and DNA identification data obtained from the samples, be used only for purposes related to criminal investigation, identification of human remains or missing persons, or improving the operation of the system authorized under RCW 43.43.752 through 43.43.758. [2008 c 97 § 1; 2002 c 289 § 1; 1989 c 350 § 1.]

Severability—2002 c 289: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2002 c 289 § 7.]

Effective date—2002 c 289: "This act takes effect July 1, 2002." [2002 c 289 § 9.]

43.43.7532 DNA identification system—DNA database account. The state DNA database account is created in the custody of the state treasurer. All receipts under RCW 43.43.7541 must be deposited into the account. Expenditures from the account may be used only for creation, operation, and maintenance of the DNA database under RCW 43.43.754. Only the chief of the Washington state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2002 c 289 § 5.]

Severability—Effective date—2002 c 289: See notes following RCW 43.43.753.

43.43.754 DNA identification system—Biological samples—Collection, use, testing—Scope and application of section. (1) A biological sample must be collected for purposes of DNA identification analysis from:

(a) Every adult or juvenile individual convicted of a felony, or any of the following crimes (or equivalent juvenile offenses):

Assault in the fourth degree with sexual motivation (RCW 9A.36.041, 9.94A.835)

Communication with a minor for immoral purposes (RCW 9.68A.090)

Custodial sexual misconduct in the second degree (RCW 9A.44.170)

Failure to register (*RCW 9A.44.130)

Harassment (RCW 9A.46.020)

Patronizing a prostitute (RCW 9A.88.110)

Sexual misconduct with a minor in the second degree (RCW 9A.44.096)

Stalking (RCW 9A.46.110)

Violation of a sexual assault protection order granted under chapter 7.90 RCW; and

(b) Every adult or juvenile individual who is required to register under *RCW 9A.44.130.

(2) If the Washington state patrol crime laboratory already has a DNA sample from an individual for a qualifying offense, a subsequent submission is not required to be submitted.

(3) Biological samples shall be collected in the following manner:

(a) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense who do not serve a term of confinement in a department of corrections facility, and do serve a term of confinement in a city or county jail facility, the city or county shall be responsible for obtaining the biological samples.

(b) The local police department or sheriff's office shall be responsible for obtaining the biological samples for:

(i) Persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense who do not serve a term of confinement in a department of corrections facility, and do not serve a term of confinement in a city or county jail facility; and

(ii) Persons who are required to register under **RCW 9A.44.030.

(c) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who are serving or who are to serve a term of confinement in a department of corrections facility or a department of social and health services facility, the facility holding the person shall be responsible for obtaining the biological samples. For those persons incarcerated before June 12, 2008, who have not yet had a biological sample collected, priority shall be given to those persons who will be released the soonest.

(4) Any biological sample taken pursuant to RCW 43.43.752 through 43.43.758 may be retained by the forensic laboratory services bureau, and shall be used solely for the purpose of providing DNA or other tests for identification analysis and prosecution of a criminal offense or for the identification of human remains or missing persons. Nothing in this section prohibits the submission of results derived from the biological samples to the federal bureau of investigation combined DNA index system.

(5) The forensic laboratory services bureau of the Washington state patrol is responsible for testing performed on all biological samples that are collected under subsection (1) of this section, to the extent allowed by funding available for this purpose. The director shall give priority to testing on

samples collected from those adults or juveniles convicted of a felony or adjudicated guilty of an equivalent juvenile offense that is defined as a sex offense or a violent offense in RCW 9.94A.030. Known duplicate samples may be excluded from testing unless testing is deemed necessary or advisable by the director.

(6) This section applies to:

(a) All adults and juveniles to whom this section applied prior to June 12, 2008;

(b) All adults and juveniles to whom this section did not apply prior to June 12, 2008, who:

(i) Are convicted on or after June 12, 2008, of an offense listed in subsection (1)(a) of this section; or

(ii) Were convicted prior to June 12, 2008, of an offense listed in subsection (1)(a) of this section and are still incarcerated on or after June 12, 2008; and

(c) All adults and juveniles who are required to register under *RCW 9A.44.130 on or after June 12, 2008, whether convicted before, on, or after June 12, 2008.

(7) This section creates no rights in a third person. No cause of action may be brought based upon the noncollection or nonanalysis or the delayed collection or analysis of a biological sample authorized to be taken under RCW 43.43.752 through 43.43.758.

(8) The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the sample was obtained or placed in the database by mistake, or if the conviction or juvenile adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including but not limited to posttrial or postfact-finding motions, appeals, or collateral attacks. [2008 c 97 § 2; 2002 c 289 § 2; 1999 c 329 § 2; 1994 c 271 § 402; 1990 c 230 § 3; 1989 c 350 § 4.]

Reviser's note: *(1) 2010 c 267 removed from RCW 9A.44.130 provisions relating to the crime of "failure to register" as a sex offender or kidnapping offender, and placed similar provisions in RCW 9A.44.132.

** (2) The reference to RCW 9A.44.030 appears to be erroneous. Reference to RCW 9A.44.130 was apparently intended.

Severability—Effective date—2002 c 289: See notes following RCW 43.43.753.

Findings—1999 c 329: "The legislature finds it necessary to expand the current pool of convicted offenders who must have a blood sample drawn for purposes of DNA identification analysis. The legislature further finds that there is a high rate of recidivism among certain types of violent and sex offenders and that drawing blood is minimally intrusive. Creating an expanded DNA data bank bears a rational relationship to the public's interest in enabling law enforcement to better identify convicted violent and sex offenders who are involved in unsolved crimes, who escape to reoffend, and who reoffend after release." [1999 c 329 § 1.]

Finding—1994 c 271: "The legislature finds that DNA identification analysis is an accurate and useful law enforcement tool for identifying and prosecuting sexual and violent offenders. The legislature further finds no compelling reason to exclude juvenile sexual and juvenile violent offenders from DNA identification analysis." [1994 c 271 § 401.]

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

Finding—Funding limitations—1989 c 350: See notes following RCW 43.43.752.

Additional notes found at www.leg.wa.gov

43.43.7541 DNA identification system—Collection of biological samples—Fee. Every sentence imposed under chapter 9.94A RCW for a crime specified in RCW 43.43.754

must include a fee of one hundred dollars. The fee is a court-ordered legal financial obligation as defined in RCW 9.94A.030, payable by the offender after payment of all other legal financial obligations included in the sentence has been completed. The clerk of the court shall transmit eighty percent of the fee collected to the state treasurer for deposit in the state DNA database account created under RCW 43.43.7532, and shall transmit twenty percent of the fee collected to the agency responsible for collection of a biological sample from the offender as required under RCW 43.43.754. [2008 c 97 § 3; 2002 c 289 § 4.]

Severability—Effective date—2002 c 289: See notes following RCW 43.43.753.

43.43.756 DNA identification system—Analysis, assistance, and testimony services. The Washington state patrol forensic laboratory services bureau may:

(1) Provide DNA analysis services to law enforcement agencies throughout the state;

(2) Provide assistance to law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court; and

(3) Provide expert testimony in court on DNA evidentiary issues. [2008 c 97 § 4; 1989 c 350 § 5.]

Finding—Funding limitations—1989 c 350: See notes following RCW 43.43.752.

43.43.758 DNA identification system—Local law enforcement systems—Limitations. (1) Except as provided in subsection (2) of this section, no local law enforcement agency may establish or operate a DNA identification system before July 1, 1990, and unless:

(a) The equipment of the local system is compatible with that of the state system under RCW 43.43.752;

(b) The local system is equipped to receive and answer inquiries from the Washington state patrol DNA identification system and transmit data to the Washington state patrol DNA identification system; and

(c) The procedure and rules for the collection, analysis, storage, expungement, and use of DNA identification data do not conflict with procedures and rules applicable to the state patrol DNA identification system.

(2) Nothing in this section shall prohibit a local law enforcement agency from performing DNA identification analysis in individual cases to assist law enforcement officials and prosecutors in the preparation and use of DNA evidence for presentation in court. [1990 c 230 § 2; 1989 c 350 § 6.]

Finding—Funding limitations—1989 c 350: See notes following RCW 43.43.752.

43.43.759 DNA identification system—Rule-making requirements. The Washington state patrol shall consult with the forensic investigations council and adopt rules to implement RCW 43.43.752 through 43.43.758. The rules shall prohibit the use of DNA identification data for any research or other purpose that is not related to a criminal investigation, to the identification of human remains or missing persons, or to improving the operation of the system authorized by RCW 43.43.752 through 43.43.758. The rules must also identify appropriate sources and collection meth-

ods for biological samples needed for purposes of DNA identification analysis. [2002 c 289 § 3; 1990 c 230 § 1.]

Severability—Effective date—2002 c 289: See notes following RCW 43.43.753.

43.43.760 Personal identification—Requests—Purpose—Applicants—Fee. (1) Whenever a resident of this state appears before any law enforcement agency and requests an impression of his or her fingerprints to be made, such agency may comply with his or her request and make the required copies of the impressions on forms marked "Personal Identification". The required copies shall be forwarded to the section and marked "for personal identification only".

The section shall accept and file such fingerprints submitted voluntarily by such resident, for the purpose of securing a more certain and easy identification in case of death, injury, loss of memory, or other similar circumstances. Upon the request of such person, the section shall return his or her identification data.

(2) Whenever a person claiming to be a victim of identity theft appears before any law enforcement agency and requests an impression of his or her fingerprints to be made, such agency may comply with this request and make the required copies of the impressions on forms marked "Personal Identification." The required copies shall be forwarded to the section and marked "for personal identification only."

The section shall accept and file such fingerprints submitted by such resident, for the purpose of securing a more certain and easy identification in cases of identity theft. The section shall provide a statement showing that the victim's impression of fingerprints has been accepted and filed with the section.

The statement provided to the victim shall state clearly in twelve-point print:

"The person holding this statement has claimed to be a victim of identity theft. Pursuant to chapter 9.35 RCW, a business is required by law to provide this victim with copies of all relevant application and transaction information related to the transaction being alleged as a potential or actual identity theft. A business must provide this information once the victim makes a request in writing, shows this statement, any government issued photo identification card, and a copy of a police report."

Upon the request of such person, the section shall return his or her identification data.

(3) Whenever any person is an applicant for appointment to any position or is an applicant for employment or is an applicant for a license to be issued by any governmental agency, and the law or a regulation of such governmental agency requires that the applicant be of good moral character or not have been convicted of a crime, or is an applicant for appointment to or employment with a criminal justice agency, or the department, or is an applicant for the services of an international matchmaking organization, the applicant may request any law enforcement agency to make an impression of his or her fingerprints to be submitted to the section. The law enforcement agency may comply with such request and make copies of the impressions on forms marked "applicant", and submit such copies to the section.

(2010 Ed.)

The section shall accept such fingerprints and shall cause its files to be examined and shall promptly send to the appointing authority, employer, licensing authority, or international matchmaking organization indicated on the form of application, a transcript of the record of previous crimes committed by the person described on the data submitted, or a transcript of the *dependency record information regarding the person described on the data submitted, or if there is no record of his or her commission of any crimes, or if there is no *dependency record information, a statement to that effect.

(4) The Washington state patrol shall charge fees for processing of noncriminal justice system requests for criminal history record information pursuant to this section which will cover, as nearly as practicable, the direct and indirect costs to the patrol of processing such requests.

Any law enforcement agency may charge a fee not to exceed five dollars for the purpose of taking fingerprint impressions or searching its files of identification for non-criminal purposes. [2002 c 115 § 5; 2001 c 217 § 3; 1985 c 201 § 15; 1983 c 184 § 1; 1972 ex.s. c 152 § 13.]

***Reviser's note:** The definition for "dependency record information" was removed by 2006 c 294 § 2.

Effective date—2002 c 115: See RCW 19.220.900.

Captions not law—2001 c 217: See note following RCW 9.35.005.

Dissemination of information—Limitations—Disclaimer of liability: RCW 43.43.815.

43.43.762 Criminal street gang database—Information exempt from public disclosure. The Washington association of sheriffs and police chiefs shall work with the Washington state patrol to coordinate, designate, and recommend the use of a statewide database accessible by law enforcement agencies that utilizes existing resources, networks, or structures for assessing and addressing the problems associated with criminal street gangs.

(1) The gang database shall comply with federal regulations for state law enforcement databases shared with other law enforcement agencies, including auditing and access to data.

(2) The Washington state patrol, in consultation with the Washington state association of sheriffs and police chiefs, shall adopt uniform state criteria for entering gangs, gang members, and gang associates into the database. Data on individuals may be entered only based on reasonable suspicion of criminal activity or actual criminal activity and must be supported by documentation, where documentation is available.

(3) Information in the database shall be available to all local, state, and federal general authority law enforcement agencies, the Washington department of corrections, and the juvenile rehabilitation administration of the Washington department of social and health services solely for gang enforcement and for tracking gangs, gang members, and gang incidents. Information in the database shall not be available for public use.

(4) The database shall provide an internet-based multi-agency, multilocation, information-sharing application that operates in a network fashion.

(5) The database shall be used solely as a law enforcement intelligence tool and shall not be used as evidence in

any criminal, civil, or administrative proceeding. Law enforcement may use the information within the database to obtain information external to the database to formulate the probable cause necessary to make a stop or arrest. The mere existence of information relating to an individual within the database does not by itself justify a stop or arrest.

(6) Access to the database shall be determined by the chief executive officer of each participating agency. Information about specific individuals in the database shall be automatically expunged if: (a) No new or updated information has been entered into the database within the previous five years; (b) there are no pending criminal charges against such person in any court in this state or another state or in any federal court; (c) the person has not been convicted of a new crime in this state, another state, or federal court within the last five years; and (d) it has been five years since the person completed his or her term of total confinement.

(7) Each law enforcement and criminal justice agency using the database is required to:

(a) Identify a system administrator that is responsible for annually auditing the use of the system within his or her respective agency to ensure agency compliance with policies established for the use of the database;

(b) Ensure that all users of the database receive training on the use of the database before granting the users access to the database;

(c) Ensure that any information entered into the database relates to a criminal street gang associate or gang member who is twelve years old or older;

(d) Annually produce a gang threat assessment report including available data sources such as uniform crime reports, record management systems, and entries into the statewide gang database. Local public schools shall also be encouraged to provide data to the local gang threat assessment report.

(8) The database and all contents in the database are confidential and exempt from public disclosure under chapter 42.56 RCW.

(9) Any public employee or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, and the Washington association of sheriffs and police chiefs and its employees are immune from civil liability for damages arising from incidents involving a person who has been included in the database, unless it is shown that an employee acted with gross negligence or bad faith. [2008 c 276 § 201.]

Severability—Part headings, subheadings not law—2008 c 276: See notes following RCW 36.28A.200.

43.43.765 Reports of transfer, release or changes as to committed or imprisoned persons—Records. The principal officers of the jails, correctional institutions, state mental institutions and all places of detention to which a person is committed under chapter 10.77 RCW, chapter 71.06 RCW, or chapter 71.09 RCW for treatment or under a sentence of imprisonment for any crime as provided for in RCW 43.43.735 shall within seventy-two hours, report to the section, any interinstitutional transfer, release or change of release status of any person held in custody pursuant to the rules promulgated by the chief.

The principal officers of all state mental institutions to which a person has been committed under chapter 10.77 RCW, chapter 71.06 RCW, or chapter 71.09 RCW shall keep a record of the photographs, description, fingerprints, and other identification data as may be obtainable from the appropriate criminal justice agency. [1990 c 3 § 131; 1983 c 3 § 108; 1972 ex.s. c 152 § 14.]

Additional notes found at www.leg.wa.gov

43.43.770 Unidentified deceased persons. It shall be the duty of the sheriff or director of public safety of every county, or the chief of police of every city or town, or the chief officer of other law enforcement agencies operating within this state, coroners or medical examiners, to record whenever possible the fingerprints and such other identification data as may be useful to establish identity, of all unidentified dead bodies found within their respective jurisdictions, and to furnish to the section all data so obtained. The section shall search its files and otherwise make a reasonable effort to determine the identity of the deceased and notify the contributing agency of the finding.

In all cases where there is found to exist a criminal record for the deceased, the section shall notify the federal bureau of investigation and each criminal justice agency, within or outside the state in whose jurisdiction the decedent has been arrested, of the date and place of death of decedent. [1972 ex.s. c 152 § 15.]

43.43.775 Interagency contracts. The legislative authority of any county, city or town may authorize its sheriff, director of public safety or chief of police to enter into any contract with another public agency which is necessary to carry out the provisions of chapter 152, laws of 1972 ex. sess. [1972 ex.s. c 152 § 16.]

43.43.780 Transfer of records, data, equipment to section. All fingerprint cards, photographs, file cabinets, equipment, and other records collected and filed by the bureau of criminal identification, and now in the department of social and health services shall be transferred to the Washington state patrol for use by the *section on identification created by chapter 152, Laws of 1972 ex. sess. [1972 ex.s. c 152 § 17.]

***Reviser's note:** The "section on identification" was renamed the "identification and criminal history section" by 2006 c 294 § 1.

43.43.785 Criminal justice services—Consolidation—Establishment of program. The legislature finds that there is a need for the Washington state patrol to establish a program which will consolidate existing programs of criminal justice services within its jurisdiction so that such services may be more effectively utilized by the criminal justice agencies of this state. The chief shall establish such a program which shall include but not be limited to the identification section, all auxiliary systems including the Washington crime information center and the teletypewriter communications network, the drug control assistance unit, and any other services the chief deems necessary which are not directly related to traffic control. [1999 c 151 § 1102; 1972 ex.s. c 152 § 18.]

Additional notes found at www.leg.wa.gov

43.43.800 Criminal justice services programs—Duties of executive committee. The executive committee created in RCW 10.98.160 shall review the provisions of RCW 43.43.700 through 43.43.785 and the administration thereof and shall consult with and advise the chief of the state patrol on matters pertaining to the policies of criminal justice services program. [1999 c 151 § 1103; 1972 ex.s. c 152 § 21.]

Additional notes found at www.leg.wa.gov

43.43.810 Obtaining information by false pretenses—Unauthorized use of information—Falsifying records—Penalty. Any person who willfully requests, obtains or seeks to obtain criminal history record information under false pretenses, or who willfully communicates or seeks to communicate criminal history record information to any agency or person except in accordance with chapter 152, Laws of 1972 ex. sess., or any member, officer, employee or agent of the section, the council or any participating agency, who willfully falsifies criminal history record information, or any records relating thereto, shall for each such offense be guilty of a misdemeanor. [2006 c 294 § 8; 1977 ex.s. c 314 § 17; 1972 ex.s. c 152 § 23.]

43.43.815 Conviction record furnished to employer—Purposes—Notification to subject of record—Fees—Limitations—Injunctive relief, damages, attorneys' fees—Disclaimer of liability—Rules. (1) Notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the Washington state patrol shall furnish a conviction record, as defined in RCW 10.97.030, pertaining to any person of whom the Washington state patrol has a record upon the written or electronic request of any employer for the purpose of:

(a) Securing a bond required for any employment;

(b) Conducting preemployment and postemployment evaluations of employees and prospective employees who, in the course of employment, may have access to information affecting national security, trade secrets, confidential or proprietary business information, money, or items of value; or

(c) Assisting an investigation of suspected employee misconduct where such misconduct may also constitute a penal offense under the laws of the United States or any state.

(2) When an employer has received a conviction record under subsection (1) of this section, the employer shall notify the subject of the record of such receipt within thirty days after receipt of the record, or upon completion of an investigation under subsection (1)(c) of this section. The employer shall make the record available for examination by its subject and shall notify the subject of such availability.

(3) The Washington state patrol shall charge fees for disseminating records pursuant to this section which will cover, as nearly as practicable, the direct and indirect costs to the Washington state patrol of disseminating such records.

(4) Information disseminated pursuant to this section or RCW 43.43.760 shall be available only to persons involved in the hiring, background investigation, or job assignment of the person whose record is disseminated and shall be used

only as necessary for those purposes enumerated in subsection (1) of this section.

(5) Any person may maintain an action to enjoin a continuance of any act or acts in violation of any of the provisions of this section, and if injured thereby, for the recovery of damages and for the recovery of reasonable attorneys' fees. If, in such action, the court finds that the defendant is violating or has violated any of the provisions of this section, it shall enjoin the defendant from a continuance thereof, and it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in the action is entitled to recover from the defendant the amount of the actual damages, if any, sustained by him or her if actual damages to the plaintiff are alleged and proved. In any suit brought to enjoin a violation of this chapter, the prevailing party may be awarded reasonable attorneys' fees, including fees incurred upon appeal. Commencement, pendency, or conclusion of a civil action for injunction or damages shall not affect the liability of a person or agency to criminal prosecution for a violation of chapter 10.97 RCW.

(6) Neither the section, its employees, nor any other agency or employee of the state is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information pursuant to this section or RCW 43.43.760.

(7) The Washington state patrol may adopt rules and forms to implement this section and to provide for security and privacy of information disseminated pursuant hereto, giving first priority to the criminal justice requirements of chapter 43.43 RCW. Such rules may include requirements for users, audits of users, and other procedures to prevent use of criminal history record information inconsistent with this section.

(8) Nothing in this section shall authorize an employer to make an inquiry not otherwise authorized by law, or be construed to affect the policy of the state declared in RCW 9.96A.010, encouraging the employment of ex-offenders. [2009 c 549 § 5132; 1995 c 169 § 1; 1982 c 202 § 1.]

43.43.820 Stale records. Stale records shall be destroyed in a manner to be prescribed by the chief. [1972 ex.s. c 152 § 25.]

43.43.825 Guilty plea or conviction for certain felony crimes—Notification of state patrol—Transmission of information to the department of health. (1) Upon a guilty plea or conviction of a person for any felony crime involving homicide under chapter 9A.32 RCW, assault under chapter 9A.36 RCW, kidnapping under chapter 9A.40 RCW, sex offenses under chapter 9A.44 RCW, financial crimes under chapter 9A.60 RCW, violations of the uniform controlled substances act under chapter 69.50 RCW, any drug offense defined under RCW 9.94A.030, or a crime of any type classified as a felony under Washington state law, the prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives information that a person has pled guilty to or been convicted of one of the felony crimes under subsection (1) of this section, the state patrol shall transmit that information to the department of health. It

is the duty of the department of health to identify whether the person holds a credential issued by a disciplining authority listed under RCW 18.130.040, and provide this information to the disciplining authority that issued the credential to the person who pled guilty or was convicted of a crime listed in subsection (1) of this section. [2008 c 134 § 28; 2006 c 99 § 8.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

43.43.830 Background checks—Access to children or vulnerable persons—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.845.

(1) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults;

(c) Any prospective adoptive parent, as defined in RCW 26.33.020; or

(d) Any prospective custodian in a nonparental custody proceeding under chapter 26.10 RCW.

(2) "Business or organization" means a person, business, or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, or that provides child day care, early learning, or early learning childhood education services, including but not limited to public housing authorities, school districts, and educational service districts.

(3) "Civil adjudication proceeding" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

(4) "Conviction record" means "conviction record" information as defined in RCW 10.97.030 and 10.97.050 relating to a crime committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on

a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(5) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnapping; first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; endangerment with a controlled substance; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; first or second degree custodial sexual misconduct; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; *patronizing a juvenile prostitute; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

(6) "Crimes relating to drugs" means a conviction of a crime to manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

(7) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(8) "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

(9) "Vulnerable adult" means "vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

(10) "Financial exploitation" means "financial exploitation" as defined in RCW 74.34.020.

(11) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults, juveniles, or children, or which provides child day care, early learning, or early childhood education services. [2007 c 387 § 9; 2005 c 421 § 1; 2003 c 105 § 5; 2002 c 229 § 3; 1999 c 45 § 5; 1998 c 10 § 1; 1996 c 178 § 12; 1995 c 250 § 1; 1994

c 108 § 1; 1992 c 145 § 16. Prior: 1990 c 146 § 8; 1990 c 3 § 1101; prior: 1989 c 334 § 1; 1989 c 90 § 1; 1987 c 486 § 1.]

***Reviser's note:** The term "patronizing a juvenile prostitute" was changed to "commercial sexual abuse of a minor" by 2007 c 368 § 2.

Effective date—2002 c 229: See note following RCW 9A.42.100.

At-risk children volunteer program: RCW 43.150.080.

State hospitals: RCW 72.23.035.

Additional notes found at www.leg.wa.gov

43.43.832 Background checks—Disclosure of information—Sharing of criminal background information by health care facilities. (1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. The legislature further finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol identification and criminal history section shall disclose, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian, an applicant's conviction record as defined in chapter 10.97 RCW.

(2) The legislature also finds that the Washington professional educator standards board may request of the Washington state patrol criminal identification system information regarding a certificate applicant's conviction record under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the secretary of the department of social and health services must establish rules and set standards to require specific action when considering the information listed in subsection (1) of this section, and when considering additional information including but not limited to civil adjudication proceedings as defined in RCW 43.43.830 and any out-of-state equivalent, in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or treatment of children, vulnerable adults, or individuals with mental illness or developmental disabilities;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or

vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, *18.48, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

(e) When individual providers are paid by the state or providers are paid by home care agencies to provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(5) The director of the department of early learning shall investigate the conviction records, pending charges, and other information including civil adjudication proceeding records of current employees and of any person actively being considered for any position with the department who will or may have unsupervised access to children, or for state positions otherwise required by federal law to meet employment standards. "Considered for any position" includes decisions about (a) initial hiring, layoffs, reallocations, transfers, promotions, or demotions, or (b) other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

(6) The director of the department of early learning shall adopt rules and investigate conviction records, pending charges, and other information including civil adjudication proceeding records, in the following circumstances:

(a) When licensing or certifying agencies with individuals in positions that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood education services, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(b) When authorizing individuals who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services in licensed or certified agencies, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(c) When contracting with any business or organization for activities that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services;

(d) When establishing the eligibility criteria for individual providers to receive state paid subsidies to provide child day care or early learning services that will or may involve unsupervised access to children.

(7) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may

be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees.

(8)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request from another health care facility, share copies of completed criminal background inquiry information.

(b) Completed criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the criminal background information is no more than two years old.

(c) If criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's criminal background inquiry information. A new criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(g) For the purposes of this subsection, "health care facility" means a nursing home licensed under chapter 18.51 RCW, a boarding home licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW. [2007 c 387 § 10; 2006 c 263 § 826; 2005 c 421 § 2; 2000 c 87 § 1; 1997 c 392 § 524; 1995 c 250 § 2; 1993 c 281 § 51; 1990 c 3 § 1102. Prior: 1989 c 334 § 2; 1989 c 90 § 2; 1987 c 486 § 2.]

***Reviser's note:** Chapter 18.48 RCW was repealed in its entirety by 2002 c 223 § 2.

Findings—Purpose—Part headings not law—2006 c 263: See notes following RCW 28A.150.230.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Additional notes found at www.leg.wa.gov

43.43.8321 Background checks—Dissemination of conviction record information. When the Washington state patrol disseminates conviction record information in response to a request under RCW 43.43.832, it shall clearly state that: (1) The conviction record data does not include information on civil adjudications, administrative findings, or disciplinary board final decisions and that all such information must be obtained from the courts and licensing agencies; (2) the conviction record that is being disseminated includes information for which a person is currently being processed by the criminal justice system relating to only crimes against a person as defined in RCW 9.94A.411 and that it does not include any other current or pending charge information for which a person could be in the current process of being processed by the criminal justice system; and (3) an arrest is not a conviction or a finding of guilt. [2005 c 421 § 10.]

43.43.833 Background checks—State immunity. If information is released under this chapter by the state of Washington, the state and its employees: (1) Make no representation that the subject of the inquiry has no criminal record or adverse civil or administrative decisions; (2) make no determination that the subject of the inquiry is suitable for involvement with a business or organization; and (3) are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information. [1997 c 392 § 529.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

43.43.834 Background checks by business, organization, or insurance company—Limitations—Civil liability. (1) A business or organization shall not make an inquiry to the Washington state patrol under RCW 43.43.832 or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who may be offered a position as an employee or volunteer, that an inquiry may be made.

(2) A business or organization shall require each applicant to disclose to the business or organization whether the applicant:

- (a) Has been convicted of a crime;
- (b) Has had findings made against him or her in any civil adjudicative proceeding as defined in RCW 43.43.830; or
- (c) Has both a conviction under (a) of this subsection and findings made against him or her under (b) of this subsection.

(3) The business or organization shall pay such reasonable fee for the records check as the state patrol may require under RCW 43.43.838.

(4) The business or organization shall notify the applicant of the state patrol's response within ten days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(5) The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited, except as provided in RCW 28A.320.155. A business or

organization violating this subsection is subject to a civil action for damages.

(6) An insurance company shall not require a business or organization to request background information on any employee before issuing a policy of insurance.

(7) The business and organization shall be immune from civil liability for failure to request background information on an applicant unless the failure to do so constitutes gross negligence. [2005 c 421 § 3; 1999 c 21 § 2; 1998 c 10 § 3; 1990 c 3 § 1103. Prior: 1989 c 334 § 3; 1989 c 90 § 3; 1987 c 486 § 3.]

Additional notes found at www.leg.wa.gov

43.43.836 Disclosure to individual of own record—

Fee. An individual may contact the state patrol to ascertain whether an individual has a conviction record. The state patrol shall disclose such information, subject to the fee established under RCW 43.43.838. [2005 c 421 § 4; 1987 c 486 § 4.]

43.43.837 Fingerprint-based background checks—Requirements for applicants and service providers—Fees—Rules to establish financial responsibility. (1) Except as provided in subsection (2) of this section, in order to determine the character, competence, and suitability of any applicant or service provider to have unsupervised access, the secretary may require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation at any time, but shall require a fingerprint-based background check when the applicant or service provider has resided in the state less than three consecutive years before application, and:

(a) Is an applicant or service provider providing services to children or people with developmental disabilities under RCW 74.15.030;

(b) Is an individual residing in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department to provide services to children or people with developmental disabilities under RCW 74.15.030; or

(c) Is an applicant or service provider providing in-home services funded by:

(i) Medicaid personal care under RCW 74.09.520;

(ii) Community options program entry system waiver services under RCW 74.39A.030;

(iii) Chore services under RCW 74.39A.110; or

(iv) Other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department.

(2) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.

(3) The secretary shall require a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation when the department seeks to approve an applicant or service provider for a foster or adoptive placement of children in accordance with federal and state law.

(4) Any secure facility operated by the department under chapter 71.09 RCW shall require applicants and service pro-

viders to undergo a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation.

(5) Service providers and service provider applicants who are required to complete a fingerprint-based background check may be hired for a one hundred twenty-day provisional period as allowed under law or program rules when:

(a) A fingerprint-based background check is pending; and

(b) The applicant or service provider is not disqualified based on the immediate result of the background check.

(6) Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the department for applicants or service providers providing:

(a) Services to people with a developmental disability under RCW 74.15.030;

(b) In-home services funded by medicaid personal care under RCW 74.09.520;

(c) Community options program entry system waiver services under RCW 74.39A.030;

(d) Chore services under RCW 74.39A.110;

(e) Services under other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department;

(f) Services in, or to residents of, a secure facility under RCW 71.09.115; and

(g) Foster care as required under RCW 74.15.030.

(7) Service providers licensed under RCW 74.15.030 must pay fees charged by the Washington state patrol and the federal bureau of investigation for conducting fingerprint-based background checks.

(8) Children's administration service providers licensed under RCW 74.15.030 may not pass on the cost of the background check fees to their applicants unless the individual is determined to be disqualified due to the background information.

(9) The department shall develop rules identifying the financial responsibility of service providers, applicants, and the department for paying the fees charged by law enforcement to roll, print, or scan fingerprints-based for the purpose of a Washington state patrol or federal bureau of investigation fingerprint-based background check.

(10) For purposes of this section, unless the context plainly indicates otherwise:

(a) "Applicant" means a current or prospective department or service provider employee, volunteer, student, intern, researcher, contractor, or any other individual who will or may have unsupervised access because of the nature of the work or services he or she provides. "Applicant" includes but is not limited to any individual who will or may have unsupervised access and is:

(i) Applying for a license or certification from the department;

(ii) Seeking a contract with the department or a service provider;

(iii) Applying for employment, promotion, reallocation, or transfer;

(iv) An individual that a department client or guardian of a department client chooses to hire or engage to provide services to himself or herself or another vulnerable adult, juve-

nile, or child and who might be eligible to receive payment from the department for services rendered; or

(v) A department applicant who will or may work in a department-covered position.

(b) "Authorized" means the department grants an applicant, home, or facility permission to:

(i) Conduct licensing, certification, or contracting activities;

(ii) Have unsupervised access to vulnerable adults, juveniles, and children;

(iii) Receive payments from a department program; or

(iv) Work or serve in a department-covered position.

(c) "Department" means the department of social and health services.

(d) "Secretary" means the secretary of the department of social and health services.

(e) "Secure facility" has the meaning provided in RCW 71.09.020.

(f) "Service provider" means entities, facilities, agencies, businesses, or individuals who are licensed, certified, authorized, or regulated by, receive payment from, or have contracts or agreements with the department to provide services to vulnerable adults, juveniles, or children. "Service provider" includes individuals whom a department client or guardian of a department client may choose to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department for services rendered. "Service provider" does not include those certified under chapter 70.96A RCW. [2009 c 580 § 6; 2007 c 387 § 1.]

43.43.838 Record checks—Transcript of conviction record—Fees—Immunity—Rules. (1) After January 1, 1988, and notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the state patrol shall furnish a transcript of the conviction record pertaining to any person for whom the state patrol or the federal bureau of investigation has a record upon the written request of:

(a) The subject of the inquiry;

(b) Any business or organization for the purpose of conducting evaluations under RCW 43.43.832;

(c) The department of social and health services;

(d) Any law enforcement agency, prosecuting authority, or the office of the attorney general;

(e) The department of social and health services for the purpose of meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to regulate or license a facility which handles vulnerable adults. However, access to conviction records pursuant to this subsection (1)(e) does not limit or restrict the ability of the department to obtain additional information regarding conviction records and pending charges as set forth in *RCW 74.15.030(2)(b); or

(f) The department of early learning for the purpose of meeting responsibilities in chapter 43.215 RCW.

(2) The state patrol shall by rule establish fees for disseminating records under this section to recipients identified in subsection (1)(a) and (b) of this section. The state patrol shall also by rule establish fees for disseminating records in the custody of the national crime information center. The revenue from the fees shall cover, as nearly as practicable, the

direct and indirect costs to the state patrol of disseminating the records. No fee shall be charged to a nonprofit organization for the records check. Record checks requested by school districts and educational service districts using only name and date of birth will be provided free of charge.

(3) No employee of the state, employee of a business or organization, or the business or organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or 43.43.760.

(4) Before July 26, 1987, the state patrol shall adopt rules and forms to implement this section and to provide for security and privacy of information disseminated under this section, giving first priority to the criminal justice requirements of this chapter. The rules may include requirements for users, audits of users, and other procedures to prevent use of civil adjudication record information or criminal history record information inconsistent with this chapter.

(5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an employer to make an inquiry not specifically authorized by this chapter, or be construed to affect the policy of the state declared in chapter 9.96A RCW. [2009 c 170 § 1; 2007 c 17 § 5; 2005 c 421 § 5; 1995 c 29 § 1; 1992 c 159 § 7; 1990 c 3 § 1104. Prior: 1989 c 334 § 4; 1989 c 90 § 4; 1987 c 486 § 5.]

*Reviser's note: RCW 74.15.030(2)(b) was amended by 2007 c 387 § 5, changing the scope of the subsection.

Findings—1992 c 159: See note following RCW 28A.400.303.

Additional notes found at www.leg.wa.gov

43.43.839 Fingerprint identification account. The fingerprint identification account is created in the custody of the state treasurer. All receipts from incremental charges of fingerprint checks requested for noncriminal justice purposes and electronic background requests shall be deposited in the account. Receipts for fingerprint checks by the federal bureau of investigation may also be deposited in the account. Expenditures from the account may be used only for the cost of record checks. Only the chief of the state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. No appropriation is required for expenditures prior to July 1, 1997. After June 30, 1997, the account shall be subject to appropriation. During the 2009-2011 fiscal biennium, the legislature may transfer from the fingerprint identification account to the state general fund such amounts as reflect the excess fund balance of the account. [2010 1st sp.s. c 37 § 922; 1995 c 169 § 2; 1992 c 159 § 8.]

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Findings—1992 c 159: See note following RCW 28A.400.303.

43.43.840 Notification to licensing agency of employment termination for certain crimes against persons. When a business or an organization terminates, fires, dismisses, fails to renew the contract, or permits the resignation of an employee because of crimes against children or other persons or because of crimes relating to the financial exploitation of a vulnerable adult, and if that employee is employed in a position requiring a certificate or license issued by a

licensing agency such as the Washington professional educator standards board, the business or organization shall notify the licensing agency of such termination of employment. [2006 c 263 § 827; 2005 c 421 § 6; 1997 c 386 § 40. Prior: 1989 c 334 § 5; 1989 c 90 § 5; 1987 c 486 § 6.]

Findings—Purpose—part headings not law—2006 c 263: See notes following RCW 28A.150.230.

43.43.842 Vulnerable adults—Additional licensing requirements for agencies, facilities, and individuals providing services. (1)(a) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies, facilities, and licensed individuals who provide care and treatment to vulnerable adults, including nursing pools registered under chapter 18.52C RCW. These additional requirements shall ensure that any person associated with a licensed agency or facility having unsupervised access with a vulnerable adult shall not be the respondent in an active protective order under RCW 74.34.130, nor have been: (i) Convicted of a crime against persons as defined in RCW 43.43.830, except as provided in this section; (ii) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; or (iii) found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830.

(b) A person associated with a licensed agency or facility who has unsupervised access with a vulnerable adult shall make the disclosures specified in RCW 43.43.834(2). The person shall make the disclosures in writing, sign, and swear to the contents under penalty of perjury. The person shall, in the disclosures, specify all crimes against children or other persons, all crimes relating to financial exploitation, and all crimes relating to drugs as defined in RCW 43.43.830, committed by the person.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment.

The offenses set forth in (a) through (e) of this subsection do not automatically disqualify an applicant from

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employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

(3) In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate, or cause to be investigated, the conviction record and the protection proceeding record information under this chapter of the staff of each agency or facility under their respective jurisdictions seeking licensure or relicensure. An individual responding to a criminal background inquiry request from his or her employer or potential employer shall disclose the information about his or her criminal history under penalty of perjury. The secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the secretaries such information as they may have and that the secretaries may require for such purpose. [2007 c 387 § 4; 1998 c 10 § 4; 1997 c 392 § 518; 1992 c 104 § 1; 1989 c 334 § 11.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

43.43.845 Notification of conviction or guilty plea of certain felony crimes—Transmittal of information to superintendent of public instruction. (1) Upon a guilty plea or conviction of a person of any felony crime specified under RCW 28A.400.322, the prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives the notice required under subsection (1) of this section, the state patrol shall transmit that information to the superintendent of public instruction. It shall be the duty of the superintendent of public instruction, on at least a quarterly basis, to identify whether the person holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district, and provide this information to the Washington professional educator standards board and the school district employing the person. [2009 c 396 § 8; 2006 c 263 § 828. Prior: 2005 c 421 § 7; 2005 c 237 § 1; 1990 c 33 § 577; 1989 c 320 § 6.]

Findings—Purpose—Part headings not law—2006 c 263: See notes following RCW 28A.150.230.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

43.43.850 Organized crime intelligence unit—Created. There is hereby created in the Washington state patrol an organized crime intelligence unit which shall be under the direction of the chief of the Washington state patrol. [1973 1st ex.s. c 202 § 1.]

43.43.852 "Organized crime" defined. For the purposes of *RCW 43.43.850 through 43.43.864 "organized crime" means those activities which are conducted and carried on by members of an organized, disciplined association, engaged in supplying illegal goods and services and/or engaged in criminal activities in contravention of the laws of this state or of the United States. [1973 1st ex.s. c 202 § 2.]

*Reviser's note: RCW 43.43.858 through 43.43.864 were repealed by 2009 c 560 § 24.

43.43.854 Powers and duties of organized crime intelligence unit. The organized crime intelligence unit shall collect, evaluate, collate, and analyze data and specific investigative information concerning the existence, structure, activities and operations of organized crime and the participants involved therein; coordinate such intelligence data into a centralized system of intelligence information; furnish and exchange pertinent intelligence data with law enforcement agencies and prosecutors with such security and confidentiality as the chief of the Washington state patrol may determine; develop intelligence data concerning the infiltration of organized crime into legitimate businesses within the state of Washington and furnish pertinent intelligence information thereon to law enforcement agencies and prosecutors in affected jurisdictions; and may assist law enforcement agencies and prosecutors in developing evidence for purposes of criminal prosecution of organized crime activities upon request. [1973 1st ex.s. c 202 § 3.]

43.43.856 Divulging investigative information prohibited—Confidentiality—Security of records and files.

(1)(a) On and after April 26, 1973, it shall be unlawful for any person to divulge specific investigative information pertaining to activities related to organized crime which he or she has obtained by reason of public employment with the state of Washington or its political subdivisions unless such person is authorized or required to do so by operation of state or federal law.

(b) Any person violating (a) of this subsection is guilty of a class B felony punishable according to chapter 9A.20 RCW.

(2) Except as provided in RCW 43.43.854, or pursuant to the rules of the supreme court of Washington, all of the information and data collected and processed by the organized crime intelligence unit shall be confidential and not subject to examination or publication pursuant to chapter 42.56 RCW.

(3) The chief of the Washington state patrol shall prescribe such standards and procedures relating to the security of the records and files of the organized crime intelligence unit, as he or she deems to be in the public interest with the advice of the governor and the board. [2005 c 274 § 298; 2003 c 53 § 230; 1973 1st ex.s. c 202 § 4.]

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

43.43.866 Organized crime prosecution revolving fund. There shall be a fund known as the organized crime prosecution revolving fund which shall consist of such moneys as may be appropriated by law. The state treasurer shall be custodian of the revolving fund. Disbursements from the revolving fund shall be subject to budget approval given by the chief of the Washington state patrol, and may be made either on authorization of the governor or the governor's designee, or upon request of the chief of the Washington state patrol. In order to maintain an effective expenditure and revenue control, the organized crime prosecution revolving fund

shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from the fund. [2009 c 560 § 25; 1980 c 146 § 16.]

Intent—Effective date—Disposition of property and funds—Assignment/delegation of contractual rights or duties—2009 c 560: See notes following RCW 18.06.080.

Additional notes found at www.leg.wa.gov

43.43.870 Missing children clearinghouse and hot line, duties of state patrol. See chapter 13.60 RCW.

43.43.880 Agreements with contiguous states—Jointly occupied ports of entry—Collection of fees and taxes. The Washington state patrol may negotiate and enter into bilateral agreements with designated representatives of contiguous states. Agreements may provide for the manning and operation of jointly occupied ports of entry, for the collection of highway user fees, registration fees, and taxes that may be required by statute or rule. Agreements may further provide for the collection of these fees and taxes by either party state at jointly occupied ports of entry before authorization is given for vehicles to legally operate within that state or jurisdiction, and for the enforcement of safety, size, and weight statutes or rules of the respective states. [1988 c 21 § 1.]

43.43.900 Severability—1969 c 12. If any provision of this chapter or its application to any person or circumstance is held invalid the remainder of the chapter, or its application of the provision to any other person or circumstances is not affected. [1969 c 12 § 9.]

43.43.910 Severability—1972 ex.s. c 152. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1972 ex.s. c 152 § 22.]

43.43.911 Severability—1973 1st ex.s. c 202. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 202 § 9.]

43.43.912 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. (*Effective January 1, 2014.*) For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individu-

als in state registered domestic partnerships. [2009 c 521 § 107.]

Effective dates—2009 c 521 §§ 5-8, 79, 87-103, 107, 151, 165, 166, 173-175, and 190-192: See note following RCW 2.10.900.

43.43.930 State fire protection services—Intent. The legislature finds that fire protection services at the state level are provided by different, independent state agencies. This has resulted in a lack of a comprehensive state-level focus for state fire protection services, funding, and policy. The legislature further finds that the paramount duty of the state in fire protection services is to enhance the capacity of all local jurisdictions to assure that their personnel with fire suppression, prevention, inspection, origin and cause, and arson investigation responsibilities are adequately trained to discharge their responsibilities. It is the intent of the legislature to consolidate fire protection services into a single state agency. It is also the intent of the legislature that the fire protection services program created herein will assist local fire protection agencies in program development without encroaching upon their historic autonomy. It is the further intent of the legislature that the fire protection services program be implemented incrementally to assure a smooth transition, to build local, regional, and state capacity, and to avoid undue burdens on jurisdictions with limited resources. [2010 1st sp.s. c 7 § 44; 1995 c 369 § 14; 1993 c 280 § 68; 1986 c 266 § 54. Formerly RCW 43.63A.300.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

State fire protection: Chapter 43.44 RCW.

Additional notes found at www.leg.wa.gov

43.43.934 Director of fire protection—Duties. The director of fire protection shall:

(1)(a)(i) With the state board for community and technical colleges, provide academic, vocational, and field training programs for the fire service; and (ii) with the higher education coordinating board and the state colleges and universities, provide instructional programs requiring advanced training, especially in command and management skills;

(b) Cooperate with the common schools, technical and community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule;

(c) Develop and adopt a master plan for constructing, equipping, maintaining, and operating necessary fire service training and education facilities subject to the provisions of chapter 43.19 RCW;

(d) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary for fire service training and education facilities in a manner provided by law; and

(e) Develop and adopt a plan with a goal of providing firefighter one and wildland training to all firefighters in the

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state. Wildland training reimbursement will be provided if a fire protection district or a city fire department has and is fulfilling their interior attack policy or if they do not have an interior attack policy. The plan will include a reimbursement for fire protection districts and city fire departments of not less than three dollars for every hour of firefighter one or wildland training. The Washington state patrol shall not provide reimbursement for more than two hundred hours of firefighter one or wildland training for each firefighter trained.

(2)(a) Promote mutual aid and disaster planning for fire services in this state;

(b) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention; and

(c) Implement any legislation enacted by the legislature to meet the requirements of any acts of congress that apply to this section.

(3) In carrying out its statutory duties, the office of the state fire marshal shall give particular consideration to the appropriate roles to be played by the state and by local jurisdictions with fire protection responsibilities. Any determinations on the division of responsibility shall be made in consultation with local fire officials and their representatives.

To the extent possible, the office of the state fire marshal shall encourage development of regional units along compatible geographic, population, economic, and fire risk dimensions. Such regional units may serve to: (a) Reinforce coordination among state and local activities in fire service training, reporting, inspections, and investigations; (b) identify areas of special need, particularly in smaller jurisdictions with inadequate resources; (c) assist the state in its oversight responsibilities; (d) identify funding needs and options at both the state and local levels; and (e) provide models for building local capacity in fire protection programs. [2010 1st sp.s. c 7 § 45; 2003 c 316 § 1. Prior: 1999 c 117 § 1; 1999 c 24 § 3; 1998 c 245 § 65; prior: 1995 c 369 § 16; 1995 c 243 § 11; 1993 c 280 § 69; 1986 c 266 § 56. Formerly RCW 43.63A.320.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Findings—1999 c 24: See note following RCW 38.52.505.

Findings—Severability—1995 c 243: See notes following RCW 80.36.555.

Additional notes found at www.leg.wa.gov

43.43.938 Director of fire protection—Appointment—Duties. (1) Wherever the term state fire marshal appears in the Revised Code of Washington or the Washington Administrative Code it shall mean the director of fire protection.

(2) The chief of the Washington state patrol shall appoint an officer who shall be known as the director of fire protection.

(3) The director of fire protection may designate one or more deputies and may delegate to those deputies his or her duties and authorities as deemed appropriate.

(4) The director of fire protection shall prepare a biennial budget pertaining to fire protection services. Such biennial budget shall be submitted as part of the Washington state patrol's budget request.

(5) The director of fire protection, shall implement and administer, within constraints established by budgeted resources, all duties of the chief of the Washington state patrol that are to be carried out through the director of fire protection, and all of the duties of the director of fire protection. Such administration shall include negotiation of agreements with the state board for community and technical colleges, the higher education coordinating board, and the state colleges and universities as provided in RCW 43.43.934. Programs covered by such agreements shall include, but not be limited to, planning curricula, developing and delivering instructional programs and materials, and using existing instructional personnel and facilities. Where appropriate, such contracts shall also include planning and conducting instructional programs at the state fire service training center. [2010 1st sp.s. c 7 § 46; 1995 c 369 § 18; 1993 c 280 § 71; 1986 c 266 § 58. Formerly RCW 43.63A.340.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Additional notes found at www.leg.wa.gov

43.43.940 Fire service training program—Grants and bequests. The Washington state patrol may accept any and all donations, grants, bequests, and devises, conditional or otherwise, or money, property, service, or other things of value which may be received from the United States or any agency thereof, any governmental agency, any institution, person, firm, or corporation, public and private, to be held, used, or applied for the purposes of the fire service training program established in RCW 43.43.934. [1995 c 369 § 19; 1986 c 266 § 59. Formerly RCW 43.63A.350.]

Additional notes found at www.leg.wa.gov

43.43.942 Fire service training—Fees and fee schedules. The Washington state patrol may: (1) Impose and collect fees for fire service training; and (2) establish and set fee schedules for fire service training. [1995 c 369 § 20; 1986 c 266 § 60. Formerly RCW 43.63A.360.]

Additional notes found at www.leg.wa.gov

43.43.944 Fire service training account. (1) The fire service training account is hereby established in the state treasury. The fund shall consist of:

- (a) All fees received by the Washington state patrol for fire service training;
- (b) All grants and bequests accepted by the Washington state patrol under RCW 43.43.940;
- (c) Twenty percent of all moneys received by the state on fire insurance premiums; and
- (d) General fund—state moneys appropriated into the account by the legislature.

(2) Moneys in the account may be appropriated only for fire service training. The state patrol may use amounts appropriated from the fire service training account under this section to contract with the Washington state firefighters apprenticeship trust for the operation of the firefighter joint apprenticeship training program. The contract may call for payments on a monthly basis. During the 2009-2011 fiscal biennium, the legislature may appropriate funds from this

account for school fire prevention activities within the Washington state patrol.

(3) Any general fund—state moneys appropriated into the account shall be allocated solely to the firefighter joint apprenticeship training program. The Washington state patrol may contract with outside entities for the administration and delivery of the firefighter joint apprenticeship training program. [2010 1st sp.s. c 37 § 923; 2007 c 520 § 6034; 2007 c 290 § 1; 2005 c 518 § 929; 2003 1st sp.s. c 25 § 919; 1999 c 117 § 2; 1995 c 369 § 21; 1986 c 266 § 61. Formerly RCW 43.63A.370.]

Reviser's note: The 2010 1st sp. sess. c 37 § 923 amendment to this section was not displayed as a reenactment. All prior amendments were included in the language amended.

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Part headings not law—Severability—Effective dates—2007 c 520: See notes following RCW 43.19.125.

Severability—Effective date—2005 c 518: See notes following RCW 28A.500.030.

Severability—Effective date—2003 1st sp.s. c 25: See notes following RCW 19.28.351.

Additional notes found at www.leg.wa.gov

43.43.946 Fire services trust fund. The fire services trust fund is created in the state treasury. All receipts designated by the legislature shall be deposited in the fund. Appropriations from the fund may be made exclusively for the purposes specified in *RCW 43.63A.377. [1991 c 135 § 2. Formerly RCW 43.63A.375.]

***Reviser's note:** RCW 43.63A.377 was recodified as RCW 43.43.948 pursuant to 1995 c 369 § 69, effective July 1, 1995.

Intent—1991 c 135: "It is necessary for the health, safety, and welfare of the people of the state of Washington that fire code enforcement, public education on fire prevention, fire training for fire and emergency response personnel, and administration of these activities be funded in a dependable manner. It is therefore the intent of the legislature to establish a fund for these purposes." [1991 c 135 § 1.]

Additional notes found at www.leg.wa.gov

43.43.948 Fire services trust fund—Expenditures. Money from the fire services trust fund may be expended for the following purposes:

- (1) Training of fire service personnel, including both classroom and hands-on training at the state fire training center or other locations approved by the chief of the Washington state patrol through the director of fire protection services;
- (2) Maintenance and operation at the state's fire training center near North Bend. If in the future the state builds or leases other facilities as other fire training centers, a portion of these moneys may be used for the maintenance and operation at these centers;
- (3) Lease or purchase of equipment for use in the provisions of training to fire service personnel;
- (4) Grants or subsidies to local jurisdictions to allow them to perform their functions under this section;
- (5) Costs of administering these programs under this section;
- (6) Licensing and enforcement of state laws governing the sales of fireworks; and

(7) Development with the legal fireworks industry and funding of a statewide public education program for fireworks safety. [1995 c 369 § 22; 1991 c 135 § 3. Formerly RCW 43.63A.377.]

Intent—Effective date—Severability—1991 c 135: See notes following RCW 43.43.946.

Additional notes found at www.leg.wa.gov

43.43.950 Fire service training center bond retirement account of 1977. The state fire service training center bond retirement account of 1977 is hereby reestablished as an account within the treasury for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to chapter 349, Laws of 1977 ex. sess., or chapter 470, Laws of 1985 or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the commission for vocational education or the statutory successor to its powers and duties involving the state fire training center.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund such amounts and at such times as are required by the bond proceedings. [1991 sp.s. c 13 § 79. Formerly RCW 43.63A.380.]

Additional notes found at www.leg.wa.gov

43.43.952 Arson investigation information system—Findings—Intent. (1) The legislature finds that provisions for information systems relating to statistics and reporting for fire prevention, suppression, and damage control do not adequately address the needs of ongoing investigations of fire incidents where the cause is suspected or determined to be the result of negligence or otherwise suggestive of some criminal activity, particularly that of arson. It is the intent of the legislature to establish an information and reporting system designed specifically to assist state and local officers in conducting such investigations and, where substantiated, to undertake prosecution of individuals suspected of such activities.

(2)(a) In addition to the information provided by local officials about the cause, origin, and extent of loss in fires under *chapter 48.48 RCW, there is hereby created the state arson investigation information system in the Washington state patrol.

(b) The chief of the Washington state patrol shall develop the arson investigation information system in consultation with representatives of the various state and local officials charged with investigating fires resulting from suspicious or criminal activities under *chapter 48.48 RCW and of the insurance industry.

(c) The arson investigation information system shall be designed to include at least the following attributes: (i) The information gathered and reported shall meet the diverse needs of state and local investigating agencies; (ii) the forms and reports are drafted in understandable terms of common usage; and (iii) the results shall be adaptable to the varying

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levels of available resources, maintained in a manner to foster data sharing and mutual aid activities, and made available to other law enforcement agencies responsible for criminal investigations.

(d) All insurers required to report claim information under the provisions of chapter 48.50 RCW shall cooperate fully with any requests from the chief of the Washington state patrol in developing and maintaining the arson investigation information system. The confidentiality provisions of that chapter shall be fully enforced. [1995 c 369 § 64.]

Reviser's note: *(1) Chapter 48.48 RCW was recodified as chapter 43.44 RCW pursuant to 2006 c 25 § 13.

(2) 1995 c 369 directed that this section be added to chapter 43.10 RCW. This section has been codified in chapter 43.43 RCW, which relates more directly to the functions of the chief of the Washington state patrol with regard to fire protection.

Additional notes found at www.leg.wa.gov

STATE FIRE SERVICE MOBILIZATION

43.43.960 State fire service mobilization—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this subchapter.

(1) "Chief" means the chief of the Washington state patrol.

(2) "State fire marshal" means the director of fire protection in the Washington state patrol.

(3) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(4) "Jurisdiction" means state, county, city, fire district, or port district firefighting units, or other units covered by this chapter.

(5) "Mobilization" means that firefighting resources beyond those available through existing agreements will be requested and, when available, sent in response to an emergency or disaster situation that has exceeded the capabilities of available local resources. During a large scale emergency, mobilization includes the redistribution of regional or statewide firefighting resources to either direct emergency incident assignments or to assignment in communities where firefighting resources are needed.

When mobilization is declared and authorized as provided in this chapter, all firefighting resources including those of the host fire protection authorities, i.e. incident jurisdiction, shall be deemed as mobilized under this chapter, including those that responded earlier under existing mutual aid or other agreement. All nonhost fire protection authorities providing firefighting resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter from the time of the mobilization declaration.

This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

(6) "Mutual aid" means emergency interagency assistance provided without compensation under an agreement between jurisdictions under chapter 39.34 RCW. [2003 c 405 § 1; 1997 c 49 § 8. Prior: 1995 c 391 § 5; 1995 c 369 § 10; 1992 c 117 § 9. Formerly RCW 38.54.010.]

Findings—1992 c 117: See note following RCW 35.21.775.

Additional notes found at www.leg.wa.gov

43.43.961 State fire service mobilization—Legislative declaration and intent. Because of the possibility of the occurrence of disastrous fires or other disasters of unprecedented size and destructiveness, the need to insure that the state is adequately prepared to respond to such a fire or disaster, the need to establish a mechanism and a procedure to provide for reimbursement to state agencies and local firefighting agencies that respond to help others in time of need or to a host fire district that experiences expenses beyond the resources of the fire district, and generally to protect the public peace, health, safety, lives, and property of the people of Washington, it is hereby declared necessary to:

(1) Provide the policy and organizational structure for large scale mobilization of firefighting resources in the state through creation of the Washington state fire services mobilization plan;

(2) Confer upon the chief the powers provided herein;

(3) Provide a means for reimbursement to state agencies and local fire jurisdictions that incur expenses when mobilized by the chief under the Washington state fire services mobilization plan; and

(4) Provide for reimbursement of the host fire department or fire protection district when it has: (a) Exhausted all of its resources; and (b) invoked its local mutual aid network and exhausted those resources. Upon implementation of state fire mobilization, the host district resources shall become state fire mobilization resources consistent with the fire mobilization plan.

It is the intent of the legislature that mutual aid and other interlocal agreements providing for enhanced emergency response be encouraged as essential to the public peace, safety, health, and welfare, and for the protection of the lives and property of the people of the state of Washington. If possible, mutual aid agreements should be without stated limitations as to resources available, time, or area. Nothing in this chapter shall be construed or interpreted to limit the eligibility of any nonhost fire protection authority for reimbursement of expenses incurred in providing firefighting resources for mobilization. [2003 c 405 § 2; 1997 c 49 § 9; 1995 c 391 § 6; 1992 c 117 § 10. Formerly RCW 38.54.020.]

Findings—1992 c 117: See note following RCW 35.21.775.

Additional notes found at www.leg.wa.gov

43.43.962 State fire service mobilization—State fire services mobilization plan—State fire resources coordinator. The director of fire protection shall review and make recommendations to the chief on the refinement and maintenance of the Washington state fire services mobilization plan, which shall include the procedures to be used during fire and other emergencies for coordinating local, regional, and state fire jurisdiction resources. In carrying out this duty, the director of fire protection shall consult with and solicit recommendations from representatives of state and local fire and emergency management organizations, regional fire defense boards, and the department of natural resources. The Washington state fire services mobilization plan shall be consistent with, and made part of, the Washington state comprehensive

emergency management plan. The chief shall review the fire services mobilization plan as submitted by the director of fire protection, recommend changes that may be necessary, and approve the fire services mobilization plan for inclusion within the state comprehensive emergency management plan.

It is the responsibility of the chief to mobilize jurisdictions under the Washington state fire services mobilization plan. The state fire marshal shall serve as the state fire resources coordinator when the Washington state fire services mobilization plan is mobilized. [2010 1st sp.s. c 7 § 47; 2003 c 405 § 3; 1997 c 49 § 10; 1995 c 269 § 1101; 1992 c 117 § 11. Formerly RCW 38.54.030.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Findings—1992 c 117: See note following RCW 35.21.775.

Additional notes found at www.leg.wa.gov

43.43.963 State fire service mobilization—Regional fire defense boards—Regional fire service plans—Regions established. (1) Regions within the state are initially established as follows but may be adjusted as necessary by the state fire marshal:

(a) Northwest region - Whatcom, Skagit, Snohomish, San Juan, and Island counties;

(b) Northeast region - Okanogan, Ferry, Stevens, Pend Oreille, Spokane, and Lincoln counties;

(c) Olympic region - Clallam and Jefferson counties;

(d) South Puget Sound region - Kitsap, Mason, King, and Pierce counties;

(e) Southeast region - Chelan, Douglas, Kittitas, Grant, Adams, Whitman, Yakima, Klickitat, Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties;

(f) Central region - Grays Harbor, Thurston, Pacific, and Lewis counties; and

(g) Southwest region - Wahkiakum, Cowlitz, Clark, and Skamania counties.

(2)(a) There is created a regional fire defense board within each region created in subsection (1) of this section.

(b) The regional fire defense boards shall consist of two members from each county in the region. One member from each county shall be appointed by the county fire chiefs' association or, in the event there is no such county association, by the county's legislative authority. Each county's office of emergency management or, in the event there is no such office, the county's legislative authority shall select the second representative to the regional board. The department of natural resources fire control chief shall appoint a representative from each department of natural resources region to serve as a member of the appropriate regional fire defense board.

(c) Members of each regional board will select a chairperson and secretary as officers. Members serving on the regional boards do so in a voluntary capacity and are not eligible for reimbursement for meeting-related expenses from the state.

(3)(a) Regional defense boards shall develop regional fire service plans that include provisions for organized fire agencies to respond across municipal, county, or regional boundaries.

(b) Each regional plan shall be consistent with the incident command system, the Washington state fire services

mobilization plan, the requirements of this section, and regional response plans already adopted and in use in the state. The regional boards shall work with the relevant local government entities to facilitate development of intergovernmental agreements if any such agreements are required to implement a regional fire service plan.

(c) Each regional fire service plan must include a mechanism by which a local fire mobilization radio frequency, consistent with RCW 76.04.015, is identified and made available during the initial response to any forest fire that crosses jurisdictional lines so that all responders have access to communications during the response. Different initial response frequencies may be identified and used as appropriate in different geographic response areas. If the fire radio communication needs escalate beyond the capability of the identified local radio frequency, the use of other available designated interoperability radio frequencies may be used.

(d) Each regional fire service plan shall be approved by the director of fire protection. [2010 1st sp.s. c 7 § 48; 2010 c 38 § 2; 1997 c 49 § 11; 1992 c 117 § 12. Formerly RCW 38.54.040.]

Reviser's note: This section was amended by 2010 c 38 § 2 and by 2010 1st sp.s. c 7 § 48, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Findings—1992 c 117: See note following RCW 35.21.775.

43.43.964 State fire service mobilization—Development of reimbursement procedures. The Washington state patrol in consultation with the office of financial management and the Washington military department shall develop procedures to facilitate reimbursement to state agencies and jurisdictions from appropriate federal and state funds when state agencies and jurisdictions are mobilized by the chief under the Washington state fire services mobilization plan. The Washington state patrol shall ensure that these procedures provide reimbursement to the host district in as timely a manner as possible. [2003 c 405 § 4; 1997 c 49 § 12; 1995 c 391 § 7; 1992 c 117 § 13. Formerly RCW 38.54.050.]

Findings—1992 c 117: See note following RCW 35.21.775.

Additional notes found at www.leg.wa.gov

43.43.970 Law enforcement mobilization—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any general purpose law enforcement agency as defined in RCW 10.93.020.

(2) "Board" means the state law enforcement mobilization policy board.

(3) "Chief" means the chief of the Washington state patrol.

(4) "Chief law enforcement officer" means the chief of police or sheriff responsible for law enforcement services in the jurisdiction in which the emergency is occurring.

(5) "General authority Washington peace officer" means a general authority Washington peace officer as defined in RCW 10.93.020.

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(6) "Host agency" means the law enforcement agency that requests statewide mobilization under RCW 43.43.970 through 43.43.975.

(7) "Mobilization" means a redistribution of regional and statewide law enforcement resources in response to an emergency or disaster situation.

(8) "Mutual aid" means emergency interagency assistance provided without compensation pursuant to an agreement under chapter 39.34 RCW.

(9) "Resource coordination" means the effort to locate and arrange for the delivery of resources needed by chief law enforcement officers.

(10) "State law enforcement resource coordinator" means a designated individual or agency selected by the chief to perform the responsibilities of that position. [2003 c 405 § 6.]

Legislative declaration and intent—2003 c 405: "(1) Because of the possibility of a disaster of unprecedented size and destruction, including acts of domestic terrorism and civil unrest, that requires law enforcement response for the protection of persons or property and preservation of the peace, the need exists to ensure that the state is adequately prepared to respond to such an incident. There is a need to (a) establish a mechanism and a procedure to provide for reimbursement to law enforcement agencies that respond to help others in time of need, and to host law enforcement agencies that experience expenses beyond the resources of the agencies; and (b) generally to protect the public safety, peace, health, lives, and property of the people of Washington.

(2) It is hereby declared necessary to:

(a) Provide the policy and organizational structure for large-scale mobilization of law enforcement resources in the state, using the incident command system, through creation of the Washington state law enforcement mobilization plan;

(b) Confer upon the chief of the Washington state patrol the powers provided in this chapter;

(c) Provide a means for reimbursement to law enforcement jurisdictions that incur expenses when mobilized by the chief under the Washington state law enforcement mobilization plan; and

(d) Provide for reimbursement of the host law enforcement agency when it has:

(i) Exhausted all of its resources; and

(ii) Invoked its local mutual aid network and exhausted those resources." [2003 c 405 § 5.]

43.43.971 Law enforcement mobilization—State law enforcement mobilization policy board—State law enforcement mobilization plan. (1) The state law enforcement mobilization policy board shall be established by the chief and shall have representatives from each of the regions established in RCW 43.43.974. In carrying out its duty, the board shall consult with and solicit recommendations from representatives of the state and local law enforcement and emergency management organizations, and regional law enforcement mobilization committees.

(2) The board shall establish and make recommendations to the chief on the refinement and maintenance of the Washington state law enforcement mobilization plan, including the procedures to be used during an emergency or disaster response requiring coordination of local, regional, and state law enforcement resources.

(3) The chief shall review the Washington state law enforcement mobilization plan, as submitted by the board, recommend changes as necessary, and may approve the plan. The plan shall be consistent with the Washington state comprehensive emergency management plan. The chief may recommend the plan for inclusion within the state comprehensive

sive emergency management plan established under chapter 38.52 RCW. [2003 c 405 § 7.]

43.43.972 Law enforcement mobilization—Local law enforcement request for mobilization—State law enforcement resource coordinator—Mobilization response—Declaration of end of mobilization. (1) Local law enforcement may request mobilization only in response to an emergency or disaster exceeding the capabilities of available local resources and those available through existing mutual aid agreements. Upon finding that the local jurisdiction has exhausted all available resources, it is the responsibility of the chief to determine whether mobilization is the appropriate response to the emergency or disaster and, if so, to mobilize jurisdictions under the Washington state law enforcement mobilization plan.

(2) Upon mobilization, the chief shall appoint a state law enforcement resource coordinator, and an alternate, who shall serve jointly with the chief law enforcement officer from the host agency to command the mobilization effort consistent with incident command system procedures.

(3) Upon mobilization, all law enforcement resources including those of the host agency and those that responded earlier under an existing mutual aid or other agreement shall be mobilized. Mobilization may include the redistribution of regional or statewide law enforcement resources to either direct emergency incident assignments or to assignments in communities where law enforcement resources are needed.

(4) For the duration of the mobilization:

(a) Host agency resources shall become state law enforcement mobilization resources, under the command of the state law enforcement resource coordinator and the chief law enforcement officer from the host agency, consistent with the state law enforcement mobilization plan and incident command system procedures; and

(b) All law enforcement authorities providing resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter.

(5) The chief, in consultation with the regional law enforcement resource coordinator, shall determine when mobilization is no longer required and shall then declare the end to the mobilization. [2003 c 405 § 8.]

43.43.973 State law enforcement mobilization—State law enforcement coordinator—Duties. (1) The state law enforcement resource coordinator, or alternate, shall serve in that capacity for the duration of the mobilization.

(2) The duties of the coordinator are to:

(a) Coordinate the mobilization of law enforcement and other support resources within a region;

(b) Be primarily responsible for the coordination of resources in conjunction with the regional law enforcement mobilization committees, in the case of incidents involving more than one region or when resources from more than one region must be mobilized; and

(c) Advise and consult with the chief regarding what resources are required in response to the emergency or disaster and in regard to when the mobilization should end. [2003 c 405 § 9.]

43.43.974 State law enforcement mobilization—Regions established—Regional law enforcement mobilization committees—Regional law enforcement mobilization plans. (1) Regions within the state are initially established as follows and may be adjusted as necessary by the state law enforcement policy board, but should remain consistent with the Washington state fire defense regions:

(a) Central region - Grays Harbor, Thurston, Pacific, and Lewis counties;

(b) Lower Columbia region - Kittitas, Yakima, and Klickitat counties;

(c) Mid-Columbia region - Chelan, Douglas, and Grant counties;

(d) Northeast region - Okanogan, Ferry, Stevens, Pend Oreille, Spokane, Adams, and Lincoln counties;

(e) Northwest region - Whatcom, Skagit, Snohomish, San Juan, and Island counties;

(f) Olympic region - Clallam and Jefferson counties;

(g) South Puget Sound region - Kitsap, Mason, King, and Pierce counties;

(h) Southeast region - Benton, Franklin, Walla Walla, Columbia, Whitman, Garfield, and Asotin counties;

(i) Southwest region - Wahkiakum, Cowlitz, Clark, and Skamania counties.

(2) Within each of the regions there is created a regional law enforcement mobilization committee. The committees shall consist of the sheriff of each county in the region, the district commander of the Washington state patrol from the region, a number of police chiefs within the region equivalent to the number of counties within the region plus one, and the director of the counties' emergency management office. The police chief members of each regional committee must include the chiefs of police of each city of ninety-five thousand or more population, and the number of members of the committee shall be increased if necessary to accommodate such chiefs. Members of each regional mobilization committee shall select a chair, who shall have authority to implement the regional plan, and a secretary as officers. Members serving on the regional mobilization committees shall not be eligible for reimbursement for meeting-related expenses from the state.

(3) The regional mobilization committees shall work with the relevant local government entities to facilitate development of intergovernmental agreements if any such agreements are required to implement a regional law enforcement mobilization plan.

(4) Regional mobilization committees shall develop regional law enforcement mobilization plans that include provisions for organized law enforcement agencies to respond across municipal, county, or regional boundaries. Each regional mobilization plan shall be consistent with the incident command system, the Washington state law enforcement mobilization plan, and regional response plans adopted prior to July 27, 2003.

(5) Each regional plan adopted under subsection (4) of this section shall be approved by the state law enforcement mobilization policy board before implementation. [2003 c 405 § 10.]

43.43.975 State law enforcement mobilization—Development of reimbursement procedures—Eligibility

of nonhost law enforcement authority for reimbursement. The state patrol in consultation with the Washington association of sheriffs and police chiefs and the office of financial management shall develop procedures to facilitate reimbursement to jurisdictions from funds appropriated specifically for this purpose when jurisdictions are mobilized under the Washington state law enforcement mobilization plan.

Nothing in this chapter shall be construed or interpreted to limit the eligibility of any nonhost law enforcement authority for reimbursement of expenses incurred in providing law enforcement resources for mobilization. [2003 c 405 § 11.]

Chapter 43.44 RCW STATE FIRE PROTECTION

Sections

43.44.010	Examination of premises.
43.44.020	Standards of safety.
43.44.030	Schools—Compliance with standards for fire prevention and safety—Plan reviews and construction inspections.
43.44.040	Removal of fire hazards—Appeal of order—Penalty.
43.44.050	Reports and investigation of fires—Police powers.
43.44.060	Statistical information and reports.
43.44.070	Examination of witnesses.
43.44.080	Criminal prosecutions.
43.44.090	Record of fires.
43.44.110	Smoke detection devices in dwelling units—Penalty.
43.44.120	Premises with guard animals—Registration, posting—Acts permitted firefighters—Liability for injury to firefighters.
43.44.130	Hazardous liquid and gas pipeline accidents—Preparedness of local first responders.

43.44.010 Examination of premises. (1) The chief of the Washington state patrol, through the director of fire protection or his or her authorized deputy, shall have authority at all times of day and night, in the performance of duties imposed by this chapter, to enter upon and examine any building or premises where any fire has occurred and other buildings and premises adjoining or near thereto.

(2) The chief of the Washington state patrol, through the director of fire protection or his or her authorized deputy, shall have authority at any reasonable hour to enter into any public building or premises or any building or premises used for public purposes to inspect for fire hazards. [1995 c 369 § 25; 1986 c 266 § 67; 1985 c 470 § 17; 1947 c 79 § .33.03; Rem. Supp. 1947 § 45.33.03. Formerly RCW 48.48.030.]

Additional notes found at www.leg.wa.gov

43.44.020 Standards of safety. (1) The chief of the Washington state patrol, through the director of fire protection or his or her authorized deputy, shall have authority to enter upon all premises and into all buildings except private dwellings for the purpose of inspection to ascertain if any fire hazard exists, and to require conformance with minimum standards for the prevention of fire and for the protection of life and property against fire and panic as to use of premises, and may adopt by reference nationally recognized standards applicable to local conditions.

(2) The chief of the Washington state patrol, through the director of fire protection or his or her authorized deputy, may, upon request by the chief fire official or the local governing body or of taxpayers of such area, assist in the enforcement of any such code. [1995 c 369 § 26; 1986 c 266 § 68;

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1985 c 470 § 18; 1947 c 79 § .33.04; Rem. Supp. 1947 § 45.33.04. Formerly RCW 48.48.040.]

Additional notes found at www.leg.wa.gov

43.44.030 Schools—Compliance with standards for fire prevention and safety—Plan reviews and construction inspections. The director of fire protection shall make or cause to be made plan reviews and construction inspections for all E-1 occupancies as may be necessary to insure compliance with the state building code and standards for schools adopted under chapter 19.27 RCW. Nothing in this section prohibits the director of fire protection from delegating construction inspection authority to any local jurisdiction. [2010 1st sp.s. c 7 § 49; 1991 c 170 § 2; 1986 c 266 § 69; 1985 c 470 § 19; 1981 c 198 § 3; 1972 ex.s. c 70 § 1. Formerly RCW 48.48.045.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Additional notes found at www.leg.wa.gov

43.44.040 Removal of fire hazards—Appeal of order—Penalty. (1) If the chief of the Washington state patrol, through the director of fire protection or his or her authorized deputy, finds in any building or premises subject to their inspection under this chapter, any combustible material or flammable conditions or fire hazards dangerous to the safety of the building, premises, or to the public, he or she shall by written order require such condition to be remedied, and such order shall forthwith be complied with by the owner or occupant of the building or premises.

(2) An owner or occupant aggrieved by any such order made by the chief of the Washington state patrol, through the director of fire protection or his or her deputy, may appeal such order pursuant to chapter 34.05 RCW. If the order is confirmed, the order shall remain in force and be complied with by the owner or occupant.

(3) Any owner or occupant failing to comply with any such order not appealed from or with any order so confirmed shall be punishable by a fine of not less than ten dollars nor more than fifty dollars for each day such failure exists. [1995 c 369 § 27; 1986 c 266 § 70; 1985 c 470 § 20; 1947 c 79 § .33.05; Rem. Supp. 1947 § 45.33.05. Formerly RCW 48.48.050.]

Additional notes found at www.leg.wa.gov

43.44.050 Reports and investigation of fires—Police powers. (1) The responsibility for investigating the origin, cause, circumstances, and extent of loss of all fires shall be assigned as follows:

(a) Within any city or town, the chief of the fire department;

(b) Within unincorporated areas of a county, the county fire marshal, or other fire official so designated by the county legislative authority.

(2) No fire marshal, or other person, may enter the scene of an emergency until permitted by the officer in charge of the emergency incident.

(3) Nothing shall prevent any city, town, county, or fire protection district, or any combination thereof, from entering

into interlocal agreements to meet the responsibility required by this section.

(4) When any fire investigation indicates that the cause of the fire is determined to be suspicious or criminal in nature, the person responsible for the fire investigation shall immediately report the results of said investigation to the local law enforcement agency and the chief of the Washington state patrol, through the state fire marshal.

(5) In addition to the responsibility imposed by this section, any law enforcement agency, sheriff, or chief of police may assist in the investigation of the origin, cause, circumstances, and extent of loss of all fires within his or her respective jurisdiction.

(6) The chief of the Washington state patrol, through the director of fire protection or his or her deputy, may investigate any fire for the purpose of determining its cause, origin, and the extent of the loss. The chief of the Washington state patrol, through the director of fire protection or his or her deputy, shall assist in the investigation of those fires of criminal, suspected, or undetermined cause when requested by the reporting agency. In the investigation of any fire of criminal, suspected, or undetermined cause, the chief of the Washington state patrol and the director of fire protection or his or her deputy, are vested with police powers to enforce the laws of this state. To exercise these powers, authorized deputies must receive prior written authorization from the chief of the Washington state patrol, through the director of fire protection, and shall have completed a course of training prescribed by the Washington state criminal justice training commission. [1996 c 161 § 1; 1995 c 369 § 28; 1986 c 266 § 71; 1985 c 470 § 21; 1981 c 104 § 1; 1980 c 181 § 1; 1947 c 79 § .33.06; Rem. Supp. 1947 § 45.33.06. Formerly RCW 48.48.060.]

Additional notes found at www.leg.wa.gov

43.44.060 Statistical information and reports. (1) The chief of each organized fire department, or the sheriff or other designated county official having jurisdiction over areas not within the jurisdiction of any fire department, shall report statistical information and data to the chief of the Washington state patrol, through the director of fire protection, on each fire occurring within the official's jurisdiction and, within two business days, report any death resulting from fire. Reports shall be consistent with the national fire incident reporting system developed by the United States fire administration and rules established by the chief of the Washington state patrol, through the director of fire protection. The chief of the Washington state patrol, through the director of fire protection, and the department of natural resources shall jointly determine the statistical information to be reported on fires on land under the jurisdiction of the department of natural resources.

(2) The chief of the Washington state patrol, through the director of fire protection, shall analyze the information and data reported, compile a report, and distribute a copy annually by July 1st to each chief fire official in the state. Upon request, the chief of the Washington state patrol, through the director of fire protection, shall also furnish a copy of the report to any other interested person at cost. [2010 1st sp.s. c

7 § 50; 1999 c 231 § 1; 1995 c 369 § 29; 1986 c 266 § 72; 1985 c 470 § 22; 1980 c 181 § 2. Formerly RCW 48.48.065.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Additional notes found at www.leg.wa.gov

43.44.070 Examination of witnesses. In the conduct of any investigation into the cause, origin, or loss resulting from any fire, the chief of the Washington state patrol and the director of fire protection shall have the same power and rights relative to securing the attendance of witnesses and the taking of testimony under oath as is conferred upon the insurance commissioner under RCW 48.03.070. False swearing by any such witness shall be deemed to be perjury and shall be subject to punishment as such. [1995 c 369 § 30; 1986 c 266 § 73; 1985 c 470 § 23; 1947 c 79 § .33.07; Rem. Supp. 1947 § 45.33.07. Formerly RCW 48.48.070.]

Additional notes found at www.leg.wa.gov

43.44.080 Criminal prosecutions. If as the result of any such investigation, or because of any information received, the chief of the Washington state patrol, through the director of fire protection, is of the opinion that there is evidence sufficient to charge any person with any crime, he or she may cause such person to be arrested and charged with such offense, and shall furnish to the prosecuting attorney of the county in which the offense was committed, the names of witnesses and all pertinent and material evidence and testimony within his or her possession relative to the offense. [1995 c 369 § 31; 1986 c 266 § 74; 1985 c 470 § 24; 1947 c 79 § .33.08; Rem. Supp. 1947 § 45.33.08. Formerly RCW 48.48.080.]

Additional notes found at www.leg.wa.gov

43.44.090 Record of fires. The chief of the Washington state patrol, through the director of fire protection, shall keep on file all reports of fires made to him or her pursuant to this code. Such records shall at all times during business hours be open to public inspection; except, that any testimony taken in a fire investigation may, in the discretion of the chief of the Washington state patrol, through the director of fire protection, be withheld from public scrutiny. The chief of the Washington state patrol, through the director of fire protection, may destroy any such report after five years from its date. [1995 c 369 § 32; 1986 c 266 § 75; 1985 c 470 § 25; 1947 c 79 § .33.09; Rem. Supp. 1947 § 45.33.09. Formerly RCW 48.48.090.]

Additional notes found at www.leg.wa.gov

43.44.110 Smoke detection devices in dwelling units—Penalty. (1) Smoke detection devices shall be installed inside all dwelling units:

(a) Occupied by persons other than the owner on and after December 31, 1981; or

(b) Built or manufactured in this state after December 31, 1980.

(2) The smoke detection devices shall be designed, manufactured, and installed inside dwelling units in conformance with:

(a) Nationally accepted standards; and

(b) As provided by the administrative procedure act, chapter 34.05 RCW, rules and regulations promulgated by the chief of the Washington state patrol, through the director of fire protection.

(3) Installation of smoke detection devices shall be the responsibility of the owner. Maintenance of smoke detection devices, including the replacement of batteries where required for the proper operation of the smoke detection device, shall be the responsibility of the tenant, who shall maintain the device as specified by the manufacturer. At the time of a vacancy, the owner shall insure that the smoke detection device is operational prior to the reoccupancy of the dwelling unit.

(4) Any owner or tenant failing to comply with this section shall be punished by a fine of not more than two hundred dollars.

(5) For the purposes of this section:

(a) "Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation; and

(b) "Smoke detection device" means an assembly incorporating in one unit a device which detects visible or invisible particles of combustion, the control equipment, and the alarm-sounding device, operated from a power supply either in the unit or obtained at the point of installation. [1995 c 369 § 34; 1991 c 154 § 1; 1986 c 266 § 89; 1980 c 50 § 1. Formerly RCW 48.48.140.]

Additional notes found at www.leg.wa.gov

43.44.120 Premises with guard animals—Registration, posting—Acts permitted firefighters—Liability for injury to firefighters. (1) All premises guarded by guard animals, which are animals professionally trained to defend and protect premises and the occupants of the premises, shall be registered with the local fire department. Front entrances to residences and all entrances to business premises shall be posted in a visible location with signs approved by the chief of the Washington state patrol, through the director of fire protection, indicating that guard animals are present.

(2) A firefighter, who reasonably believes that his or her safety is endangered by the presence of a guard animal, may without liability: (a) Refuse to enter the premises, or (b) take any reasonable action necessary to protect himself or herself from attack by the guard animal.

(3) If the person responsible for the guard animal being on the premises does not comply with subsection (1) of this section, that person may be held liable for any injury to the firefighter caused by the presence of the guard animal. [1995 c 369 § 35; 1986 c 266 § 90; 1983 c 258 § 1. Formerly RCW 48.48.150.]

Additional notes found at www.leg.wa.gov

43.44.130 Hazardous liquid and gas pipeline accidents—Preparedness of local first responders. (1) The chief of the Washington state patrol, through the director of fire protection or his or her authorized deputy, shall, in consultation with the emergency management program within the state military department, the department of ecology, the

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utilities and transportation commission, and local emergency services organizations:

(a) Evaluate the preparedness of local first responders in meeting emergency management demands under subsection (2) of this section; and

(b) Conduct an assessment of the equipment and personnel needed by local first responders to meet emergency management demands related to pipelines.

(2) The chief of the Washington state patrol, through the director of fire protection or his or her deputy, shall develop curricula for training local first responders to deal with hazardous liquid and gas pipeline accidents. The curricula shall be developed in conjunction with pipeline companies and local first responders, and shall include a timetable and costs for providing training as defined in the curricula to all communities housing pipelines. Separate curricula shall be developed for hazardous liquid and gas pipelines so that the differences between pipelines may be recognized and appropriate accident responses provided. The need for a training program for regional incident management teams shall also be evaluated.

(3) In consultation with other relevant agencies, the chief of the Washington state patrol, through the director of fire protection or his or her deputy, shall identify the need and means for achieving consistent application of the national interagency incident management system.

(4) For the purposes of this section, "local first responders" means police, fire, emergency medical staff, and volunteers. [2000 c 191 § 20. Formerly RCW 48.48.160.]

Intent—Findings—Conflict with federal requirements—Short title—Effective date—2000 c 191: See RCW 81.88.005 and 81.88.900 through 81.88.902.

Chapter 43.46 RCW ARTS COMMISSION

Sections

43.46.005	Purpose.
43.46.015	Washington state arts commission established—Composition.
43.46.030	Terms—Vacancies.
43.46.040	Compensation—Travel expenses—Organization—Chairperson—Rules—Quorum.
43.46.045	Executive director—Employees.
43.46.050	Powers and duties generally.
43.46.055	Development of arts and humanities.
43.46.060	Gifts and grants.
43.46.070	Biennial report.
43.46.081	Poet laureate program.
43.46.085	Poet laureate account.
43.46.090	Commission as reflecting state's responsibility—Acquisition of works of art for public buildings and lands—Visual arts program established.
43.46.095	State art collection.
43.46.900	Effective date—1985 c 317.

43.46.005 Purpose. The conservation and development of the state's artistic resources is essential to the social, educational, and economic growth of the state of Washington. Artists, works of art, and artistic institutions contribute to the quality of life and the general welfare of the citizens of the state, and are an appropriate matter of concern to the government of the state of Washington. [1985 c 317 § 1.]

43.46.015 Washington state arts commission established—Composition. There is established a Washington

state arts commission. The commission consists of nineteen members appointed by the governor and four members of the legislature, one from each caucus in the senate and appointed by the president of the senate and one from each caucus in the house of representatives and appointed by the speaker of the house of representatives. The governor shall appoint citizens representing the various disciplines within the visual, performing and literary arts, and other citizens active in the arts community. The governor shall consider nominations for membership from individuals actively involved in cultural, state or community organizations. The governor shall also consider geographical distribution of the membership in the appointment of new members. [1999 c 241 § 1; 1985 c 317 § 2.]

43.46.030 Terms—Vacancies. Members shall serve three year terms. A legislative member shall serve as long as he or she is a member of the legislative body from which he or she was appointed. Each member will continue to serve until a successor is appointed. Vacancies shall be filled by appointment for the remainder of the unexpired term. [1985 c 317 § 3; 1967 ex.s. c 125 § 4; 1965 c 8 § 43.46.030. Prior: 1961 c 301 § 3.]

43.46.040 Compensation—Travel expenses—Organization—Chairperson—Rules—Quorum. Members of the commission shall serve without compensation. However, nonlegislative members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 and legislative members shall be reimbursed as provided in RCW 44.04.120. The commission shall organize, elect a chairperson annually, and adopt rules pursuant to chapter 34.05 RCW. A majority of its members constitute a quorum. Any action as defined in RCW 42.30.020(3) shall be taken only at a meeting at which a quorum is present. [1985 c 317 § 4; 1965 c 8 § 43.46.040. Prior: 1961 c 301 § 4.]

43.46.045 Executive director—Employees. The governor shall select a full time executive director from a list of three names submitted by the commission by September 1, 1988, and anytime thereafter that a vacancy occurs. The executive director shall receive no other salary and shall not be otherwise gainfully employed. Subject to the provisions of chapter 41.06 RCW, the executive director may also employ such clerical and other assistants as may be reasonably required to carry out commission functions. The executive director shall serve at the pleasure of the governor. [1988 c 81 § 23; 1985 c 317 § 5; 1967 ex.s. c 125 § 2.]

43.46.050 Powers and duties generally. The commission shall meet, study, plan, and advise the governor, the various departments of the state and the state legislature and shall make such recommendations as it deems proper for the cultural development of the state of Washington. [1985 c 317 § 6; 1965 c 8 § 43.46.050. Prior: 1961 c 301 § 5.]

43.46.055 Development of arts and humanities. The commission may develop, sponsor, promote and administer any activity, project, or program within or without this state which is related to the growth and development of the arts

and humanities in the state of Washington and may assist any person or public or private agency to this end. [1985 c 317 § 7; 1967 ex.s. c 125 § 1.]

43.46.060 Gifts and grants. The commission may accept gifts and grants upon such terms as the commission shall deem proper. [1965 c 8 § 43.46.060. Prior: 1961 c 301 § 6.]

43.46.070 Biennial report. The commission shall make a biennial report of its proceedings and recommendations to the governor, which shall contain a full description of program and project activity, including fund sources and expenditures for the biennium covered by the report. [1985 c 317 § 8; 1965 c 8 § 43.46.070. Prior: 1961 c 301 § 7.]

43.46.081 Poet laureate program. (1) The Washington state arts commission shall establish and administer the poet laureate program. The poet laureate shall engage in activities to promote and encourage poetry within the state, including but not limited to readings, workshops, lectures, or presentations for Washington educational institutions and communities in geographically diverse areas over a two-year term.

(2) Selection of a poet laureate shall be made by a committee appointed and coordinated by the commission. The committee may include representatives of the Washington state library, the education community, the Washington commission for the humanities, publishing, and the community of Washington poets.

(3) The commission and the committee shall establish criteria to be used for the selection of a poet laureate. In addition to other criteria established, the poet laureate must be a published poet, a resident of Washington state, active in the poetry community, and willing and able to promote poetry in the state of Washington throughout the two-year term.

(4) The recommendation of the poet laureate selection committee shall be forwarded to the commission, which shall appoint the poet laureate with the approval of the governor.

(5) The poet laureate shall receive compensation at a level determined by the commission. Travel expenses shall be provided in accordance with RCW 43.03.050 and 43.03.060.

(6) The poet laureate may not serve more than two consecutive two-year terms.

(7) The commission shall fund the poet laureate program through gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise. [2007 c 128 § 2.]

Findings—2007 c 128: "The legislature wishes to recognize: (1) The value of poetry and the contribution Washington poets make to the culture of our state; (2) that poetry is a literary form respected and growing throughout all segments of Washington's population; (3) that awareness and appreciation of poetry encourages increased literacy and advanced communication skills; and (4) that Washington state has produced many excellent and nationally recognized poets." [2007 c 128 § 1.]

43.46.085 Poet laureate account. The poet laureate account is created in the custody of the state treasurer. All receipts from gifts, grants, or endowments from public or private sources must be deposited into the account. Expendi-

tures from the account may only be used for the poet laureate program. Only the executive director of the commission or the executive director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2007 c 128 § 3.]

Findings—2007 c 128: See note following RCW 43.46.081.

43.46.090 Commission as reflecting state's responsibility—Acquisition of works of art for public buildings and lands—Visual arts program established. The legislature recognizes this state's responsibility to foster culture and the arts and its interest in the viable development of the state's artists by the establishment of the Washington state arts commission. The legislature declares it to be a policy of this state that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be placed in public buildings or lands. There is hereby established a visual arts program to be administered by the Washington state arts commission. [2009 c 549 § 5134; 1983 c 204 § 1; 1974 ex.s. c 176 § 1.]

Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions: RCW 43.17.200.

Colleges and universities, purchases of works of art—Procedure: RCW 28B.10.025.

Purchase of works of art—Procedure: RCW 43.19.455.

School districts, purchases of works of art—Procedure: RCW 28A.335.210.

Additional notes found at www.leg.wa.gov

43.46.095 State art collection. All works of art purchased and commissioned under the visual arts program shall become a part of a state art collection developed, administered, and operated by the Washington state arts commission. All works of art previously purchased or commissioned under RCW 43.46.090, 43.17.200, 43.19.455, 28B.10.025, or 28A.335.210 shall be considered a part of the state art collection to be administered by the Washington state arts commission. [1990 c 33 § 578; 1983 c 204 § 2.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

43.46.900 Effective date—1985 c 317. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985. [1985 c 317 § 10.]

**Chapter 43.52 RCW
OPERATING AGENCIES**

Sections

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43.52.250 Definitions. As used in this chapter and unless the context indicates otherwise, words and phrases shall mean:

"District" means a public utility district as created under the laws of the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"City" means any city or town in the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"Canada" means Canada or any province thereof.

"Operating agency" or "joint operating agency" means a municipal corporation created pursuant to RCW 43.52.360, as now or hereafter amended.

"Board of directors" means the board established under RCW 43.52.370.

"Executive board" means the board established under RCW 43.52.374.

"Board" means the board of directors of the joint operating agency unless the operating agency is constructing, operating, terminating, or decommissioning a nuclear power plant

under a site certification agreement under chapter 80.50 RCW, in which case "board" means the executive board.

"Public utility" means any person, firm or corporation, political subdivision or governmental subdivision including cities, towns and public utility districts engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy.

"Revenue bonds or warrants" means bonds, notes, bond anticipation notes, warrants, certificates of indebtedness, commercial paper, refunding or renewal obligations, payable from a special fund or revenues of the utility properties operated by the joint operating agency.

"Electrical resources" means both electric energy and conservation.

"Electrical energy" means electric energy produced by any means including water power, steam power, nuclear power, and conservation.

"Conservation" means any reduction in electric power consumption as a result of increases in efficiency of energy use, production, or distribution. [1987 c 376 § 8; 1982 1st ex.s. c 43 § 1; 1981 1st ex.s. c 1 § 1; 1977 ex.s. c 184 § 1; 1965 c 8 § 43.52.250. Prior: 1953 c 281 § 1.]

Additional notes found at www.leg.wa.gov

43.52.260 Scope of authority. The authority granted in this chapter shall apply equally to the generating of electricity by water power, by steam power, by nuclear power, conservation, or by any other means whatsoever. [1987 c 376 § 9; 1977 ex.s. c 184 § 2; 1965 c 8 § 43.52.260. Prior: 1955 c 258 § 18; 1953 c 281 § 20.]

43.52.272 Power commission abolished. The Washington state power commission is hereby abolished. [1965 c 8 § 43.52.272. Prior: 1957 c 295 § 8.]

43.52.290 Members of the board of directors of an operating agency—Compensation—May hold other public position—Incompatibility of offices doctrine voided. Members of the board of directors of an operating agency shall be paid the sum of fifty dollars per day as compensation for each day or major part thereof devoted to the business of the operating agency, together with their traveling and other necessary expenses. Such member may, regardless of any charter or other provision to the contrary, be an officer or employee holding another public position and, if he or she be such other public officer or employee, he or she shall be paid by the operating agency such amount as will, together with the compensation for such other public position equal the sum of fifty dollars per day. The common law doctrine of incompatibility of offices is hereby voided as it applies to persons sitting on the board of directors or the executive board of an operating agency and holding an elective or appointive position on a public utility district commission or municipal legislative authority or being an employee of a public utility district or municipality. [2009 c 549 § 5135; 1983 1st ex.s. c 3 § 1; 1982 1st ex.s. c 43 § 5; 1977 ex.s. c 184 § 3; 1965 c 8 § 43.52.290. Prior: 1953 c 281 § 4.]

Additional notes found at www.leg.wa.gov

43.52.300 Powers and duties of an operating agency.

An operating agency formed under RCW 43.52.360 shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate plants, works and facilities for the generation and/or transmission of electric energy, either within or without the state of Washington, and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of any such works, plants and facilities; provided that an operating agency shall not be authorized to acquire by condemnation any plants, works and facilities owned and operated by any city or district, or by a privately owned public utility. An operating agency shall be authorized to contract for and to acquire by lease or purchase from the United States or any of its agencies, any plants, works or facilities for the generation and transmission of electricity and any real or personal property necessary or convenient for use in connection therewith.

(3) To negotiate and enter into contracts with the United States or any of its agencies, with any state or its agencies, with Canada or its agencies or with any district or city of this state, for the lease, purchase, construction, extension, betterment, acquisition, operation and maintenance of all or any part of any electric generating and transmission plants and reservoirs, works and facilities or rights necessary thereto, either within or without the state of Washington, and for the marketing of the energy produced therefrom. Such negotiations or contracts shall be carried on and concluded with due regard to the position and laws of the United States in respect to international agreements.

(4) To negotiate and enter into contracts for the purchase, sale, exchange, transmission or use of electric energy or falling water with any person, firm or corporation, including political subdivisions and agencies of any state of Canada, or of the United States, at fair and nondiscriminating rates.

(5) To apply to the appropriate agencies of the state of Washington, the United States or any thereof, and to Canada and/or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate works, plants and facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(6) To establish rates for electric energy sold or transmitted by the operating agency. When any revenue bonds or warrants are outstanding the operating agency shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy, falling water and other services sold, furnished or supplied by the operating agency which shall be fair and nondiscriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the operating agency is obligated to set aside in

any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the operating agency and all necessary repairs, replacements and renewals thereof.

(7) To act as agent for the purchase and sale at wholesale of electricity for any city or district whenever requested so to do by such city or district.

(8) To contract for and to construct, operate and maintain fishways, fish protective devices and facilities and hatcheries as necessary to preserve or compensate for projects operated by the operating agency.

(9) To construct, operate and maintain channels, locks, canals and other navigational, reclamation, flood control and fisheries facilities as may be necessary or incidental to the construction of any electric generating project, and to enter into agreements and contracts with any person, firm or corporation, including political subdivisions of any state, of Canada or the United States for such construction, operation and maintenance, and for the distribution and payment of the costs thereof.

(10) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the operating agency may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the operating agency shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the operating agency.

(11) To study, analyze and make reports concerning the development, utilization and integration of electric generating facilities and requirements within the state and without the state in that region which affects the electric resources of the state.

(12) To acquire any land bearing coal, uranium, geothermal, or other energy resources, within or without the state, or any rights therein, for the purpose of assuring a long-term, adequate supply of coal, uranium, geothermal, or other energy resources to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale, or disposal of such energy resources that it deems proper. [1977 ex.s. c 184 § 4; 1975 1st ex.s. c 37 § 1; 1965 c 8 § 43.52.300. Prior: 1955 c 258 § 1; 1953 c 281 § 5.]

43.52.3411 Revenue bonds or warrants. For the purposes provided for in this chapter, an operating agency shall have power to issue revenue bonds or warrants payable from the revenues of the utility properties operated by it. Whenever the board of a joint operating agency shall deem it advisable to issue bonds or warrants to engage in conservation activities or to construct or acquire any public utility or any works, plants or facilities or any additions or betterments thereto or extensions thereof it shall provide therefor by resolution, which shall specify and adopt the system or plan proposed and declare the estimated cost thereof as near as may be. Such cost may include funds for working capital, for payment of expenses incurred in the conservation activities or the acquisition or construction of the utility and for the repayment of advances made to the operating agency by any public utility district or city. Except as otherwise provided in RCW 43.52.343, all the provisions of law as now or hereafter in

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effect relating to revenue bonds or warrants of public utility districts shall apply to revenue bonds or warrants issued by the joint operating agency including, without limitation, provisions relating to: The creation of special funds and the pledging of revenues thereto; the time and place of payment of such bonds or warrants and the interest rate or rates thereon; the covenants that may be contained therein and the effect thereof; the execution, issuance, sale, funding, or refunding, redemption and registration of such bonds or warrants; and the status thereof as negotiable instruments, as legal securities for deposits of public moneys and as legal investments for trustees and other fiduciaries and for savings and loan associations, banks and insurance companies doing business in this state. However, for revenue bonds or warrants issued by an operating agency, the provisions under RCW 54.24.030 relating to additional or alternate methods for payment may be made a part of the contract with the owners of any revenue bonds or warrants of an operating agency. The board may authorize the managing director or the treasurer of the operating agency to sell revenue bonds or warrants maturing one year or less from the date of issuance, and to fix the interest rate or rates on such revenue bonds or warrants with such restrictions as the board shall prescribe. Such bonds and warrants may be in any form, including bearer bonds or bearer warrants, or registered bonds or registered warrants as provided in RCW 39.46.030. Such bonds and warrants may also be issued and sold in accordance with chapter 39.46 RCW. [1987 c 376 § 10; 1983 c 167 § 116; 1981 1st ex.s. c 1 § 2; 1965 c 8 § 43.52.3411. Prior: 1957 c 295 § 6.]

Additional notes found at www.leg.wa.gov

43.52.343 Revenue bonds or warrants—Sale by negotiation or advertisement and bid. All bonds issued by an operating agency shall be sold and delivered in such manner, at such rate or rates of interest and for such price or prices and at such time or times as the board shall deem in the best interests of the operating agency, whether by negotiation or to the highest and best bidder after such advertising for bids as the board of the operating agency may deem proper: PROVIDED, That the board may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as it may deem most advantageous to its own interests. [1981 1st ex.s. c 1 § 3; 1965 c 8 § 43.52.343. Prior: 1957 c 295 § 7; 1955 c 258 § 10.]

Additional notes found at www.leg.wa.gov

43.52.350 Operating agencies to provide fishways, facilities and hatcheries—Contracts. An operating agency shall, at the time of the construction of any dam or obstruction, construct and shall thereafter maintain and operate such fishways, fish protective facilities and hatcheries as the director of fish and wildlife finds necessary to permit anadromous fish to pass any dam or other obstruction operated by the operating agency or to replace fisheries damaged or destroyed by such dam or obstruction and an operating agency is further authorized to enter into contracts with the department of fish and wildlife to provide for the construction and/or operation of such fishways, facilities and hatcheries

ies. [1994 c 264 § 24; 1988 c 36 § 18; 1977 ex.s. c 184 § 5; 1965 c 8 § 43.52.350. Prior: 1953 c 281 § 11.]

43.52.360 Operating agency—Formation—Additional projects—Appeals—Membership, withdrawal—Dissolution. Any two or more cities or public utility districts or combinations thereof may form an operating agency (herein sometimes called a joint operating agency) for the purpose of acquiring, constructing, operating and owning plants, systems and other facilities and extensions thereof, for the generation and/or transmission of electric energy and power. Each such agency shall be a municipal corporation of the state of Washington with the right to sue and be sued in its own name.

Application for the formation of an operating agency shall be made to the director of the department of ecology (herein sometimes referred to as the director) after the adoption of a resolution by the legislative body of each city or public utility district to be initial members thereof authorizing said city or district to participate. Such application shall set forth (1) the name and address of each participant, together with a certified copy of the resolution authorizing its participation; (2) a general description of the project and the principal project works, including dams, reservoirs, power houses and transmission lines; (3) the general location of the project and, if a hydroelectric project, the name of the stream on which such proposed project is to be located; (4) if the project is for the generation of electricity, the proposed use or market for the power to be developed; (5) a general statement of the electric loads and resources of each of the participants; (6) a statement of the proposed method of financing the preliminary engineering and other studies and the participation therein by each of the participants.

Within ten days after such application is filed with the director of the department of ecology notice thereof shall be published by the director once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is to be located, setting forth the names of the participants and the general nature, extent and location of the project. Any public utility wishing to do so may object to such application by filing an objection, setting forth the reasons therefor, with the director of the department of ecology not later than ten days after the date of last publication of such notice.

Within ninety days after the date of last publication the director shall either make findings thereon or have instituted a hearing thereon. In the event the director has neither made findings nor instituted a hearing within ninety days of the date of last publication, or if such hearing is instituted within such time but no findings are made within one hundred and twenty days of the date of such last publication, the application shall be deemed to have been approved and the operating agency established. If it shall appear (a) that the statements set forth in said application are substantially correct; (b) that the contemplated project is such as is adaptable to the needs, both actual and prospective, of the participants and such other public utilities as indicate a good faith intention by contract or by letter of intent to participate in the use of such project; (c) that no objection to the formation of such operating agency has been filed by any other public utility which prior to and at the time of the filing of the application for such

operating agency had on file a permit or license from an agency of the state or an agency of the United States, whichever has primary jurisdiction, for the construction of such project; (d) that adequate provision will be made for financing the preliminary engineering, legal and other costs necessary thereto; the director shall make findings to that effect and enter an order creating such operating agency, establishing the name thereof and the specific project for the construction and operation for which such operating agency is formed. Such order shall not be construed to constitute a bar to any other public utility proceeding according to law to procure any required governmental permits, licenses or authority, but such order shall establish the competency of the operating agency to proceed according to law to procure such permits, licenses or authority.

No operating agency shall undertake projects or conservation activities in addition to those for which it was formed without the approval of the legislative bodies of a majority of the members thereof. Prior to undertaking any new project for acquisition of an energy resource, a joint operating agency shall prepare a plan which details a least-cost approach for investment in energy resources. The plan shall include an analysis of the costs of developing conservation compared with costs of developing other energy resources and a strategy for implementation of the plan. The plan shall be presented to the energy and utilities committees of the senate and house of representatives for their review and comment. In the event that an operating agency desires to undertake such a hydroelectric project at a site or sites upon which any publicly or privately owned public utility has a license or permit or has a prior application for a license or permit pending with any commission or agency, state or federal, having jurisdiction thereof, application to construct such additional project shall be made to the director of the department of ecology in the same manner, subject to the same requirements and with the same notice as required for an initial agency and project and shall not be constructed until an order authorizing the same shall have been made by the director in the manner provided for such original application.

Any party who has joined in filing the application for, or objections against, the creation of such operating agency and/or the construction of an additional project, and who feels aggrieved by any order or finding of the director shall have the right to appeal to the superior court in the manner set forth in RCW 43.52.430.

After the formation of an operating agency, any other city or district may become a member thereof upon application to such agency after the adoption of a resolution of its legislative body authorizing said city or district to participate, and with the consent of the operating agency by the affirmative vote of the majority of its members. Any member may withdraw from an operating agency, and thereupon such member shall forfeit any and all rights or interest which it may have in such operating agency or in any of the assets thereof: PROVIDED, That all contractual obligations incurred while a member shall remain in full force and effect. An operating agency may be dissolved by the unanimous agreement of the members, and the members, after making provisions for the payment of all debts and obligations, shall thereupon hold the assets thereof as tenants in common. [1998 c 245 § 68; 1987 c 376 § 11; 1977 ex.s. c 184 § 6; 1965

c 8 § 43.52.360. Prior: 1957 c 295 § 1; 1955 c 258 § 3; 1953 c 281 § 12.]

Generation of electric energy by steam: RCW 43.21A.610 through 43.21A.642.

43.52.370 Operating agency board of directors—Members, appointment, vote, term, etc.—Rules—Proceedings—Limitation on powers and duties. (1) Except as provided in subsection (2) of this section, the management and control of an operating agency shall be vested in a board of directors, herein sometimes referred to as the board. The legislative body of each member of an operating agency shall appoint a representative who may, at the discretion of the member and regardless of any charter or other provision to the contrary, be an officer or employee of the member, to serve on the board of the operating agency. Each representative shall have one vote and shall have, in addition thereto, one vote for each block of electric energy equal to ten percent of the total energy generated by the agency during the preceding year purchased by the member represented by such representative. Each member may appoint an alternative representative to serve in the absence or disability of its representative. Each representative shall serve at the pleasure of the member. The board of an operating agency shall elect from its members a president, vice president and secretary, who shall serve at the pleasure of the board. The president and secretary shall perform the same duties with respect to the operating agency as are provided by law for the president and secretary, respectively, of public utility districts, and such other duties as may be provided by motion, rule or resolution of the board. The board of an operating agency shall adopt rules for the conduct of its meetings and the carrying out of its business, and adopt an official seal. All proceedings of an operating agency shall be by motion or resolution and shall be recorded in the minute book which shall be a public record. A majority of the board members shall constitute a quorum for the transaction of business. A majority of the votes which the members present are entitled to cast shall be necessary and sufficient to pass any motion or resolution: PROVIDED, That such board members are entitled to cast a majority of the votes of all members of the board. The members of the board of an operating agency may be compensated by such agency as is provided in RCW 43.52.290: PROVIDED, That the compensation to any member shall not exceed five thousand dollars in any year except for board members who are elected to serve on an executive board established under RCW 43.52.374.

(2) If an operating agency is constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW, the powers and duties of the board of directors shall include and are limited to the following:

(a) Final authority on any decision of the operating agency to purchase, acquire, construct, terminate, or decommission any power plants, works, and facilities except that once the board of directors has made a final decision regarding a nuclear power plant, the executive board established under RCW 43.52.374 shall have the authority to make all subsequent decisions regarding the plant and any of its components;

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(b) Election of members to, removal from, and establishment of salaries for the elected members of the executive board under RCW 43.52.374(1)(a); and

(c) Selection and appointment of three outside directors as provided in RCW 43.52.374(1)(b).

All other powers and duties of the operating agency, including without limitation authority for all actions subsequent to final decisions by the board of directors, including but not limited to the authority to sell any power plant, works, and facilities are vested in the executive board established under RCW 43.52.374. [1983 1st ex.s. c 3 § 2; 1982 1st ex.s. c 43 § 2; 1981 1st ex.s. c 3 § 1; 1977 ex.s. c 184 § 7; 1965 c 8 § 43.52.370. Prior: 1957 c 295 § 2; 1953 c 281 § 13.]

Additional notes found at www.leg.wa.gov

43.52.374 Operating agency executive board—Members—Terms—Removal—Rules—Proceedings—Managing director—Civil immunities—Defense and indemnification. (1) With the exception of the powers and duties of the board of directors described in RCW 43.52.370(2), the management and control of an operating agency constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW is vested in an executive board established under this subsection and consisting of eleven members.

(a) Five members of the executive board shall be elected to four-year terms by the board of directors from among the members of the board of directors. The board of directors may provide by rule for the composition of the five members of the executive board elected from among the members of the board of directors so as to reflect the member public utility districts' and cities' participation in the joint operating agency's projects. Members elected to the executive board from the board of directors are ineligible for continued membership on the executive board if they cease to be members of the board of directors. The board of directors may also provide by rule for the removal of a member of the executive board, except for the outside directors. Members of the board of directors may be elected to serve successive terms on the executive board. Members elected to the executive board from the board of directors shall receive a salary from the operating agency at a rate set by the board of directors.

(b) Six members of the executive board shall be outside directors. Three shall be selected and appointed by the board of directors, and three shall be selected and appointed by the governor and confirmed by the senate. All outside directors shall:

(i) Serve four-year terms on the executive board. However, of the initial members of the executive board, the board of directors and the governor shall each appoint one outside director to serve a two-year term, one outside director to serve a three-year term, and one outside director to serve a four-year term. Thereafter, all outside directors shall be appointed for four-year terms. All outside directors are eligible for reappointment;

(ii) Receive travel expenses on the same basis as the five members elected from the board of directors. The outside directors shall also receive a salary from the operating agency as fixed by the governor;

(iii) Not be an officer or employee of, or in any way affiliated with, the Bonneville power administration or any electric utility conducting business in the states of Washington, Oregon, Idaho, or Montana;

(iv) Not be involved in the financial affairs of the operating agency as an underwriter or financial adviser of the operating agency or any of its members or any of the participants in any of the operating agency's plants; and

(v) Be representative of policymakers in business, finance, or science, or have expertise in the construction or management of such facilities as the operating agency is constructing or operating, or have expertise in the termination, disposition, or liquidation of corporate assets.

(c) The governor may remove outside directors from the executive board for incompetency, misconduct, or malfeasance in office in the same manner as state appointive officers under chapter 43.06 RCW. For purposes of this subsection, misconduct shall include, but not be limited to, nonfeasance and misfeasance.

(2) Nothing in this chapter shall be construed to mean that an operating agency is in any manner an agency of the state. Nothing in this chapter alters or destroys the status of an operating agency as a separate municipal corporation or makes the state liable in any way or to any extent for any pre-existing or future debt of the operating agency or any present or future claim against the agency.

(3) The eleven members of the executive board shall be selected with the objective of establishing an executive board which has the resources to effectively carry out its responsibilities. All members of the executive board shall conduct their business in a manner which in their judgment is in the interest of all ratepayers affected by the joint operating agency and its projects.

(4) The executive board shall elect from its members a chair, vice chair, and secretary, who shall serve at the pleasure of the executive board. The executive board shall adopt rules for the conduct of its meetings and the carrying out of its business. All proceedings shall be by motion or resolution and shall be recorded in the minute book, which shall be a public record. A majority of the executive board shall constitute a quorum for the transaction of business.

(5) With respect to any operating agency existing on April 20, 1982, to which the provisions of this section are applicable:

(a) The board of directors shall elect five members to the executive board no later than sixty days after April 20, 1982; and

(b) The board of directors and the governor shall select and appoint the initial outside directors and the executive board shall hold its organizational meeting no later than sixty days after April 20, 1982, and the powers and duties prescribed in this chapter shall devolve upon the executive board at that time.

(6) The executive board shall select and employ a managing director of the operating agency and may delegate to the managing director such authority for the management and control of the operating agency as the executive board deems appropriate. The managing director's employment is terminable at the will of the executive board.

(7) Members of the executive board shall be immune from civil liability for mistakes and errors of judgment in the

good faith performance of acts within the scope of their official duties involving the exercise of judgment and discretion. This grant of immunity shall not be construed as modifying the liability of the operating agency.

The operating agency shall undertake the defense of and indemnify each executive board member made a party to any civil proceeding including any threatened, pending, or completed action, suit, or proceeding, whether civil, administrative, or investigative, by reason of the fact he or she is or was a member of the executive board, against judgments, penalties, fines, settlements, and reasonable expenses, actually incurred by him or her in connection with such proceeding if he or she had conducted himself or herself in good faith and reasonably believed his or her conduct to be in the best interest of the operating agency.

In addition members of the executive board who are utility employees shall not be fired, forced to resign, or demoted from their utility jobs for decisions they make while carrying out their duties as members of the executive board involving the exercise of judgment and discretion. [2009 c 549 § 5136; 1983 1st ex.s. c 3 § 3; 1982 1st ex.s. c 43 § 3; 1981 1st ex.s. c 3 § 2.]

Additional notes found at www.leg.wa.gov

43.52.375 Treasurer—Auditor—Powers and duties—Official bonds—Funds.

(1) The board of each joint operating agency shall by resolution appoint a treasurer. The treasurer shall be the chief financial officer of the operating agency, who shall report at least annually to the board a detailed statement of the financial condition of the operating agency and of its financial operations for the preceding fiscal year. The treasurer shall advise the board on all matters affecting the financial condition of the operating agency. Before entering upon his or her duties the treasurer shall give bond to the operating agency, with a surety company authorized to write such bonds in this state as surety, in an amount which the board finds by resolution will protect the operating agency against loss, conditioned that all funds which he or she receives as such treasurer will be faithfully kept and accounted for and for the faithful discharge of his or her duties. The amount of such bond may be decreased or increased from time to time as the board may by resolution direct.

(2) The board shall also appoint an auditor and may require him or her to give a bond with a surety company authorized to do business in the state of Washington in such amount as it shall by resolution prescribe, conditioned for the faithful discharge of his or her duties. The auditor shall report directly to the board and be responsible to it for discharging his or her duties.

(3) The premiums on the bonds of the auditor and the treasurer shall be paid by the operating agency. The board may provide for coverage of said officers and other persons on the same bond.

(4) All funds of the joint operating agency shall be paid to the treasurer and shall be disbursed by the treasurer only on checks or warrants issued by the auditor upon orders or vouchers approved by the board: PROVIDED, That the board by resolution may authorize the managing director or any other bonded officer or employee as legally permissible

to approve or disapprove vouchers presented to defray salaries of employees and other expenses of the operating agency arising in the usual and ordinary course of its business, including expenses incurred by the board of directors, its executive committee, or the executive board in the performance of their duties. All moneys of the operating agency shall be deposited forthwith by the treasurer in such depositories, and with such securities as are designated by rules of the board. The treasurer shall establish a general fund and such special funds as shall be created by the board, into which he or she shall place all money of the joint operating agency as the board by resolution or motion may direct.

(5) The board may adopt a policy for the payment of claims or other obligations of the operating agency, which are payable out of solvent funds, and may elect to pay such obligations by check or warrant. However, if the applicable fund is not solvent at the time payment is ordered, then no check may be issued and payment shall be by warrant. When checks are to be used, the board shall designate the qualified public depository upon which the checks are to be drawn as well as the officers required or authorized to sign the checks. For the purposes of this chapter, "warrant" includes checks where authorized by this subsection. [2009 c 173 § 1; 1982 1st ex.s. c 43 § 7; 1981 1st ex.s. c 3 § 3; 1965 c 8 § 43.52.375. Prior: 1957 c 295 § 4.]

Additional notes found at www.leg.wa.gov

43.52.378 Executive board—Appointment of administrative auditor—Retention of firm for performance audits—Duties of auditor and firm—Reports. The executive board of any operating agency constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement issued pursuant to chapter 80.50 RCW shall appoint an administrative auditor. The administrative auditor shall be deemed an officer under chapter 42.23 RCW. The appointment of the administrative auditor shall be in addition to the appointment of the auditor for the issuance of warrants and other purposes as provided in RCW 43.52.375. The executive board shall retain a qualified firm or firms to conduct performance audits which is in fact independent and does not have any interest, direct or indirect, in any contract with the operating agency other than its employment hereunder. No member or employee of any such firm shall be connected with the operating agency as an officer, employee, or contractor. The administrative auditor and the firm or firms shall be independently and directly responsible to the executive board of the operating agency. The executive board shall require a firm to conduct continuing audits of the methods, procedures and organization used by the operating agency to control costs, schedules, productivity, contract amendments, project design and any other topics deemed desirable by the executive board. The executive board may also require a firm to analyze particular technical aspects of the operating agency's projects and contract amendments. The firm or firms shall provide advice to the executive board in its management and control of the operating agency. At least once each year, the firm or firms shall prepare and furnish a report of its actions and recommendations to the executive board for the purpose of enabling it to attain the highest degree of efficiency in the management and control of any

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thermal power project under construction or in operation. The administrative auditor shall assist the firm or firms in the performance of its duties. The administrative auditor and the firm or firms shall consult regularly with the executive board and furnish any information or data to the executive board which the administrative auditor, firm, or executive board deems helpful in accomplishing the purpose above stated. The administrative auditor shall perform such other duties as the executive board shall prescribe to accomplish the purposes of this section.

Upon the concurrent request of the chairs of the senate or house energy and utilities committees, the operating agency shall report to the committees on a quarterly basis. [2009 c 549 § 5138; 1987 c 505 § 84; 1986 c 158 § 13; 1982 1st ex.s. c 43 § 8; 1981 1st ex.s. c 3 § 4; 1979 ex.s. c 220 § 1.]

Additional notes found at www.leg.wa.gov

43.52.380 Member's preference to buy energy—Apportionment—Surplus. Members shall have a preference right to the purchase of all electric energy generated by an operating agency. As between members, the amount of electric energy to which each shall be entitled shall be computed annually and shall be based on the same percentage as the purchases of such member bore to the total generation of the operating agency for the preceding year. Surplus electric energy, that is energy not contracted for by the members, may be sold to any public utility authorized by law to distribute and sell electric energy. [1965 c 8 § 43.52.380. Prior: 1953 c 281 § 14.]

43.52.383 Compliance with open public meetings act. (1) The legislature intends that the business and deliberations of joint operating agencies conducted by their boards of directors, executive boards, committees and subcommittees be conducted openly and with opportunity for public input.

(2) The board of directors, executive board, and all committees or subcommittees thereof shall comply with the provisions of chapter 42.30 RCW, in order to assure adequate public input and awareness of decisions. [1983 1st ex.s. c 3 § 4.]

43.52.385 Best interest of ratepayers to determine interest of agency. For the purposes of this chapter, including but not limited to RCW 43.52.343, the best interests of all ratepayers affected by the joint operating agency and its projects shall determine the interest of the operating agency and its board. [1982 1st ex.s. c 43 § 9.]

Additional notes found at www.leg.wa.gov

43.52.391 Powers and duties of operating agency. Except as otherwise provided in this section, a joint operating agency shall have all powers now or hereafter granted public utility districts under the laws of this state. It shall not acquire nor operate any electric distribution properties nor condemn any properties owned by a public utility which are operated for the generation and transmission of electric power and energy or are being developed for such purposes with due diligence under a valid license or permit, nor purchase or acquire any operating hydroelectric generating plant owned by any city or district on June 11, 1953, or which may be

acquired by any city or district by condemnation on or after January 1, 1957, nor levy taxes, issue general obligation bonds, or create subdistricts. It may enter into any contracts, leases or other undertakings deemed necessary or proper and acquire by purchase or condemnation any real or personal property used or useful for its corporate purposes. Actions in eminent domain may be instituted in the superior court of any county in which any of the property sought to be condemned is located and the court in any such action shall have jurisdiction to condemn property wherever located within the state; otherwise such actions shall be governed by the same procedure as now or hereafter provided by law for public utility districts. An operating agency may sell steam or water not required by it for the generation of power and may construct or acquire any facilities it deems necessary for that purpose.

An operating agency may make contracts for any term relating to the purchase, sale, interchange or wheeling of power with the government of the United States or any agency thereof and with any municipal corporation or public utility, within or without the state, and may purchase or deliver power anywhere pursuant to any such contract. An operating agency may acquire any coal-bearing lands for the purpose of assuring a long-term, adequate supply of coal to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale or disposal of coal that it deems proper.

Any member of an operating agency may advance or contribute funds to an agency as may be agreed upon by the agency and the member, and the agency shall repay such advances or contributions from proceeds of revenue bonds, from operating revenues or from any other funds of the agency, together with interest not to exceed the maximum specified in RCW 43.52.395(1). The legislative body of any member may authorize and make such advances or contributions to an operating agency to assist in a plan for termination of a project or projects, whether or not such member is a participant in such project or projects. Any member who makes such advances or contributions for terminating a project or projects in which it is not a participant shall not assume any liability for any debts or obligations related to the terminated project or projects on account of such advance or contribution. [1982 c 1 § 1; 1977 ex.s. c 184 § 8; 1965 c 8 § 43.52.391. Prior: 1957 c 295 § 5.]

Liability to other taxing districts for increased financial burdens: Chapter 54.36 RCW.

Additional notes found at www.leg.wa.gov

43.52.395 Maximum interest rate operating agency may pay member. (1) The maximum rate at which an operating agency shall add interest in repaying a member under RCW 43.52.391 may not exceed the higher of fifteen percent per annum or four percentage points above the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve System) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the preceding calendar month.

(2) The maximum rate specified in subsection (1) of this section is applicable to all advances and contributions made by each member to the agency prior to January 21, 1982, and

to all renewals of such advances and contributions. [1989 c 14 § 4; 1982 c 1 § 2.]

Additional notes found at www.leg.wa.gov

43.52.410 Authority of city or district to contract for electric energy or falling waters. Any city or district is authorized to enter into contracts or compacts with any operating agency or a publicly or privately owned public utility for the purchase and sale of electric energy or falling waters: PROVIDED, That no city or district may enter into a contract or compact with an operating agency to purchase electric energy, or to purchase or participate in a portion of an electrical generating project, that commits the city or district to pay an amount in excess of an express dollar amount or in excess of an express rate per unit of electrical energy received. [1983 c 308 § 1; 1977 ex.s. c 184 § 9; 1965 c 8 § 43.52.410. Prior: 1953 c 281 § 17.]

43.52.430 Appeals from director of department of ecology. Any party in interest deeming itself aggrieved by any order of the director of the department of ecology may appeal to the superior court of Thurston county by serving upon the director and filing with clerk of said court within thirty days after the entry of the order a notice of appeal. The director shall, within ten days after service of the notice of appeal, file with the clerk of the court a return containing a true copy of the order appealed from, together with a transcript of the record of the proceeding before the director, after which the appeal shall be at issue. The appeal shall be heard and decided by the court upon the record before the director and the court may either affirm, set aside, or remand the order appealed from for further proceedings. Appellate review of the superior court's decision may be sought as in other civil cases. [1988 c 202 § 44; 1977 ex.s. c 184 § 10; 1971 c 81 § 113; 1965 c 8 § 43.52.430. Prior: 1953 c 281 § 19.]

Additional notes found at www.leg.wa.gov

43.52.440 Effect of chapter on "Columbia River Sanctuary Act." Nothing contained in this chapter shall be construed to amend, modify or repeal in any manner *RCW 77.55.160, commonly known as the "Columbia River Sanctuary Act", and all matter herein contained shall be expressly subject to such act. [2003 c 39 § 26; 1983 1st ex.s. c 46 § 178; 1965 c 8 § 43.52.440. Prior: 1953 c 281 § 23.]

*Reviser's note: RCW 77.55.160 was recodified as RCW 77.55.191 pursuant to 2005 c 146 § 1001.

43.52.450 Chapter requirements are cumulative—Preservation of rights—Not subject to utilities and transportation commission. The provisions of this chapter shall be cumulative and shall not impair or supersede the powers or rights of any person, firm or corporation or political subdivision of the state of Washington under any other law. The rights of all persons, firms, corporations and political subdivisions or operating units of any kind under existing contracts, renewals thereof or supplements thereto, with the United States, or any agency thereof, for power, are hereby preserved and such rights shall not be impaired or modified by any of the provisions of this chapter or any of the powers granted by this chapter.

The rates, services and practices of any operating agency in respect to the power generated, transmitted or sold by it shall not be governed by the regulations of the utilities and transportation commission. [1977 ex.s. c 184 § 11; 1965 c 8 § 43.52.450. Prior: 1953 c 281 § 10.]

43.52.460 Operating agency to pay in lieu of taxes.

Any joint operating agency formed under this chapter shall pay in lieu of taxes payments in the same amounts as paid by public utility districts. Such payments shall be distributed in accordance with the provisions applicable to public utility districts. [2005 c 443 § 3; 1971 ex.s. c 75 § 1; 1965 c 8 § 43.52.460. Prior: 1957 c 295 § 10.]

Finding—Intent—Effective date—2005 c 443: See notes following RCW 82.08.0255.

43.52.470 Operating agency—Validity of organization and existence. Except as provided in RCW 43.52.360, the validity of the organization of any joint operating agency can be questioned only by action instituted within six months from the date that the joint operating agency is created. If the validity of the existence of any joint operating agency is not challenged within that period, by the filing and service of a petition or complaint in the action, the state shall be barred forever from questioning the validity of the joint operating agency by reason of any defect claimed to exist in the organization thereof, and it shall be deemed validly organized for all purposes. Any joint operating agency heretofore (March 26, 1957) attempted to be organized pursuant to chapter 43.52 RCW and which has maintained its existence since the date of such attempted organization, is hereby declared legal and valid and its organization and creation are validated and confirmed. [1965 c 8 § 43.52.470. Prior: 1957 c 295 § 11.]

43.52.515 Application of Titles 9 and 9A RCW. All of the provisions of Titles 9 and 9A RCW apply to actions of a joint operating agency. [1981 c 173 § 6.]

Additional notes found at www.leg.wa.gov

43.52.520 Security force—Authorized. An operating agency constructing or operating a nuclear power plant under a site certificate issued under chapter 80.50 RCW may establish a security force for the protection and security of each nuclear power plant site exclusion area. Members of the security force may be supplied with uniforms and badges indicating their position as security force members if the uniforms and badges do not closely resemble the uniforms or badges of any law enforcement agency or other agency possessing law enforcement powers in the surrounding area of the nuclear power plant exclusion area. Members of the security force shall enroll in and successfully complete a training program approved by the criminal justice training commission which does not conflict with any requirements of the United States nuclear regulatory commission for the training of security personnel at nuclear power plants. All costs incurred by the criminal justice training commission in the preparation, delivery, or certification of the training programs shall be paid by the operating agency. [1981 c 301 § 1.]

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43.52.525 Security force—Criminal history record information. An operating agency is authorized to obtain criminal history record information pursuant to RCW 10.97.050 for any member of an operating agency security force and for any applicant seeking employment as a member of an operating agency security force. [1981 c 301 § 2.]

43.52.530 Security force—Powers and duties—Rules on speed, operation, location of vehicles authorized. (1) Members of an operating agency security force authorized under RCW 43.52.520 may use reasonable force to detain, search, or remove persons who enter or remain without permission within the nuclear power plant site exclusion area or whenever, upon probable cause, it appears to a member of the security force that a person has committed or is attempting to commit a crime. Should any person be detained, the security force shall immediately notify the law enforcement agency, having jurisdiction over the nuclear power plant site, of the detainment. The security force is authorized to detain the person for a reasonable time until custody can be transferred to a law enforcement officer. Members of a security force may use that force necessary in the protection of persons and properties located within the confines of the nuclear power plant site exclusion area.

(2) An operating agency may adopt and enforce rules controlling the speed, operation, and location of vehicles on property owned or occupied by the operating agency. Such rules shall be conspicuously posted and persons violating the rules may be expelled or detained.

(3) The rights granted in subsection (1) of this section are in addition to any others that may exist by law including, but not limited to, the rights granted in RCW 9A.16.020(4). [1981 c 301 § 3.]

43.52.535 Security force—Membership in retirement system authorized. Members of the operating agency security force shall be members of the retirement system under chapter 41.40 RCW. [1981 c 301 § 4.]

43.52.550 Plans for repayment of operating agency obligations maturing prior to planned operation of plant. Any municipal corporation, cooperative or mutual which has entered into a contract with an operating agency to participate in the construction or acquisition of an energy plant as defined in chapter 80.50 RCW shall annually adopt a plan for the repayment of its contractual share of any operating agency obligation which matures prior to the planned operation of the plant. The manner of adoption of the plan shall be subject to the laws regarding approval of rates of the municipal corporation, cooperative or mutual.

The plan shall include the effect of the means of repayment on its financial condition, its customers' rates, its other contractual rights and obligations, and any other matter deemed useful by the participant.

Each such participating municipal corporation, cooperative or mutual shall include a statement of the extent of its contractual obligation to any operating agency in an annual financial report. [1981 1st ex.s. c 1 § 4.]

Additional notes found at www.leg.wa.gov

43.52.560 Contracts for materials or work required—Sealed bids. Except as provided otherwise in this chapter, a joint operating agency shall purchase any item or items of materials, equipment, or supplies, the estimated cost of which is more than ten thousand dollars exclusive of sales tax, or order work for construction of generating projects and associated facilities, the estimated cost of which is more than ten thousand dollars exclusive of sales tax, by contract in accordance with RCW 54.04.070 and 54.04.080, which require sealed bids for contracts. [2004 c 189 § 1; 1998 c 245 § 69; 1987 c 376 § 1.]

43.52.565 Contracts for materials or work through competitive negotiation—Nuclear generating projects and associated facilities. (1) An operating agency may enter into contracts through competitive negotiation under subsection (2) of this section for materials, equipment, supplies, or work to be performed during commercial operation of a nuclear generating project and associated facilities (a) to replace a defaulted contract or a contract terminated in whole or in part, or (b) where consideration of factors in addition to price, such as technical knowledge, experience, management, staff, or schedule, is necessary to achieve economical operation of the project, provided that the managing director or a designee determines in writing and the executive board finds that execution of a contract under this section will accomplish project completion or operation more economically than sealed bids.

(2) The selection of a contractor shall be made in accordance with the following procedures:

(a) Proposals shall be solicited through a request for proposals, which shall state the requirements to be met. Responses shall describe the professional competence of the offeror, the technical merits of the offer, and the price.

(b) The request for proposals shall be given adequate public notice in the same manner as for sealed bids.

(c) As provided in the request for proposals, the operating agency shall specify at a preproposal conference the contract requirements in the request for proposal, which may include but are not limited to: Schedule, managerial, and staffing requirements, productivity and production levels, technical expertise, approved project quality assurance procedures, and time and place for submission of proposals. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all potential offerors.

(d) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be open for public inspection after contract award.

(e) As provided in the request for proposals, invitations shall be sent to all responsible offerors who submit proposals to attend discussions for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any

information derived from proposals submitted by competing offerors.

(f) The operating agency shall execute a contract with the responsible offeror whose proposal is determined in writing to be the most advantageous to the operating agency and the state taking into consideration the requirements set forth in the request for proposals. The contract file shall contain the basis on which the successful offeror is selected. The operating agency shall conduct a briefing conference on the selection if requested by an offeror.

(g) The contract may be fixed price or cost-reimbursable, in whole or in part, but not cost-plus-percentage-of-cost.

(h) The operating agency shall retain authority and responsibility for inspection, testing, and compliance with applicable regulations or standards of any state or federal governmental agency. [1998 c 245 § 70; 1994 c 27 § 1; 1987 c 376 § 2.]

43.52.567 Contracts for materials or work through competitive negotiation—Renewable electrical energy generation projects. (1) A joint operating agency with an executive board formed under RCW 43.52.374 may enter into contracts through competitive negotiation under subsection (3) of this section for materials, equipment, supplies, or work to be performed in support of siting, constructing, developing, or deploying a renewable electrical energy generation project, if the managing director or a designee determines in writing and the executive board finds that execution of a contract under this section will accomplish project completion or operation more economically than sealed bids.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Professional competence" means the totality of demonstrated experience, knowledge, skills, proficiency, and abilities required to successfully perform the contract.

(b) "Qualified hydropower" means the energy produced either: (i) As a result of modernizations or upgrades made after June 1, 1998, to hydropower facilities operating on May 8, 2001, that have been demonstrated to reduce the mortality of anadromous fish; or (ii) by run of the river or run of the canal hydropower facilities that are not responsible for obstructing the passage of anadromous fish.

(c) "Renewable electrical energy generation project" means electrical generation facilities that are fueled by: (i) Wind; (ii) solar energy; (iii) geothermal energy; (iv) landfill gas; (v) wave or tidal action; (vi) gas produced during the treatment of wastewater; (vii) qualified hydropower; or (viii) biomass energy based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(d) "Responsible offerors" means offerors who possess necessary management and financial resources, experience, organization, and the ability, capacity, and skill to successfully perform the contract.

(3) The selection of a contractor shall be made in an open public meeting, as part of a public record, and in accordance with the following procedures:

(a) Proposals shall be solicited through a request for proposals, which shall state the requirements to be met.

Responses shall describe the professional competence of the offeror, the technical merits of the offer, and the price.

(b) The request for proposals shall be given adequate public notice in the same manner as for sealed bids.

(c) As provided in the request for proposals, the joint operating agency shall specify at a preproposal conference specific contract requirements, which may include but are not limited to: Schedule, managerial, and staffing requirements, productivity and production levels, technical expertise, approved project quality assurance procedures, and time and place for submission of proposals. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all potential offerors.

(d) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be open for public inspection after contract award.

(e) As provided in the request for proposals, invitations shall be sent to all responsible offerors who submit proposals to attend discussions for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(f) The joint operating agency shall execute a contract with the responsible offeror whose proposal is determined in writing to be the most advantageous to the joint operating agency and the state taking into consideration the requirements set forth in the request for proposals. The contract file shall contain the basis on which the successful offeror is selected. The joint operating agency shall conduct a briefing conference on the selection if requested by an offeror.

(g) The contract may be fixed price or cost-reimbursable, in whole or in part, but not cost-plus-percentage-of-cost.

(h) The joint operating agency shall retain authority and responsibility for inspection, testing, and compliance with applicable regulations or standards of any state or federal governmental agency. [2006 c 176 § 1.]

43.52.570 Purchase of materials by telephone or written quotation authorized—Procedure. For the awarding of a contract to purchase any item or items of materials, equipment, or supplies in an amount exceeding five thousand dollars but less than seventy-five thousand dollars, exclusive of sales tax, the managing director or a designee may, in lieu of sealed bids, secure telephone and/or written quotations from at least five vendors, where practical, and award contracts for purchase of materials, equipment, or supplies to the lowest responsible bidder. The agency shall establish a procurement roster, which shall consist of suppliers and manufacturers who may supply materials or equipment to the operating agency, and shall provide for solicitations which will equitably distribute opportunity for bids among suppliers and manufacturers on the roster. Immediately after the award is made, the bid quotations obtained shall be recorded and shall

be posted or otherwise made available for public inspection and copying pursuant to chapter 42.56 RCW at the office of the operating agency or any other officially designated location. Waiver of the deposit or bid bond required for sealed bids may be authorized by the operating agency in securing the bid quotations. [2005 c 274 § 299; 1987 c 376 § 3.]

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

43.52.575 Purchase of materials without competition authorized. When the managing director or a designee determines in writing that it is impracticable to secure competition for required materials, equipment, or supplies, he or she may purchase the materials, equipment, or supplies without competition. The term "impracticable to secure competition" means:

(1) When material, equipment, or supplies can be obtained from only one person or firm (single source of supply); or

(2) When specially designed parts or components are being procured as replacement parts in support of equipment specially designed by the manufacturer. [1987 c 376 § 4.]

43.52.580 Emergency purchase of materials or work by contract. When the managing director or a designee determines in writing that an emergency endangers the public safety or threatens property damage or that serious financial injury would result if materials, supplies, equipment, or work are not obtained by a certain time, and they cannot be contracted for by that time by means of sealed bids, the managing director or a designee may purchase materials, equipment, or supplies or may order work by contract in any amount necessary, after having taken precautions to secure a responsive proposal at the lowest price practicable under the circumstances.

For the purposes of this section the term "serious financial injury" means that the costs attributable to the delay caused by contracting by sealed bids exceed the cost of materials, supplies, equipment, or work to be obtained. [1987 c 376 § 5.]

43.52.585 Procedures for implementing RCW 43.52.560 through 43.52.580. The executive board shall establish procedures for implementing RCW 43.52.560 through 43.52.580 by operating agency resolution after notice, public hearing, and opportunity for public comment. The procedures shall be established within six months after July 26, 1987. [1987 c 376 § 6.]

43.52.590 Construction of RCW 43.52.560 through 43.52.585. Nothing in RCW 43.52.560 through 43.52.585 requires reapplication by a joint operating agency in existence on July 26, 1987. [1987 c 376 § 7.]

43.52.595 Contracts for electric power and energy. A city or district may contract to purchase from an operating agency electric power and energy required for its present or future requirements. For projects the output of which is limited to qualified alternative energy resources as defined by RCW 19.29A.090(3), the contract may include the purchase

of capability of the projects to produce electricity in addition to the actual output of the projects. The contract may provide that the city or district must make the payments required by the contract whether or not a project is completed, operable, or operating and notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the power and energy contracted for. The contract may also provide that payments under the contract are not subject to reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance of the operating agency or a city or district under the contract or other instrument. [2003 c 138 § 1.]

43.52.612 Contract bid form. A joint operating agency shall require that bids upon any construction or improvement of any nuclear generating project and associated facilities shall be made upon the contract bid form supplied by the operating agency, and in no other manner. The operating agency may, before furnishing any person, firm, or corporation desiring to bid upon any work with a contract bid form, require from the person, firm, or corporation, answers to questions contained in a standard form of questionnaire and financial statement, including a complete statement of the financial ability and experience of the person, firm, or corporation in performing work. The questionnaire shall be sworn to before a notary public or other person authorized to take acknowledgement of deeds and shall be submitted once a year or at such other times as the operating agency may require. Whenever the operating agency is not satisfied with the sufficiency of the answers contained in the questionnaire and financial statement or whenever the operating agency determines that the person, firm, or corporation does not meet all of the requirements set forth in this section, it may refuse to furnish the person, firm, or corporation with a contract bid form and any bid of the person, firm, or corporation must be disregarded. The operating agency shall require that a person, firm, or corporation have all of the following requirements in order to obtain a contract form:

- (1) Adequate financial resources, the ability to secure these resources, or the capability to secure a one hundred percent payment and performance bond;
- (2) The necessary experience, organization, and technical qualifications to perform the proposed contract;
- (3) The ability to comply with the required performance schedule taking into consideration all of its existing business commitments;
- (4) A satisfactory record of performance, integrity, judgment, and skills; and
- (5) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

The refusal shall be conclusive unless appealed to the superior court of the county where the operating agency is situated or Thurston county within fifteen days, which appeal shall be heard summarily within ten days after the appeal is made and on five days' notice thereof to the operating agency.

The prevailing party in such litigation shall be awarded its attorney fees and costs.

The operating agency shall not be required to make available for public inspection or copying under chapter

42.56 RCW financial information provided under this section. [2005 c 274 § 300; 1982 1st ex.s. c 44 § 5.]

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Additional notes found at www.leg.wa.gov

43.52.910 Construction—1965 c 8. This chapter shall be liberally construed to effectuate its purposes. [1965 c 8 § 43.52.910. Prior: 1957 c 295 § 12.]

Chapter 43.52A RCW

ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL—STATE'S MEMBERS

Sections

- 43.52A.010 State agreement to participate in Pacific Northwest Electric Power and Conservation Planning Council.
- 43.52A.020 Definitions.
- 43.52A.030 Appointment of members.
- 43.52A.040 Terms of members—Vacancies—Residence of members.
- 43.52A.050 Sufficient time on council activities required—Technical assistance—Reimbursement—Liaison—Report—Compensation—Travel expenses.

43.52A.010 State agreement to participate in Pacific Northwest Electric Power and Conservation Planning Council. The state of Washington agrees to participate in the Pacific Northwest Electric Power and Conservation Planning Council pursuant to the Pacific Northwest Electric Power Planning and Conservation Act. [1981 c 14 § 1.]

43.52A.020 Definitions. As used in this chapter:

- (1) The term "the act" means the Pacific Northwest Electric Power Planning and Conservation Act.
- (2) The term "council" means the Pacific Northwest Electric Power and Conservation Planning Council. [1981 c 14 § 2.]

43.52A.030 Appointment of members. The governor, with the consent of the senate, shall appoint two residents of Washington state to the council pursuant to the act. These persons shall undertake the functions and duties of members of the council as specified in the act and in appropriate state law. Upon appointment by the governor to the council, the nominee shall make available to the senate such disclosure information as is requested for the confirmation process, including that required in *RCW 42.17.241. [1984 c 34 § 8; 1981 c 14 § 3.]

***Reviser's note:** RCW 42.17.241 was recodified as RCW 42.17A.710 pursuant to 2010 c 204 § 1102, effective January 1, 2012.

43.52A.040 Terms of members—Vacancies—Residence of members. (1) Unless removed at the governor's pleasure, council members shall serve a term ending January 15 of the third year following appointment except that, with respect to members initially appointed, the governor shall designate one member to serve a term ending January 15 of the second year following appointment. Initial appointments to the council shall be made within thirty days of March 9, 1981.

(2) Each member shall serve until a successor is appointed, but if a successor is not appointed within sixty

days of the beginning of a new term, the member shall be considered reappointed, subject to the consent of the senate.

(3) A vacancy on the council shall be filled for the unexpired term by the governor, with the consent of the senate.

(4) For the first available appointment and at all times thereafter, one member of Washington’s delegation to the council shall reside east of the crest of the Cascade Mountains and one member shall reside west of the crest of the Cascade Mountains. [1984 c 223 § 1; 1981 c 14 § 4.]

43.52A.050 Sufficient time on council activities required—Technical assistance—Reimbursement—Liaison—Report—Compensation—Travel expenses.

(1) Council members shall spend sufficient time on council activities to fully represent the state of Washington in carrying out the purposes of the act.

(2) State agencies shall provide technical assistance to council members upon request. The council members shall request that the council request the administrator of the Bonneville Power Administration to reimburse the state for the expenses associated with such assistance as provided in the act.

(3) The members of the council shall maintain liaison with the governor or his or her designees and the committees on energy and utilities, or their successor entities, of the senate and house of representatives.

(4) The members of the council shall submit to the governor and legislature an annual report describing the activities and plans of the council.

(5) Each member of the council shall receive compensation to be determined by the governor and applicable federal law and shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060, as now or hereafter amended. [2009 c 549 § 5139; 1981 c 14 § 5.]

Chapter 43.56 RCW

UNIFORM LAW COMMISSION
(Formerly: Uniform legislation commission)

Sections

43.56.010	Appointment of qualified persons.
43.56.020	Duties of commission.
43.56.040	Travel expenses of members.
43.56.900	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

43.56.010 Appointment of qualified persons. (1) The governor shall appoint three qualified persons to serve on the Washington state uniform law commission for the promotion of uniformity of legislation in the United States. A qualified person is a resident of the state of Washington and a member of the state bar association of this or another state, who is or has been a judge, law professor, legislator, or practicing attorney.

(2) In addition to the members of the commission appointed pursuant to subsection (1) of this section, the governor may appoint to the commission any person who has served at least twenty years on the commission and who is a life member in the national conference of commissioners on uniform state laws or its successor.

(3) In addition to the members of the commission appointed pursuant to subsections (1) and (2) of this section,

(2010 Ed.)

the code reviser shall serve as a member of the commission. [2009 c 218 § 1; 1965 c 8 § 43.56.010. Prior: 1905 c 59 § 1; RRS § 8204.]

43.56.020 Duties of commission. (1) The commission shall identify areas of the law in which (a) uniformity in the laws among the states and other jurisdictions is desirable and practicable and (b)(i) the congress of the United States lacks jurisdiction to act or (ii) it is preferable that the several states enact the laws.

(2) The commissioners, at the national conference of commissioners on uniform state laws or its successor, shall confer upon these matters with the commissioners appointed by other states for the same purpose and shall consider and draft uniform laws to be submitted for approval and adoption by the several states.

(3) The commission shall propose to the legislature for approval and adoption the uniform acts developed with the other commissioners and generally devise and recommend such other and further courses of action as shall accomplish such uniformity. [2009 c 218 § 2; 1965 c 8 § 43.56.020. Prior: 1905 c 59 § 2; RRS § 8205.]

43.56.040 Travel expenses of members. No member of the commission shall receive any compensation for services, but each member shall be paid travel expenses incurred in the discharge of official duty in accordance with RCW 43.03.050 and 43.03.060, after the account thereof has been audited by the commission.

The commission shall keep a full account of its expenditures and shall report it in each report. The commission shall allow expenses for only one meeting of the commission within this state each year, and shall allow expenses for the members to attend, no more than once in each year, any conference of the national conference of commissioners on uniform state laws, or its successor, outside of this state. [2009 c 218 § 3; 1975-'76 2nd ex.s. c 34 § 118; 1965 c 8 § 43.56.040. Prior: 1955 c 91 § 1; 1905 c 59 § 4; RRS § 8207.]

Additional notes found at www.leg.wa.gov

43.56.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 108.]

**Chapter 43.58 RCW
WASHINGTON-OREGON
BOUNDARY COMMISSION**

Sections

- 43.58.050 Oregon-Washington Columbia River boundary compact—Ratification.
- 43.58.060 Oregon-Washington Columbia River boundary compact—Terms and provisions.
- 43.58.070 Oregon-Washington Columbia River boundary compact—Transfer of records, etc., to division of archives.
- 43.58.090 Oregon-Washington Columbia River boundary compact—Repeal of RCW 43.58.010 through 43.58.040, when.

43.58.050 Oregon-Washington Columbia River boundary compact—Ratification. The interstate compact determining the Oregon-Washington boundary on the Columbia River which was executed on the 21st day of December, 1956 by the Oregon commission on interstate cooperation for the state of Oregon and the Washington-Oregon boundary commission for the state of Washington is hereby ratified and approved. [1965 c 8 § 43.58.050. Prior: 1957 c 90 § 1.]

Reviser’s note: The effective date of RCW 43.58.050 was March 13, 1957. State Constitution, Amendment 33, recognizing the modification of the state’s boundaries through appropriate compact procedure, was approved by the voters on November 4th, 1958, and the governor’s proclamation relating thereto was issued on December 4th, 1958.

The Oregon legislature has ratified the compact, see Oregon Revised Statutes §§ 186.510 and 186.520, effective April 4, 1957. See also, Article XVI of the Oregon Constitution relating to state boundaries which was adopted by the people November 4, 1958, effective December 3, 1958.

Congressional ratification is contained in Public Law 85-575, dated July 31, 1958.

43.58.060 Oregon-Washington Columbia River boundary compact—Terms and provisions. The terms and provisions of the compact referred to in RCW 43.58.050 are as follows:

INTERSTATE COMPACT DETERMINING
OREGON-WASHINGTON BOUNDARY
ON THE COLUMBIA RIVER

ARTICLE I. PURPOSE

The boundary between the states of Oregon and Washington along the course of the Columbia River has not been easy to ascertain because of changes in the main channel of the river with a result that a state of confusion and dispute exists and the enforcement and administration of the laws of the two states has been rendered difficult.

The purpose of this compact is to fix with precision by reference to stations of longitude and latitude the boundary between the states of Oregon and Washington from one marine league due west of the mouth of the Columbia River to the most easterly point at which the 46th parallel of North latitude crosses said river, at which point the river ceases to form the boundary between the two states.

ARTICLE II. DESCRIPTION

The boundary between the states of Oregon and Washington from one marine league due west of the mouth of the Columbia River to the point at which the last described point number (# 191) of the boundary as herein determined meets

the 46th parallel of North latitude at 118° 59’10".12 of West longitude shall be as follows:

Beginning one marine league at sea off the mouth of the Columbia river at north latitude 46° 15’00".00; running thence due east to point number 1 of this description, which point is at north latitude 46° 15’00".00, west longitude 124° 05’00".00; thence from point number 1 continuing upstream in the channel of the Columbia river by a series of straight lines connecting the following numbered and described points in consecutive order.

Point Number	North Latitude	West Longitude	Description of Location
1	46°15’00".00	124°05’00".00	
2	46°15’51".00	124°02’02".75	
3	46°16’17".00	124°01’45".80	
4	46°16’59".50	124°02’14".40	
5	46°17’28".00	124°02’07".00	
6	46°17’33".25	124°01’12".25	
7	46°16’41".50	124°00’00".00	
8	46°16’03".00	123°58’11".80	
9	46°14’19".80	123°55’42".00	
10	46°14’06".00	123°52’14".50	
11	46°16’09".50	123°44’20".50	
12	46°15’01".00	123°41’12".70	
13	46°15’33".30	123°38’52".80	
14	46°15’23".90	123°35’05".00	
15	46°15’38".00	123°32’23".00	
16	46°16’14".60	123°30’00".00	
17	46°15’46".70	123°27’51".40	
18	46°14’23".50	123°25’51".60	
19	46°13’10".50	123°25’20".50	
20	46°11’29".00	123°25’43".60	
21	46°10’47".80	123°25’38".00	
22	46°09’01".00	123°23’21".50	
23	46°08’33".00	123°18’45".60	
24	46°09’04".50	123°15’47".20	
25	46°10’00".00	123°13’51".20	
26	46°11’20".80	123°09’55".50	
27	46°11’11".30	123°07’10".90	
28	46°09’40".00	123°04’23".50	
29	46°09’24".00	123°03’22".40	
30	46°08’38".40	123°02’00".00	
31	46°08’06".00	123°00’16".00	
32	46°06’20".02	122°57’44".28	
33	46°06’17".36	122°57’38".295	a point on the center line of the Longview Bridge at center of main span
34	46°06’14".71	122°57’32".31	
35	46°05’02".70	122°54’11".00	
36	46°03’37".50	122°52’59".50	
37	46°01’53".50	122°52’35".50	
38	46°00’52".25	122°51’17".20	
39	45°58’52".00	122°50’11".80	
40	45°57’40".00	122°48’46".80	
41	45°55’57".00	122°48’18".00	
42	45°54’47".00	122°48’36".75	
43	45°53’05".00	122°47’48".30	
44	45°52’06".00	122°47’01".50	
45	45°50’40".00	122°47’04".50	
46	45°49’31".20	122°47’41".00	
47	45°48’37".00	122°47’40".00	
48	45°46’51".00	122°46’06".30	
49	45°45’34".20	122°45’37".00	
50	45°44’04".70	122°45’32".00	
51	45°42’05".00	122°46’16".00	

Washington-Oregon Boundary Commission

43.58.060

52	45°40'50".80	122°46'24".00		93	45°38'40".13	121°56'22".57	a point at the intersection of the axis of Bonneville Dam and the center line of center pier of the spillway of said dam
53	45°39'26".75	122°45'46".00					
54	45°38'40".00	122°44'13".00					
55	45°38'17".00	122°42'47".50					
56	45°37'35".37	122°41'35".14					
57	45°37'29".47	122°41'23".855	a point on the center line of Northern Pacific Railroad Bridge across Columbia River, which point is at center of 3rd pier south of the draw span	94	45°38'39".82	121°56'01".46	
				95	45°39'17".00	121°54'25".00	
				96	45°39'43".85	121°53'58".48	a point on center line of bridge at Cascade Locks, known as "The Bridge of the Gods" and in the center of the main span of said bridge
58	45°37'26".52	122°41'18".215					
59	45°37'07".85	122°40'33".42					
60	45°37'05".938	122°40'26".939	a point on the center line of the west highway bridge crossing the Columbia River between Portland, Ore. and Vancouver, Wash., said point being 12.0 ft. south from the center of pier No. 6 of said bridge	97	45°39'44".81	121°53'58".16	
				98	45°39'45".77	121°53'57".84	
				99	45°40'15".00	121°54'02".00	
				100	45°41'36".80	121°51'57".00	
				101	45°42'24".75	121°48'36".00	
				102	45°41'39".00	121°44'02".00	
				103	45°41'42".00	121°42'22".00	
				104	45°42'19".00	121°40'02".00	
				105	45°42'17".50	121°37'48".50	
				106	45°43'36".00	121°31'54".30	
61	45°37'05".62	122°40'25".86	a point on the center line of the east highway bridge crossing the Columbia River between Portland, Ore. and Vancouver, Wash., said point being 12.0 ft. south from the center of pier No. 6 of said bridge	107	45°43'15".275	121°29'52".445	
				108	45°43'07".02	121°29'36".615	a point on the center line of the Hood River Bridge at the center of the draw span of said bridge
				109	45°43'04".075	121°29'30".96	
				110	45°42'05".20	121°27'41".80	
				111	45°41'39".25	121°25'22".00	
				112	45°41'35".00	121°24'02".00	
				113	45°42'11".50	121°22'17".00	
				114	45°42'18".00	121°20'11".50	
				115	45°42'00".00	121°18'40".00	
				116	45°41'13".30	121°17'10".00	
				117	45°40'40".50	121°14'52".00	
				118	45°40'17".00	121°12'52".50	
				119	45°39'00".00	121°11'57".00	
				120	45°37'47".00	121°11'38".40	
				121	45°37'00".25	121°11'43".00	
				122	45°36'23".80	121°10'57".00	
				123	45°36'22".50	121°10'00".00	
				124	45°36'29".175	121°08'39".84	
				125	45°36'40".89	121°08'22".135	a point on the center line of the Dallas Bridge across the Columbia River at the center of the main span of said bridge
62	45°37'03".71	122°40'19".38					
63	45°36'34".00	122°38'27".00					
64	45°36'29".80	122°36'21".30					
65	45°36'20".00	122°35'20".00					
66	45°35'47".90	122°32'48".00					
67	45°35'23".50	122°31'24".20					
68	45°35'01".00	122°29'30".00					
69	45°34'42".80	122°28'20".50					
70	45°34'03".00	122°27'09".30					
71	45°33'49".00	122°26'15".80					
72	45°34'03".30	122°24'36".50					
73	45°34'29".50	122°23'25".80					
74	45°34'33".40	122°22'44".00					
75	45°34'10".00	122°21'04".00					
76	45°32'55".20	122°19'49".00					
77	45°32'38".00	122°17'43".70					
78	45°32'38".80	122°15'56".70					
79	45°33'03".25	122°14'24".50		126	45°36'43".94	121°08'17".53	
80	45°33'55".00	122°11'58".50		127	45°36'35".69	121°07'50".34	
81	45°34'37".00	122°10'54".00		128	45°36'58".44	121°07'16".41	
82	45°35'03".00	122°08'25".50		129	45°37'06".095	121°06'57".58	
83	45°34'53".40	122°06'40".00		130	45°37'14".85	121°07'02".75	a point on the axis of the Dalles Dam at Station 48+79 of the center line survey of said dam
84	45°35'00".00	122°06'02".00					
85	45°36'35".00	122°02'35".00					
86	45°36'53".80	122°01'11".50					
87	45°36'58".00	122°00'08".50		131	45°37'23".97	121°07'08".14	
88	45°37'23".00	121°58'54".50		132	45°38'53".13	121°05'01".25	
89	45°37'59".00	121°57'42".80		133	45°39'09".54	121°03'47".80	
90	45°38'37".50	121°57'16".50		134	45°39'04".04	121°01'57".51	
91	45°38'42".00	121°57'01".80		135	45°39'12".08	121°00'22".28	
92	45°38'40".35	121°56'37".34		136	45°38'54".66	120°58'56".33	

137	45°38'55".91	120°58'49".52	a point on the center line of the Oregon Trunk Railroad Bridge and in the center of the 4th pier from the north end of said bridge
138	45°38'58".405	120°58'35".90	
139	45°39'24".84	120°57'06".97	
140	45°39'23".58	120°56'34".22	
141	45°38'24".54	120°54'44".75	
142	45°38'35".09	120°53'40".72	
143	45°40'18".79	120°51'15".26	
144	45°41'11".69	120°47'14".64	
145	45°42'19".71	120°43'38".83	
146	45°42'42".58	120°42'10".70	
147	45°42'57".18	120°41'18".11	
148	45°43'48".14	120°40'05".19	
149	45°44'45".12	120°38'01".97	
150	45°44'47".00	120°37'17".91	
151	45°44'47".99	120°35'23".91	
152	45°44'18".49	120°33'29".23	
153	45°42'37".59	120°31'17".65	
154	45°42'00".37	120°30'16".48	
155	45°41'40".42	120°28'53".22	
156	45°41'58".55	120°24'08".96	
157	45°42'41".66	120°19'30".62	
158	45°43'16".74	120°16'56".18	
159	45°43'33".84	120°12'34".62	
160	45°45'43".67	120°10'10".01	
161	45°46'24".09	120°08'25".17	
162	45°47'07".10	120°04'08".70	
163	45°48'26".17	120°00'49".27	
164	45°49'28".29	119°57'52".64	
165	45°49'41".97	119°54'21".95	
166	45°50'25".18	119°50'53".51	
167	45°50'52".00	119°48'05".62	
168	45°50'45".15	119°46'18".16	
169	45°51'25".40	119°40'07".80	
170	45°54'20".70	119°37'20".96	
171	45°55'10".82	119°35'58".28	
172	45°55'32".25	119°34'13".67	
173	45°54'31".37	119°31'24".18	
174	45°54'23".43	119°29'13".01	
175	45°55'03".10	119°26'57".35	
176	45°55'18".10	119°21'48".12	
177	45°55'51".37	119°19'52".71	
178	45°55'54".48	119°19'39".28	a point on the center line of the Umatilla Bridge at the center of the north main span of said bridge
179	45°55'59".59	119°19'17".20	
180	45°56'10".26	119°17'47".60	a point on the axis of McNary Dam at the north face of the south nonoverflow section
181	45°56'15".24	119°17'05".76	
182	45°56'24".05	119°15'21".40	
183	45°55'58".60	119°13'28".22	
184	45°55'40".97	119°11'39".82	
185	45°55'40".26	119°10'05".04	
186	45°55'58".55	119°07'30".72	
187	45°56'34".25	119°05'32".00	
188	45°57'31".28	119°03'37".36	
189	45°58'09".33	119°01'33".95	
190	45°58'45".73	119°00'27".12	
191	46°00'00".00	118°59'10".12	

ARTICLE III. RATIFICATION AND EFFECTIVE DATE

This compact shall become operative when it has been ratified by the legislatures of the states of Oregon and Washington and approved by the Congress of the United States and the Constitutions of the states of Oregon and Washington have been amended to authorize the establishment of the boundary as herein provided. [1965 c 8 § 43.58.060. Prior: 1957 c 90 § 2.]

43.58.070 Oregon-Washington Columbia River boundary compact—Transfer of records, etc., to division of archives. Upon ratification by the state of Oregon and approval by the Congress of the United States of the compact set forth in RCW 43.58.060, the secretary of the Washington-Oregon boundary commission is hereby directed to transmit all records, work sheets, maps, minutes and other papers of said commission to the division of archives and records management of the office of the secretary of state. [1981 c 115 § 3; 1965 c 8 § 43.58.070. Prior: 1957 c 90 § 3.]

Additional notes found at www.leg.wa.gov

43.58.090 Oregon-Washington Columbia River boundary compact—Repeal of RCW 43.58.010 through 43.58.040, when. Chapter 27, Laws of 1937, as amended by chapter 6, Laws of 1955 extraordinary session and chapter 43.58 RCW [RCW 43.58.010 through 43.58.040] each shall be repealed when the compact set forth in RCW 43.58.060 has been ratified by the state of Oregon and approved by the Congress of the United States. [1965 c 8 § 43.58.090. Prior: 1957 c 90 § 5.]

Reviser's note: See note following RCW 43.58.050.

Chapter 43.59 RCW

TRAFFIC SAFETY COMMISSION

Sections

43.59.010	Purpose—Finding.
43.59.020	Governor responsible for administration of traffic safety program—Acceptance and disbursement of federal funds.
43.59.030	Members of commission—Appointment—Vacancies—Governor's designee to act during governor's absence.
43.59.040	Powers and duties of commission.
43.59.050	Meetings—Travel expenses of members.
43.59.060	Director of commission—Appointment—Salary.
43.59.070	Director's duties—Staff—Rules and regulations.
43.59.080	Governor's duties as chair.
43.59.140	Driving while under the influence of intoxicating liquor or any drug—Information and education.
43.59.150	Bicycle and pedestrian safety—Committee.

43.59.010 Purpose—Finding. (1) The purpose of this chapter is to establish a new agency of state government to be known as the Washington traffic safety commission. The functions and purpose of this commission shall be to find solutions to the problems that have been created as a result of the tremendous increase of motor vehicles on our highways and the attendant traffic death and accident tolls; to plan and supervise programs for the prevention of accidents on streets and highways including but not limited to educational campaigns designed to reduce traffic accidents in cooperation with all official and unofficial organizations interested in traffic safety; to coordinate the activities at the state and local

level in the development of statewide and local traffic safety programs; to promote a uniform enforcement of traffic safety laws and establish standards for investigation and reporting of traffic accidents; to promote and improve driver education; and to authorize the governor to perform all functions required to be performed by him or her under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731).

(2) The legislature finds and declares that bicycling and walking are becoming increasingly popular in Washington as clean and efficient modes of transportation, as recreational activities, and as organized sports. Future plans for the state's transportation system will require increased access and safety for bicycles and pedestrians on our common roadways, and federal transportation legislation and funding programs have created strong incentives to implement these changes quickly. As a result, many more people are likely to take up bicycling in Washington both as a leisure activity and as a convenient, inexpensive form of transportation. Bicyclists are more vulnerable to injury and accident than motorists, and should be as knowledgeable as possible about traffic laws, be highly visible and predictable when riding in traffic, and be encouraged to wear bicycle safety helmets. Hundreds of bicyclists and pedestrians are seriously injured every year in accidents, and millions of dollars are spent on health care costs associated with these accidents. There is clear evidence that organized training in the rules and techniques of safe and effective cycling can significantly reduce the incidence of serious injury and accidents, increase cooperation among road users, and significantly increase the incidence of bicycle helmet use, particularly among minors. A reduction in accidents benefits the entire community. Therefore it is appropriate for businesses and community organizations to provide donations to bicycle and pedestrian safety training programs. [2009 c 549 § 5141; 1998 c 165 § 2; 1967 ex.s. c 147 § 1.]

Driver education courses: Chapter 28A.220 RCW.

Drivers' training schools: Chapter 46.82 RCW.

Additional notes found at www.leg.wa.gov

43.59.020 Governor responsible for administration of traffic safety program—Acceptance and disbursement of federal funds. The governor shall be responsible for the administration of the traffic safety program of the state and shall be the official of the state having ultimate responsibility for dealing with the federal government with respect to all programs and activities of the state and local governments pursuant to the Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731). The governor is authorized and empowered to accept and disburse federal grants or other funds or donations from any source for the purpose of improving traffic safety programs in the state of Washington, and is hereby empowered to contract and to do all other things necessary in behalf of this state to secure the full benefits available to this state under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731) and in so doing, to cooperate with federal and state agencies, agencies private and public, interested organizations, and with individuals, to effectuate the purposes of that enactment, and any and all subsequent amendments thereto. [1967 ex.s. c 147 § 2.]

(2010 Ed.)

43.59.030 Members of commission—Appointment—Vacancies—Governor's designee to act during governor's absence. The governor shall be assisted in his or her duties and responsibilities by the Washington state traffic safety commission. The Washington traffic safety commission shall be composed of the governor as chair, the superintendent of public instruction, the director of licensing, the secretary of transportation, the chief of the state patrol, the secretary of health, the secretary of social and health services, a representative of the association of Washington cities to be appointed by the governor, a member of the association of counties to be appointed by the governor, and a representative of the judiciary to be appointed by the governor. Appointments to any vacancies among appointee members shall be as in the case of original appointment.

The governor may designate an employee of the governor's office to act on behalf of the governor during the absence of the governor at one or more of the meetings of the commission. The vote of the designee shall have the same effect as if cast by the governor if the designation is in writing and is presented to the person presiding at the meetings included within the designation.

The governor may designate a member to preside during the governor's absence. [2009 c 549 § 5142; 1991 c 3 § 298; 1982 c 30 § 1; 1979 c 158 § 105; 1971 ex.s. c 85 § 7; 1969 ex.s. c 105 § 1; 1967 ex.s. c 147 § 3.]

43.59.040 Powers and duties of commission. In addition to other responsibilities set forth in this chapter the commission shall:

(1) Advise and confer with the governing authority of any political subdivision of the state deemed eligible under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731) for participation in the aims and programs and purposes of that act;

(2) Advise and confer with all agencies of state government whose programs and activities are within the scope of the Highway Safety Act including those agencies that are not subject to direct supervision, administration, and control by the governor under existing laws;

(3) Succeed to and be vested with all powers, duties, and jurisdictions previously vested in the Washington state safety council;

(4) Carry out such other responsibilities as may be consistent with this chapter. [1983 1st ex.s. c 14 § 1; 1967 ex.s. c 147 § 4.]

43.59.050 Meetings—Travel expenses of members. The commission shall meet at least quarterly and shall have such special meetings as may be required. Members of the commission shall receive no additional compensation for their services except that which shall be allowed as travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 120; 1967 ex.s. c 147 § 6.]

Additional notes found at www.leg.wa.gov

43.59.060 Director of commission—Appointment—Salary. The governor as chair of the commission shall appoint a person to be director of the Washington traffic

safety commission which director shall be paid such salary as shall be deemed reasonable and shall serve at the pleasure of the governor. [2009 c 549 § 5143; 1967 ex.s. c 147 § 7.]

43.59.070 Director's duties—Staff—Rules and regulations. The director shall be secretary of the commission and shall be responsible for carrying into effect the commission's orders and rules and regulations promulgated by the commission. The director shall also be authorized to employ such staff as is necessary pursuant to the provisions of chapter 41.06 RCW. The commission shall adopt such rules and regulations as shall be necessary to carry into effect the purposes of this chapter. [1967 ex.s. c 147 § 8.]

43.59.080 Governor's duties as chair. The governor as chair of said commission shall have the authority to appoint advisory committees as he or she may deem advisable to aid, advise and assist the commission in carrying out the purposes of this chapter. All actions and decisions, however, shall be made by the commission. [2009 c 549 § 5144; 1967 ex.s. c 147 § 9.]

43.59.140 Driving while under the influence of intoxicating liquor or any drug—Information and education. The Washington traffic safety commission shall produce and disseminate through all possible media, informational and educational materials explaining the extent of the problems caused by drinking drivers, the need for public involvement in their solution, and the penalties of existing and new laws against driving while under the influence of intoxicating liquor or any drug. [1991 c 290 § 4; 1983 c 165 § 42.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

43.59.150 Bicycle and pedestrian safety—Committee. The Washington state traffic safety commission shall establish a program for improving bicycle and pedestrian safety, and shall cooperate with the stakeholders and independent representatives to form an advisory committee to develop programs and create public private partnerships which promote bicycle and pedestrian safety. [2005 c 426 § 6. Prior: 1999 c 372 § 9; 1999 c 351 § 1; 1998 c 165 § 3.]

Effective date—2005 c 426 § 6: "Section 6 of this act takes effect June 30, 2007." [2005 c 426 § 7.]

Additional notes found at www.leg.wa.gov

Chapter 43.60A RCW

DEPARTMENT OF VETERANS AFFAIRS

Sections

43.60A.010	Definitions.
43.60A.020	Department created—Transfer of powers, duties, and functions to department.
43.60A.030	Director—Qualifications—Salary—Vacancy.
43.60A.040	General powers and duties of director.
43.60A.050	Assistants—Executive staff—Deputy.
43.60A.060	Delegation of powers and duties.
43.60A.070	Additional powers and duties of director.
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43.60A.080	Veterans affairs advisory committee—Created—Membership—Terms—Powers and duties.
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43.60A.110	Counseling—Coordination of programs.
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43.60A.140	Veterans stewardship account.
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43.60A.152	Collaboration with agencies implementing the Washington conservation corps—Report.
43.60A.153	Veterans conservation corps account.
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43.60A.155	Cooperation with the salmon recovery funding board regarding project work—Report.
43.60A.160	Veterans innovations program.
43.60A.165	Defenders' fund—Eligibility for assistance.
43.60A.170	Competitive grant program.
43.60A.175	Receipt of gifts, grants, or endowments—Rule-making authority.
43.60A.185	Veterans innovations program account.
43.60A.190	Veteran-owned businesses.
43.60A.195	Veteran-owned business certification—Rules—Outreach.
43.60A.200	Awards of procurement contracts by state agencies to veteran-owned businesses.
43.60A.210	Donations to disabled veterans assistance account.
43.60A.215	Disabled veterans assistance account.
43.60A.900	Transfer of personnel of department of social and health services engaged in veterans' services—Rights preserved.
43.60A.901	Transfer of property, records, funds, assets of agencies whose functions are transferred to department.
43.60A.902	Rules and regulations, pending business, contracts, of agencies whose functions are transferred to department to be continued—Savings.
43.60A.903	Certification when apportionments of budgeted funds required because of transfers.
43.60A.904	Federal programs—Rules and regulations—Internal reorganization to meet federal requirements—Construction to comply with federal law—Conflicting parts inoperative.
43.60A.905	Savings—1975-'76 2nd ex.s. c 115.
43.60A.906	Collective bargaining units or agreements not altered.
43.60A.907	Liberal construction—1975-'76 2nd ex.s. c 115.
43.60A.908	Severability—1975-'76 2nd ex.s. c 115.

Veterans and veterans' affairs: Title 73 RCW.

43.60A.010 Definitions. As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

- (1) "Committee" means the veterans affairs advisory committee.
- (2) "Department" means the department of veterans affairs.
- (3) "Director" means the director of the department of veterans affairs.
- (4) "Goods and services" includes professional services and all other goods and services.
- (5) "Procurement" means the purchase, lease, or rental of any goods or services.
- (6) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions.
- (7) "Veteran-owned business" means a business that is certified by the department to be at least fifty-one percent owned and controlled by:

- (a) A veteran as defined in RCW 41.04.007; or
- (b) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves. [2010 1st sp.s. c 7 § 117; 2010 c 5 § 2; 2006 c 343 § 2; 1975-'76 2nd ex.s. c 115 § 1.]

Reviser's note: (1) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(2) This section was amended by 2010 c 5 § 2 and by 2010 1st sp.s. c 7 § 117, each without reference to the other. Both amendments are incorpo-

rated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Purpose—2010 c 5: "The legislature recognizes the unique sacrifices made by veterans and the substantial challenges that returning veterans face after a period of military duty away from home. The legislature further recognizes that veterans who own private businesses may face particular hardships as a direct result of their military service. The purpose of this act is to mitigate economic damage to veteran-owned businesses as a result of military service, and to provide opportunities to them in recognition of the outstanding service they have given to their country." [2010 c 5 § 1.]

Construction—2010 c 5: "This act is not intended to create a cause of action or entitlement in an individual or class of individuals." [2010 c 5 § 12.]

Findings—2006 c 343: See note following RCW 43.60A.160.

43.60A.020 Department created—Transfer of powers, duties, and functions to department. There is hereby created a department of state government to be known as the department of veterans affairs. All powers, duties, and functions now or through action of this legislature vested by law in the department of social and health services relating to veterans and veteran affairs are transferred to the department, except those powers, duties, and functions which are expressly directed elsewhere by law. Powers, duties, and functions to be transferred shall include, but not be limited to, all those powers, duties, and functions involving cooperation with other governmental units, such as cities and counties, or with the federal government, in particular those concerned with participation in federal grants-in-aid programs. Also transferred to the department shall be the powers, duties, and functions of the bonus division of the treasurer's office: PROVIDED, That such transfer shall not occur until the bonus division completes its current duties of accepting and processing bonus claims arising from the Vietnam conflict. This section shall not be construed to continue the powers, duties and functions of said bonus division beyond a time when such powers, duties or functions would otherwise cease. [1975-'76 2nd ex.s. c 115 § 2.]

43.60A.030 Director—Qualifications—Salary—Vacancy. The executive head and appointing authority of the department shall be the director of veterans affairs. The director shall be an honorably discharged or retired veteran of the armed forces of the United States and shall be appointed by the governor with the consent of the senate and shall serve at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when the governor shall present the nomination for the office to that body. [1975-'76 2nd ex.s. c 115 § 3.]

43.60A.040 General powers and duties of director. The director of the department of veterans affairs shall have the power and it shall be the director's duty:

- (1) To conduct, control, and supervise the department;
- (2) To appoint and employ and to determine the powers and duties together with the salaries and other expenses of such clerical and other personnel, subject to the provisions of

chapter 41.06 RCW, as are necessary to carry out the duties of the department; and

(3) To perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this chapter. [1975-'76 2nd ex.s. c 115 § 4.]

43.60A.050 Assistants—Executive staff—Deputy. The director may appoint such assistants and executive staff as shall be needed to administer the department, all of whom shall be veterans. The director shall designate a deputy from the executive staff who shall have charge and general supervision of the department in the absence or disability of the director, and in case of a vacancy in the office of director, shall continue in charge of the department until a successor is appointed and qualified, or until the governor shall appoint an acting director. [1975-'76 2nd ex.s. c 115 § 5.]

Certain personnel of department exempted from state civil service law: RCW 41.06.077.

43.60A.060 Delegation of powers and duties. The director may delegate any power or duty vested in or transferred to the director by law or executive order to a deputy director or to any other assistant or subordinate, but the director shall be responsible for the official acts of the officers and employees of the department. [1975-'76 2nd ex.s. c 115 § 6.]

43.60A.070 Additional powers and duties of director. In addition to other powers and duties, the director is authorized:

(1) To cooperate with officers and agencies of the United States in all matters affecting veterans affairs;

(2) To accept grants, donations, and gifts on behalf of this state for veterans affairs from any person, corporation, government, or governmental agency, made for the benefit of a former member of the armed forces of this or any other country;

(3) To be custodian of all the records and files of the selective service system in Washington that may be turned over to this state by the United States or any department, bureau, or agency thereof; and to adopt and promulgate such rules and regulations as may be necessary for the preservation of such records and the proper use thereof in keeping with their confidential nature;

(4) To act without bond as conservator of the estate of a beneficiary of the veterans administration when the director determines no other suitable person will so act;

(5) To extend on behalf of the state of Washington such assistance as the director shall determine to be reasonably required to any veteran and to the dependents of any such veteran;

(6) To adopt rules pursuant to chapter 34.05 RCW, the Administrative Procedure Act, with respect to all matters of administration to carry into effect the purposes of this section. Such proposed rules shall be submitted by the department at the time of filing notice with the code reviser as required by RCW 34.05.320 to the respective legislative committees of the senate and of the house of representatives dealing with the subject of veteran affairs legislation through the offices of the secretary of the senate and chief clerk of the

house of representatives. [1989 c 175 § 108; 1975-'76 2nd ex.s. c 115 § 8.]

Additional notes found at www.leg.wa.gov

43.60A.075 Powers as to state veterans' homes. The director of the department of veterans affairs shall have full power to manage and govern the state soldiers' home and colony, the Washington veterans' home, and the eastern Washington veterans' home. [2001 2nd sp.s. c 4 § 7; 1977 c 31 § 5.]

43.60A.080 Veterans affairs advisory committee—Created—Membership—Terms—Powers and duties. (1) There is hereby created a veterans affairs advisory committee which shall serve in an advisory capacity to the governor and the director of the department of veterans affairs. The committee shall be composed of seventeen members to be appointed by the governor, and shall consist of the following:

(a) One representative of the Washington soldiers' home and colony at Orting and one representative of the Washington veterans' home at Retsil. Each home's resident council may nominate up to three individuals whose names are to be forwarded by the director to the governor. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(b) One representative each from the three congressionally chartered or nationally recognized veterans service organizations as listed in the current "Directory of Veterans Service Organizations" published by the United States department of veterans affairs with the largest number of active members in the state of Washington as determined by the director. The organizations' state commanders may each submit a list of three names to be forwarded to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(c) Ten members shall be chosen to represent those congressionally chartered or nationally recognized veterans service organizations listed in the directory under (b) of this subsection and having at least one active chapter within the state of Washington. Up to three nominations may be forwarded from each organization to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(d) Two members shall be veterans at large. Any individual or organization may nominate a veteran for an at-large position. Organizational affiliation shall not be a prerequisite for nomination or appointment. All nominations for the at-large positions shall be forwarded by the director to the governor.

(e) No organization shall have more than one official representative on the committee at any one time.

(f) In making appointments to the committee, care shall be taken to ensure that members represent all geographical portions of the state and minority viewpoints, and that the issues and views of concern to women veterans are represented.

(2) All members shall have terms of four years. In the case of a vacancy, appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No

member may serve more than two consecutive terms, with vacancy appointments to an unexpired term not considered as a term. Members appointed before June 11, 1992, shall continue to serve until the expiration of their current terms; and then, subject to the conditions contained in this section, are eligible for reappointment.

(3) The committee shall adopt an order of business for conducting its meetings.

(4) The committee shall have the following powers and duties:

(a) To serve in an advisory capacity to the governor and the director on matters pertaining to the department of veterans affairs;

(b) To acquaint themselves fully with the operations of the department and recommend such changes to the governor and the director as they deem advisable.

(5) Members of the committee shall receive no compensation for the performance of their duties but shall receive a per diem allowance and mileage expense according to the provisions of chapter 43.03 RCW. [1995 c 25 § 1; 1992 c 35 § 1; 1987 c 59 § 1; 1985 c 63 § 1; 1983 c 34 § 1; 1977 ex.s. c 285 § 1; 1975-'76 2nd ex.s. c 115 § 14.]

43.60A.100 Counseling services—War-affected veterans. The department of veterans affairs, to the extent funds are made available, shall: (1) Contract with professional counseling specialists to provide a range of direct treatment services to war-affected state veterans and to those national guard and reservists who served in the Middle East, and their family members; (2) provide additional treatment services to Washington state Vietnam veterans for posttraumatic stress disorder, particularly for those veterans whose posttraumatic stress disorder has intensified or initially emerged due to the war in the Middle East; (3) provide an educational program designed to train primary care professionals, such as mental health professionals, about the effects of war-related stress and trauma; (4) provide informational and counseling services for the purpose of establishing and fostering peer-support networks throughout the state for families of deployed members of the reserves and the Washington national guard; (5) provide for veterans' families, a referral network of community mental health providers who are skilled in treating deployment stress, combat stress, and posttraumatic stress. [1991 c 55 § 1.]

43.60A.110 Counseling—Coordination of programs. The department shall coordinate the programs contained in RCW 43.60A.100 with the services offered by the department of social and health services, local mental health organizations, and the federal department of veterans affairs to minimize duplication. [1991 c 55 § 2.]

43.60A.120 Counseling—Priority. The department of veterans affairs shall give priority in its counseling and instructional programs to treating state veterans located in rural areas of the state, especially those who are members of traditionally underserved minority groups, and women veterans. [1991 c 55 § 3.]

43.60A.130 Counseling—Posttraumatic stress disorder and combat stress program. The department of veterans affairs shall design its posttraumatic stress disorder and combat stress programs and related activities to provide veterans with as much privacy and confidentiality as possible and yet consistent with sound program management. [1991 c 55 § 4.]

43.60A.140 Veterans stewardship account. (Effective until July 1, 2011.) (1) The veterans stewardship account is created in the custody of the state treasurer. Disbursements of funds must be on the authorization of the director or the director's designee, and only for the purposes stated in subsection (4) of this section. In order to maintain an effective expenditure and revenue control, funds are subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditure of the funds.

(2) The department may request and accept nondedicated contributions, grants, or gifts in cash or otherwise, including funds generated by the issuance of the armed forces license plate collection under chapter 46.16 RCW.

(3) All receipts, except as provided in RCW 46.16.313(20) (a) and (b), from the sale of armed forces license plates must be deposited into the veterans stewardship account.

(4) All moneys deposited into the veterans stewardship account must be used by the department for activities that benefit veterans or their families, including but not limited to, providing programs and services for homeless veterans; establishing memorials honoring veterans; and maintaining a future state veterans' cemetery. Funds from the account may not be used to supplant existing funds received by the department. [2008 c 183 § 3; 2005 c 216 § 4.]

43.60A.140 Veterans stewardship account. (Effective July 1, 2011.) (1) The veterans stewardship account is created in the custody of the state treasurer. Disbursements of funds must be on the authorization of the director or the director's designee, and only for the purposes stated in subsection (4) of this section. In order to maintain an effective expenditure and revenue control, funds are subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditure of the funds.

(2) The department may request and accept nondedicated contributions, grants, or gifts in cash or otherwise, including funds generated by the issuance of the armed forces license plate collection under chapter 46.18 RCW.

(3) All receipts from the sale of armed forces license plates as required under RCW 46.17.220(1)(b) must be deposited into the veterans stewardship account.

(4) All moneys deposited into the veterans stewardship account must be used by the department for activities that benefit veterans or their families, including but not limited to, providing programs and services for homeless veterans; establishing memorials honoring veterans; and maintaining a future state veterans' cemetery. Funds from the account may not be used to supplant existing funds received by the department. [2010 c 161 § 1106; 2008 c 183 § 3; 2005 c 216 § 4.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

(2010 Ed.)

43.60A.150 Veterans conservation corps—Created. (1) The Washington veterans conservation corps is created. The department shall establish enrollment procedures for the program. Enrollees may choose to participate in either or both the volunteer projects list authorized in subsection (2) of this section, and the training, certification, and placement program authorized in RCW 43.60A.151.

(2) The department shall create a list of veterans who are interested in working on projects that restore Washington's natural habitat. The department shall promote the opportunity to volunteer for the veterans conservation corps through its local counselors and representatives. Only veterans who grant their approval may be included on the list. The department shall consult with the salmon recovery board, the recreation and conservation funding board, the department of natural resources, the department of fish and wildlife, and the state parks and recreation commission to determine the most effective ways to market the veterans conservation corps to agencies and local sponsors of habitat restoration projects. [2007 c 451 § 2; 2007 c 241 § 6; 2005 c 257 § 2.]

Reviser's note: This section was amended by 2007 c 241 § 6 and by 2007 c 451 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Findings—Purpose—2005 c 257: "The legislature finds that many Washington citizens are veterans of armed forces conflicts that have important skills that may be employed in projects that help to protect and restore Washington's rivers, streams, lakes, marine waters, and open lands, and help to maintain urban and suburban wastewater and storm water management systems. The legislature further finds that such work has demonstrated benefits for many veterans who are coping with posttraumatic stress disorder or have other mental health or substance abuse disorders related to their service in the armed forces. The legislature further finds that these projects provide an opportunity for veterans to obtain on-the-job training, leading to certification in specific skill sets and to living wage employment in environmental restoration and stewardship. Therefore, it is the purpose of this chapter to create the veterans conservation corps program to assist veterans in obtaining training, certification, and employment in the field of environmental restoration and management, and to provide state funding assistance for projects that restore Washington's waters, forests, and habitat through the participation of veterans." [2007 c 451 § 1; 2005 c 257 § 1.]

43.60A.151 Veterans conservation corps—Employment assistance—Agreements for educational benefits—Receipt of gifts, grants, or federal moneys—Report. (1) The department shall assist veterans enrolled in the veterans conservation corps with obtaining employment in conservation programs and projects that restore Washington's natural habitat, maintain and steward local, state, and federal forest lands and other outdoor lands, maintain and improve urban and suburban storm water management facilities and other water management facilities, and other environmental maintenance, stewardship, and restoration projects. The department shall consult with the workforce training and education coordinating board, the state board for community and technical colleges, the higher education coordinating board, the employment security department, and other state agencies administering conservation corps programs, to incorporate training, education, and certification in environmental restoration and management fields into the program. The department may enter into agreements with community colleges, private schools, state or local agencies, or other entities to

provide training and educational courses as part of the enrollee benefits from the program.

(2) The department may receive gifts, grants, federal funds, or other moneys from public or private sources, for the use and benefit of the veterans conservation corps program. The funds shall be deposited to the veterans conservation corps account created in RCW 43.60A.153.

(3) The department shall submit a report to the appropriate committees of the legislature by December 1, 2008, on the status of the veterans conservation corps program, including the number of enrollees employed in projects, training provided, certifications earned, employment placements achieved, program funding provided from all sources, and the results of the pilot project authorized in section 4, chapter 451, Laws of 2007. [2007 c 451 § 3.]

43.60A.152 Collaboration with agencies implementing the Washington conservation corps—Report. (1) The department shall collaborate with the state agencies implementing the Washington conservation corps, created in chapter 43.220 RCW, to maximize the utilization of both conservation corps programs. These agencies shall work together to identify stewardship and maintenance projects on agency-managed lands that are suitable for work by veterans conservation corps enrollees. The department may expend funds appropriated to the veterans conservation corps program to defray the costs of education, training, and certification associated with the enrollees participating in such projects.

(2) By September 30, 2007, the department, in conjunction with the state agencies identified in subsection (1) of this section, shall provide to the office of financial management and to the appropriate committees of the senate and house of representatives a report that:

(a) Identifies projects on state agency-managed lands that are currently planned for veterans conservation corps enrollee participation;

(b) Identifies additional projects on state agency-managed lands that are suitable for veterans conservation corps enrollee participation and for which funding is currently in place for such participation; and

(c) Identifies additional projects on state agency-managed lands for which project implementation has been funded or is included in the agency's multibiennial stewardship plans, and that are suitable for veterans conservation corps enrollee participation in the event that additional funding is provided to the department for associated training, education, and certification. [2007 c 451 § 5.]

43.60A.153 Veterans conservation corps account. The veterans conservation corps account is created in the state treasury. All moneys appropriated to the account or directed to the account from other sources must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for purposes of the veterans conservation corps program. [2007 c 451 § 6.]

43.60A.154 Agreements with federal entities for projects—Report. (1) The department shall seek to enter agreements with the national park service, the United States

forest service, the United States fish and wildlife service, and other federal agencies managing lands in Washington, for the employment of veterans conservation corps enrollees in maintenance, restoration, and stewardship projects. Up to twenty percent of the costs of the veterans conservation corps enrollees participation in a federal project may be provided by the department, including the costs of training provided on the project.

(2) By September 30, 2008, the department shall provide a report to the governor and appropriate committees of the senate and house of representatives regarding agreements entered with federal agencies to employ veteran conservation corps enrollees on federal land projects, and any revisions to the program needed to increase the number of these agreements. [2007 c 451 § 7.]

43.60A.155 Cooperation with the salmon recovery funding board regarding project work—Report. (1) During calendar years 2007 and 2008 the salmon recovery funding board shall cooperate with the department of veterans affairs to inform salmon habitat project sponsors of the availability of veterans conservation corps enrollees to perform project work. From applications submitted, the board and the department shall identify projects that propose work suitable for corps enrollees and located near where enrollees are based or may be created. The department may provide the project applicants with information regarding the benefits of employing a veterans conservation corps enrollee in the project, including funding that the department may make available to assist with the project. Such funding shall be considered by the salmon recovery funding board as matched funding in evaluating the project for salmon recovery funding board funding.

(2) As an element of the report required under RCW 43.60A.151(3), the salmon recovery funding board and the department shall jointly report to the governor and the appropriate committees of the senate and house of representatives regarding projects funded during the 2007 and 2008 grant cycles that employ veterans conservation corps enrollees. The report shall include recommendations for increasing the use of veterans conservation corps enrollees in salmon habitat projects that receive funding from the salmon recovery funding board. [2007 c 451 § 8.]

43.60A.160 Veterans innovations program. There is created in the department a veterans innovations program, which consists of the defenders' fund and the competitive grant program. The purpose of the veterans innovations program is to provide crisis and emergency relief and education, training, and employment assistance to veterans and their families in their communities. [2006 c 343 § 3.]

Reviser's note—Sunset Act application: The veterans innovations program is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.405. RCW 43.60A.160 through 43.60A.185 are scheduled for future repeal under RCW 43.131.406.

Findings—2006 c 343: "The legislature finds that:

(1) A significant number of Washington citizens answered the call to serve our country in recent military action leaving behind families, community, employment, and education;

(2) Many soldiers returning to their families and communities face transition problems in areas such as family reunification, employment, edu-

cation, and health;

(3) While the Washington state department of veterans affairs has provided services to many returning soldiers, a significant number have returned to families and communities without continuing ties to the military department or veterans' administration, but still in need of help; and

(4) Our state needs to honor and serve those who have protected our security and safety." [2006 c 343 § 1.]

43.60A.165 Defenders' fund—Eligibility for assistance. The defenders' fund is created to provide assistance to members of the Washington national guard and reservists who served in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle, and who are experiencing financial hardships in employment, education, housing, and health care due to the significant period of time away from home serving our country. The program shall be administered by the department. Eligibility determinations shall be made by the department. Eligible veterans may receive a one-time grant of no more than five hundred dollars, except that for the 2007-2009 biennium, the one-time grant may not exceed one thousand dollars. [2007 c 522 § 952; 2006 c 343 § 4.]

Sunset Act application: See note following RCW 43.60A.160.

Severability—Effective date—2007 c 522: See notes following RCW 15.64.050.

Findings—2006 c 343: See note following RCW 43.60A.160.

43.60A.170 Competitive grant program. (1) The competitive grant program is created to fund innovative initiatives to provide crisis and emergency relief, education, training, and employment assistance to veterans and their families in their communities.

(2) The department shall:

(a) Establish a competitive process to solicit proposals for and prioritize project applications for potential funding. The purpose of the proposals shall be in three categories:

- (i) Crisis and emergency relief;
- (ii) Education, training, and employment assistance; and
- (iii) Community outreach and resources; and

(b) Report on January 1, 2007, to the appropriate standing committees of the legislature and to the joint committee on veterans and military affairs on the implementation of chapter 343, Laws of 2006. The report must include, but is not limited to, information on the number of applications for assistance, the grant amount awarded each project, a description of each project, and performance measures of the program. [2010 1st sp.s. c 7 § 115; 2006 c 343 § 5.]

Sunset Act application: See note following RCW 43.60A.160.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Findings—2006 c 343: See note following RCW 43.60A.160.

43.60A.175 Receipt of gifts, grants, or endowments—Rule-making authority. (1) The department may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the defenders' fund and the competitive grant program and spend gifts, grants, or endowments or income from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates *RCW 42.17.710.

(2010 Ed.)

(2) The department may adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of RCW 43.60A.160 through 43.60A.185.

(3) The department may perform all acts and functions as necessary or convenient to carry out the powers expressly granted or implied under chapter 343, Laws of 2006. [2006 c 343 § 6.]

***Reviser's note:** RCW 42.17.710 was recodified as RCW 42.17A.560 pursuant to 2010 c 204 § 1102, effective January 1, 2012.

Sunset Act application: See note following RCW 43.60A.160.

Findings—2006 c 343: See note following RCW 43.60A.160.

43.60A.185 Veterans innovations program account. The veterans innovations program account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for purposes of the veterans innovations program. During the 2009-2011 fiscal biennium, the funds may be used for contracting for veterans' claims assistance services. [2010 1st sp.s. c 37 § 924; 2006 c 343 § 8.]

Sunset Act application: See note following RCW 43.60A.160.

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Findings—2006 c 343: See note following RCW 43.60A.160.

43.60A.190 Veteran-owned businesses. (1) The department shall:

(a) Develop and maintain a current list of veteran-owned businesses; and

(b) Make the list available on the department's public web site.

(2) To qualify as a veteran-owned business, the business must be at least fifty-one percent owned and controlled by:

- (a) A veteran as defined in RCW 41.04.007; or
- (b) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.

(3) To participate in the linked deposit program under chapter 43.86A RCW, a veteran-owned business qualified under this section must be certified by the department as a business:

(a) In which the veteran owner possesses and exercises sufficient expertise specifically in the business's field of operation to make decisions governing the long-term direction and the day-to-day operations of the business;

(b) That is organized for profit and performing a commercially useful function; and

(c) That meets the criteria for a small business concern as established under chapter 39.19 RCW.

(4) The department shall create a logo for the purpose of identifying veteran-owned businesses to the public. The department shall put the logo on an adhesive sticker or decal suitable for display in a business window and distribute the stickers or decals to veteran-owned businesses listed with the department.

(5)(a) Businesses may submit an application on a form prescribed by the department for inclusion on the list or to apply for certification under this section.

(b) The department must notify the state treasurer of veteran-owned businesses that are no longer certified under this

section. The written notification to the state treasurer must contain information regarding the reasons for the decertification and information on financing provided to the veteran-owned business under RCW 43.86A.060.

(6) The department may adopt rules necessary to implement this section. [2008 c 187 § 1; 2007 c 11 § 1.]

43.60A.195 Veteran-owned business certification—Rules—Outreach. (1) The department shall develop a procedure for certifying veteran-owned businesses and maintain a list of veteran-owned businesses on the department's public web site.

(2) The department shall adopt rules necessary to implement chapter 5, Laws of 2010. The department shall consult agencies to determine what specific information they must report to the department.

(3) The department shall collaborate with and may assist agencies in implementing outreach to veteran-owned businesses. [2010 c 5 § 3.]

Purpose—Construction—2010 c 5: See notes following RCW 43.60A.010.

43.60A.200 Awards of procurement contracts by state agencies to veteran-owned businesses. (1) State agencies are encouraged to award three percent of all procurement contracts that are exempt from competitive bidding requirements under RCW 43.19.1906(2) to veteran-owned businesses certified by the department under RCW 43.60A.195.

(2) State agencies shall:

(a) Perform outreach to veteran-owned businesses in collaboration with the department to increase opportunities for veteran-owned businesses to sell goods and services to the state; and

(b) Work to match agency procurement records with the department's database of certified veteran-owned businesses to establish how many procurement contracts are being awarded to those businesses. [2010 c 5 § 4.]

Purpose—Construction—2010 c 5: See notes following RCW 43.60A.010.

43.60A.210 Donations to disabled veterans assistance account. Any retailer in the state may provide an opportunity for patrons to make voluntary donations to the disabled veterans assistance account created in RCW 43.60A.215 on Veterans' Day and any additional days the retailer decides would be appropriate. [2010 c 90 § 1.]

43.60A.215 Disabled veterans assistance account. (1) The disabled veterans assistance account is created in the custody of the state treasurer. Disbursements of funds must be on the authorization of the director or the director's designee, and only for the purposes stated in subsection (4) of this section. In order to maintain an effective expenditure and revenue control, funds are subject in all respects to chapter 43.88 RCW, but an appropriation is not required to permit the expenditure of the funds.

(2) The department may request and accept nondedicated contributions, grants, or gifts in cash or otherwise, including funds generated by voluntary donations under RCW 43.60A.210.

(3) All receipts from voluntary donations under RCW 43.60A.210 must be deposited into the account.

(4) All moneys deposited into the account must be used by the department for activities that benefit veterans including, but not limited to, providing programs and services that assist veterans with the procurement of durable medical equipment, mobility enhancing equipment, emergency home or vehicle repair, emergency food or emergency shelter, or service animals. The first priority for assistance provided through the account must be given to veterans who are experiencing a financial hardship and do not qualify for other federal or state veterans programs and services. Funds from the account may not be used to supplant existing funds received by the department.

(5) For the purposes of this section, "veteran" has the same meaning as in RCW 41.04.005 and 41.04.007, and also means an actively serving member of the national guard or reserves, or is active duty military personnel. [2010 c 90 § 2.]

43.60A.900 Transfer of personnel of department of social and health services engaged in veterans' services—Rights preserved. All employees and personnel of the department of social and health services directly engaged in services to veterans shall, on June 25, 1976, be transferred to the jurisdiction of the department of veterans affairs. All employees classified under chapter 41.06 RCW, the state civil service law, shall be assigned to the department to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state civil service law. [1975-'76 2nd ex.s. c 115 § 9.]

43.60A.901 Transfer of property, records, funds, assets of agencies whose functions are transferred to department. All reports, documents, surveys, books, records, files, papers, or other writings in the possession of all departments and agencies of state government concerned with veterans services, and pertaining to the functions affected by this chapter, shall be delivered to the custody of the department of veterans affairs. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the powers and duties transferred by this chapter shall be made available to the department. All funds, credits, or other assets held in connection with the functions transferred by this chapter shall be assigned to the department.

Any appropriations made to the department of social and health services or other departments or agencies affected by this chapter for the purpose of carrying out the powers and duties transferred by this chapter, shall on June 25, 1976, be transferred and credited to the department of veterans affairs for the purpose of carrying out such transferred powers and duties.

Whenever any question arises as to the transfer of any funds, including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or any other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred under this chapter, the director of financial manage-

ment or successor thereto shall make a determination as to the proper allocation and certify the same to the state departments and agencies concerned. [1979 c 151 § 125; 1975-'76 2nd ex.s. c 115 § 10.]

43.60A.902 Rules and regulations, pending business, contracts, of agencies whose functions are transferred to department to be continued—Savings. All rules and regulations, and all pending business before the departments and agencies or divisions thereof affected by this chapter pertaining to matters transferred by this chapter, as of June 25, 1976, shall be continued and acted upon by the department. All existing contracts and obligations pertaining to the functions transferred by this chapter shall remain in full force and effect, and shall be performed by the department. Neither the transfer of any department or agency, or division thereof, nor any transfer of powers, duties, and functions, shall affect the validity of any act performed by such department or agency or division thereof or any officer or employee thereof prior to June 25, 1976. [1975-'76 2nd ex.s. c 115 § 11.]

43.60A.903 Certification when apportionments of budgeted funds required because of transfers. If apportionments of budgeted funds are required because of the transfers authorized by this chapter, the director of financial management shall certify such apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification. [1979 c 151 § 126; 1975-'76 2nd ex.s. c 115 § 12.]

43.60A.904 Federal programs—Rules and regulations—Internal reorganization to meet federal requirements—Construction to comply with federal law—Conflicting parts inoperative. In furtherance of the policy of the state to cooperate with the federal government in all of the programs included in this chapter, such rules and regulations as may become necessary to entitle the state to participate in federal funds may be adopted, unless the same be expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to state receipt of federal funds. Any section or provision of this chapter which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. If any part of this chapter is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, such conflicting part of this chapter is declared to be inoperative solely to the extent of the conflict. [1975-'76 2nd ex.s. c 115 § 13.]

43.60A.905 Savings—1975-'76 2nd ex.s. c 115. Nothing in this chapter shall be construed to affect any existing rights acquired under RCW 43.17.010, 43.17.020, 43.61.030, 43.61.040, or 43.61.070, as now or hereafter amended, except as to the governmental agencies referred to and their officials

and employees, nor as affecting any actions, activities, or proceedings validated thereunder, nor as affecting any civil or criminal proceedings instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor any administrative action taken thereunder; and neither the abolition of any agency or division thereof nor any transfer of powers, duties, and functions as provided herein, shall affect the validity of any act performed by such agency or division thereof or any officer thereof prior to June 25, 1976. [1983 c 3 § 112; 1975-'76 2nd ex.s. c 115 § 15.]

43.60A.906 Collective bargaining units or agreements not altered. Nothing contained in this chapter shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until any such agreement has expired or until any such bargaining unit has been modified by action of the Washington personnel resources board as provided by law. [1993 c 281 § 52; 1975-'76 2nd ex.s. c 115 § 16.]

Additional notes found at www.leg.wa.gov

43.60A.907 Liberal construction—1975-'76 2nd ex.s. c 115. The rule of strict construction shall have no application to this chapter and it shall be liberally construed in order to carry out the objective for which it is designed, in accordance with the legislative intent to give the director the maximum possible freedom in carrying the provisions of this chapter into effect. [1975-'76 2nd ex.s. c 115 § 17.]

43.60A.908 Severability—1975-'76 2nd ex.s. c 115. If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 115 § 25.]

Chapter 43.61 RCW

VETERANS' REHABILITATION COUNCIL

Sections

43.61.030	Contracts with veterans' organizations to provide veterans services—Use of funds.
43.61.040	Director of veterans affairs to make rules and regulations—Veteran services—Annual report.
43.61.060	Donations may be accepted—Procedure for allotment and use.
43.61.070	Payments to veterans' organizations—Approval by director of veterans affairs.

Department of veterans affairs: Chapter 43.60A RCW.

43.61.030 Contracts with veterans' organizations to provide veterans services—Use of funds. The director of veterans affairs is empowered to contract with any veterans' organizations, now or hereafter chartered by act of congress to provide veterans services. All sums paid to veterans' organizations under contract shall be used by the organizations as specified in the contract in the maintenance of a rehabilitation service and to assist veterans in the prosecution of their claims and the solution of their problems arising out of military service. Such service and assistance shall be rendered all veterans and their dependents and also all beneficiaries of any military claim, and shall include but not be limited to those services now rendered by the service departments of the

respective member organizations. [1983 c 260 § 1; 1975-'76 2nd ex.s. c 115 § 21; 1971 ex.s. c 189 § 5; 1970 ex.s. c 18 § 33; 1965 c 8 § 43.61.030. Prior: 1947 c 110 § 6; RRS § 10758-105.]

Additional notes found at www.leg.wa.gov

43.61.040 Director of veterans affairs to make rules and regulations—Veteran services—Annual report. The director of veterans affairs shall make such rules and regulations as may be necessary to carry out the purposes of this chapter. The department shall furnish information, advice, and assistance to veterans and coordinate all programs and services in the field of veterans' claims service, education, health, vocational guidance and placement, and services not provided by some other agency of the state or by the federal government. The director shall submit a report of the departments' activities hereunder each year to the governor. [1977 c 75 § 60; 1975-'76 2nd ex.s. c 115 § 22; 1971 ex.s. c 189 § 6; 1970 ex.s. c 18 § 34; 1965 c 8 § 43.61.040. Prior: 1947 c 110 § 3; RRS § 10758-102.]

Additional notes found at www.leg.wa.gov

43.61.060 Donations may be accepted—Procedure for allotment and use. The department of veterans affairs may receive gifts, donations, and grants from any person or agency and all such gifts, donations, and grants shall be placed in the general fund and may be allotted and used in accordance with the donors' instructions as an unanticipated receipt pursuant to RCW 43.79.270 through 43.79.282 as now existing or hereafter amended. [1979 ex.s. c 59 § 1; 1971 ex.s. c 189 § 7; 1965 c 8 § 43.61.060. Prior: 1947 c 110 § 5; RRS § 10758-104.]

43.61.070 Payments to veterans' organizations—Approval by director of veterans affairs. Payments to any veterans' organization shall first be approved by the director of veterans affairs and insofar as possible shall be made on an equitable basis for work done. [1975-'76 2nd ex.s. c 115 § 24; 1970 ex.s. c 18 § 36; 1965 c 8 § 43.61.070. Prior: 1947 c 110 § 7; RRS § 10758-106.]

Additional notes found at www.leg.wa.gov

Chapter 43.62 RCW

DETERMINATION OF POPULATIONS—STUDENT ENROLLMENTS

Sections

43.62.010	Office of financial management—Population studies—Expenditures.
43.62.020	Method of allocating state funds to cities and towns prescribed.
43.62.030	Determination of population—Cities and towns—Certificate—Allocation of state funds.
43.62.035	Determining population—Projections.
43.62.040	Assistance to office of financial management—Determination by office of financial management conclusive.
43.62.050	Student enrollment forecasts—Report.

43.62.010 Office of financial management—Population studies—Expenditures. If the state or any of its political subdivisions, or other agencies, use the population studies services of the office of financial management or the succes-

sor thereto, the state, its political subdivision, or other agencies utilizing such services shall pay for the cost of rendering such services. Expenditures shall be paid out of funds allocated to cities and towns under *RCW 82.44.155 and shall be paid from said fund before any allocations or payments are made to cities and towns under *RCW 82.44.155. [1990 c 42 § 317; 1979 c 151 § 127; 1975-'76 2nd ex.s. c 34 § 121; 1965 c 8 § 43.62.010. Prior: 1957 c 175 § 1; 1951 c 96 § 1; 1947 c 51 § 2; RRS § 5508-11.]

*Reviser's note: RCW 82.44.155 was repealed by 2006 c 318 § 10.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

43.62.020 Method of allocating state funds to cities and towns prescribed. Whenever cities and towns of the state are, by law, allocated and entitled to be paid any funds or state moneys from any source, and the allocation and payment is required to be made on a populations basis, notwithstanding the provisions of any other law to the contrary, all such allocations shall be made on the basis of the population of the respective cities and towns as last determined by the office of financial management: PROVIDED, That the regular federal decennial census figures released for cities and towns shall be considered by the office of financial management in determining the population of cities and towns. [1979 c 151 § 128; 1965 c 8 § 43.62.020. Prior: 1957 c 175 § 2; prior: (i) 1949 c 60 § 1; RRS § 5508-3. (ii) 1947 c 51 § 1; RRS § 5508-10.]

43.62.030 Determination of population—Cities and towns—Certificate—Allocation of state funds. The office of financial management shall annually as of April 1st, determine the populations of all cities and towns of the state; and on or before July 1st of each year, shall file with the secretary of state a certificate showing its determination as to the populations of cities and towns of the state. A copy of such certificate shall be forwarded by the agency to each state official or department responsible for making allocations or payments, and on and after January 1st next following the date when such certificate or certificates are filed, the population determination shown in such certificate or certificates shall be used as the basis for the allocation and payment of state funds, to cities and towns until the next January 1st following the filing of successive certificates by the agency: PROVIDED, That whenever territory is annexed to a city or town, the population of the annexed territory shall be added to the population of the annexing city or town upon the effective date of the annexation as specified in the relevant ordinance, and upon approval of the agency as provided in RCW 35.13.260, as now or hereafter amended, a revised certificate reflecting the determination of the population as increased from such annexation shall be forwarded by the agency to each state official or department responsible for making allocations or payments, and upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for allocation and payment of state funds to such city or town until the next annual population determination becomes effective: PROVIDED FURTHER, That whenever

any city or town becomes incorporated subsequent to the determination of such population, the populations of such cities and towns as shown in the records of incorporation filed with the secretary of state shall be used in determining the amount of allocation and payments, and the agency shall so notify the proper state officials or departments, and such cities and towns shall be entitled to participate in allocations thereafter made: PROVIDED FURTHER, That in case any incorporated city or town disincorporates subsequent to the filing of such certificate or certificates, the agency shall promptly notify the proper state officials or departments thereof, and such cities and towns shall cease to participate in allocations thereafter made, and all credit accrued to such incorporated city or town shall be distributed to the credit of the remaining cities and towns. The secretary of state shall promptly notify the agency of the incorporation of each new city and town and of the disincorporation of any cities or towns.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate due to an annexation is forwarded by the agency thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

Armed forces shipboard population, on-base naval group quarter population, and military dependents living in housing under United States navy jurisdiction, shall be determined quarterly by the office of financial management on the first days of January, April, July, and October. These counts shall be used to increase or decrease the armed forces component of the resident population determinations in the cities of Bremerton and Everett for the purpose of allocating state revenues according to this section. Counts on the first day of the quarterly periods commencing with January, April, July, and October shall be used to adjust the total population for the following quarter, in the same manner adjustments are made for population changes due to annexation as specified in RCW 35.13.260 and 35A.14.700.

Population determinations made under this section shall include only those persons who meet resident population criteria as defined by the federal bureau of the census. [1988 c 260 § 1; 1979 c 151 § 129; 1977 c 75 § 61; 1969 ex.s. c 50 § 2; 1965 c 8 § 43.62.030. Prior: 1957 c 175 § 3; 1951 c 96 § 2.]

Determination of population of area annexed to city: RCW 35.13.260.

43.62.035 Determining population—Projections.

The office of financial management shall determine the population of each county of the state annually as of April 1st of each year and on or before July 1st of each year shall file a certificate with the secretary of state showing its determination of the population for each county. The office of financial management also shall determine the percentage increase in population for each county over the preceding ten-year period, as of April 1st, and shall file a certificate with the secretary of state by July 1st showing its determination. At least once every five years or upon the availability of decennial census data, whichever is later, the office of financial man-

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agement shall prepare twenty-year growth management planning population projections required by RCW 36.70A.110 for each county that adopts a comprehensive plan under RCW 36.70A.040 and shall review these projections with such counties and the cities in those counties before final adoption. The county and its cities may provide to the office such information as they deem relevant to the office's projection, and the office shall consider and comment on such information before adoption. Each projection shall be expressed as a reasonable range developed within the standard state high and low projection. The middle range shall represent the office's estimate of the most likely population projection for the county. If any city or county believes that a projection will not accurately reflect actual population growth in a county, it may petition the office to revise the projection accordingly. The office shall complete the first set of ranges for every county by December 31, 1995.

A comprehensive plan adopted or amended before December 31, 1995, shall not be considered to be in noncompliance with the twenty-year growth management planning population projection if the projection used in the comprehensive plan is in compliance with the range later adopted under this section. [1997 c 429 § 26; 1995 c 162 § 1; 1991 sp.s. c 32 § 30; 1990 1st ex.s. c 17 § 32.]

Additional notes found at www.leg.wa.gov

43.62.040 Assistance to office of financial management—Determination by office of financial management conclusive. The department of revenue or any other state officer or officials of cities, towns, or counties shall upon request of the office of financial management furnish such information, aid, and assistance as may be required by the office of financial management in the performance of its population studies. The action of the office of financial management in determining the population shall be final and conclusive. [1979 c 151 § 130; 1975 1st ex.s. c 278 § 25; 1965 c 8 § 43.62.040. Prior: 1957 c 175 § 4; 1951 c 96 § 3.]

Additional notes found at www.leg.wa.gov

43.62.050 Student enrollment forecasts—Report.

The office of financial management shall develop and maintain student enrollment forecasts of Washington schools, including both public and private, elementary schools, junior high schools, high schools, colleges, and universities. A current report of such forecasts shall be submitted to the standing committees on ways and means of the house and the senate on or before the fifteenth day of November of each even-numbered year. [1979 c 151 § 131; 1977 c 75 § 62; 1975 1st ex.s. c 293 § 2; 1965 c 8 § 43.62.050. Prior: 1959 c 171 § 1; 1957 c 229 § 1.]

Review of reported FTE students: RCW 28A.150.260.

Additional notes found at www.leg.wa.gov

Chapter 43.63A RCW

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

(Formerly: Department of community development)

Sections

- 43.63A.066 Child abuse and neglect prevention training for participants in head start or early childhood education assistance programs—Duties of department of early learning.
- 43.63A.067 Early childhood assistance programs, department's duties.
- 43.63A.068 Advisory committee on policies and programs for children and families with incarcerated parents—Funding for programs and services.
- 43.63A.075 Community development finance program.
- 43.63A.105 Considerations in designating local community action and community service agencies.
- 43.63A.115 Community action agency network—Delivery system for federal and state antipoverty programs.
- 43.63A.125 Nonresidential social services facilities—Building communities fund program—Assistance to nonprofit organizations—Competitive process—Recommendations to legislature for funding.
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- 43.63A.768 Building communities fund program—Accountability and reporting standards—Annual report.
- 43.63A.900 Severability—1967 c 74.
- 43.63A.901 Severability—1984 c 125.
- 43.63A.902 Headings—1984 c 125.
- 43.63A.903 Effective date—1984 c 125.

Annexations to cities or towns, annexation certificate submitted to the office of financial management: RCW 35.13.260.

Center for volunteerism and citizen service within department of commerce: RCW 43.150.040.

Community and technical college board to assist in enrollment projections: RCW 28B.50.090.

Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 36.93 RCW.

Occupational forecast—Agency consultation: RCW 50.38.030.

Projects of statewide significance—Assignment of project facilitator or coordinator: RCW 43.157.030.

Scenic and recreational highway act, planning and design standards coordinated by department of commerce: RCW 47.39.040.

43.63A.066 Child abuse and neglect prevention training for participants in head start or early childhood education assistance programs—Duties of department of early learning. The department of early learning shall have primary responsibility for providing child abuse and neglect prevention training to preschool age children participating in the federal head start program or the early childhood education and assistance program established under RCW 28A.215.010 through 28A.215.050, 43.215.400 through 43.215.450, and 43.215.900 through 43.215.903. [2006 c 265 § 212; 1993 c 280 § 58; 1990 c 33 § 579; 1987 c 489 § 4.]

Part headings not law—Effective date—Severability—2006 c 265: See RCW 43.215.904 through 43.215.906.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Intent—1987 c 489: See note following RCW 28A.300.150.

Additional notes found at www.leg.wa.gov

43.63A.067 Early childhood assistance programs, department's duties. See chapter 28A.215 RCW.

43.63A.068 Advisory committee on policies and programs for children and families with incarcerated parents—Funding for programs and services. (1)(a) The *department of community, trade, and economic development shall establish an advisory committee to monitor, guide, and report on recommendations relating to policies and programs for children and families with incarcerated parents.

(b) The advisory committee shall include representatives of the department of corrections, the department of social and health services, the department of early learning, the office of the superintendent of public instruction, representatives of the private nonprofit and business sectors, child advocates, representatives of Washington state Indian tribes as defined under the federal Indian welfare act (25 U.S.C. Sec. 1901 et seq.), court administrators, the administrative office of the courts, the Washington association of sheriffs and police chiefs, jail administrators, the office of the governor, and others who have an interest in these issues.

(c) The advisory committee shall:

(i) Gather the data collected by the departments as required in RCW 72.09.495, 74.04.800, 43.215.065, and 28A.300.520;

(ii) Monitor and provide consultation on the implementation of recommendations contained in the 2006 children of incarcerated parents report;

(iii) Identify areas of need and develop recommendations for the legislature, the department of social and health services, the department of corrections, the department of early learning, and the office of the superintendent of public instruction to better meet the needs of children and families of persons incarcerated in department of corrections facilities; and

(iv) Advise the *department of community, trade, and economic development regarding community programs the department should fund with moneys appropriated for this purpose in the operating budget. The advisory committee shall provide recommendations to the department regarding the following:

(A) The goals for geographic distribution of programs and funding;

(B) The scope and purpose of eligible services and the priority of such services;

(C) Grant award funding limits;

(D) Entities eligible to apply for the funding;

(E) Whether the funding should be directed towards starting or supporting new programs, expanding existing programs, or whether the funding should be open to all eligible services and providers; and

(F) Other areas the advisory committee determines appropriate.

(d) The children of incarcerated parents advisory committee shall update the legislature and governor biennially on committee activities, with the first update due by January 1, 2010.

(2) The *department of community, trade, and economic development shall select community programs or services to receive funding that focus on children and families of inmates incarcerated in a department of corrections facility and sustaining the family during the period of the inmate's incarceration.

(a) Programs or services which meet the needs of the children of incarcerated parents should be the greatest consideration in the programs that are identified by the department.

(b) The department shall consider the recommendations of the advisory committee regarding which services or programs the department should fund.

(c) The programs selected shall collaborate with an agency, or agencies, experienced in providing services to aid families and victims of sexual assault and domestic violence to ensure that the programs identify families who have a history of sexual assault or domestic violence and ensure the services provided are appropriate for the children and families. [2009 c 518 § 18; 2007 c 384 § 6.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Intent—Finding—2007 c 384: See note following RCW 72.09.495.

43.63A.075 Community development finance program. The department shall establish a community development finance program. Pursuant to this program, the department shall, in cooperation with the local economic development council: (1) Develop expertise in federal, state, and

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local community and economic development programs; and (2) assist communities and businesses to secure available financing. To the extent permitted by federal law, the department is encouraged to use federal community block grant funds to make urban development action grants to communities which have not been eligible to receive such grants prior to June 30, 1984. [1999 c 108 § 1; 1993 c 280 § 59; 1985 c 466 § 53; 1984 c 125 § 6.]

Additional notes found at www.leg.wa.gov

43.63A.105 Considerations in designating local community action and community service agencies. In designating local community action agencies or local community service agencies, the department shall give special consideration to (1) agencies previously funded under any community services or antipoverty program; (2) agencies meeting state and federal program and fiscal requirements; and (3) successors to such agencies. [1984 c 125 § 10.]

43.63A.115 Community action agency network—Delivery system for federal and state antipoverty programs. (1) The community action agency network, established initially under the federal economic opportunity act of 1964 and subsequently under the federal community services block grant program of 1981, as amended, shall be a delivery system for federal and state antipoverty programs in this state, including but not limited to the community services block grant program, the low-income energy assistance program, and the federal department of energy weatherization program.

(2) Local community action agencies comprise the community action agency network. The community action agency network shall serve low-income persons in the counties. Each community action agency and its service area shall be designated in the state federal community service block grant plan as prepared by the *department of community, trade, and economic development.

(3) Funds for antipoverty programs may be distributed to the community action agencies by the *department of community, trade, and economic development and other state agencies in consultation with the authorized representatives of community action agency networks. [1993 c 280 § 60; 1990 c 156 § 1.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.63A.125 Nonresidential social services facilities—Building communities fund program—Assistance to nonprofit organizations—Competitive process—Recommendations to legislature for funding. (Effective until June 30, 2011.) (1) The department shall establish the building communities fund program. Under the program, capital and technical assistance grants may be made to nonprofit organizations for acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential community services, including social service centers and multipurpose community centers, including those serving a distinct or ethnic population. Such facilities must be located in a distressed commu-

nity or serve a substantial number of low-income or disadvantaged persons.

(2) The department shall establish a competitive process to solicit, evaluate, and rank applications for the building communities fund program as follows:

(a) The department shall conduct a statewide solicitation of project applications from nonprofit organizations.

(b) The department shall evaluate and rank applications in consultation with a citizen advisory committee using objective criteria. To be considered qualified, applicants must demonstrate that the proposed project:

(i) Will increase the range, efficiency, or quality of the services provided to citizens;

(ii) Will be located in a distressed community or will serve a substantial number of low-income or disadvantaged persons;

(iii) Will offer three or more distinct activities that meet a single community service objective or a diverse set of activities that meet multiple community service objectives, including but not limited to: Providing social services; expanding employment opportunities for or increasing the employability of community residents; or offering educational or recreational opportunities separate from the public school system or private schools, as long as recreation is not the sole purpose of the facility;

(iv) Reflects a long-term vision for the development of the community, shared by residents, businesses, leaders, and partners;

(v) Requires state funding to accomplish a discrete, usable phase of the project;

(vi) Is ready to proceed and will make timely use of the funds;

(vii) Is sponsored by one or more entities that have the organizational and financial capacity to fulfill the terms of the grant agreement and to maintain the project into the future;

(viii) Fills an unmet need for community services;

(ix) Will achieve its stated objectives; and

(x) Is a community priority as shown through tangible commitments of existing or future assets made to the project by community residents, leaders, businesses, and government partners.

(c) The evaluation process shall also include an examination of existing assets that applicants may apply to projects. Grant assistance under this section shall not exceed twenty-five percent of the total cost of the project, except, under exceptional circumstances, the department may reduce the amount of nonstate match required. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

(d) The department may not set a monetary limit to funding requests.

(e) No more than ten percent of the total granted amount may be awarded to qualified eligible projects that meet the definition of exceptional circumstances defined in this subsection. For purposes of this subsection, exceptional circumstances include but are not limited to: Natural disasters affecting projects; emergencies beyond an applicant's control, such as a fire or an unanticipated loss of a lease where services are currently provided; a delay that could result in a

threat to public health or safety; or instances where a local community could quantifiably demonstrate that they had exhausted all possible fund-raising efforts.

(3) The department shall submit biennially to the governor and the legislature in the department's capital budget request a ranked list of the qualified eligible projects for which applications were received. The list must include a description of each project, its total cost, and the amount of state funding requested. The appropriate fiscal committees of the legislature shall use this list to determine building communities fund projects that may receive funding in the capital budget. The total amount of state capital funding available for all projects on the biennial list shall be determined by the capital budget beginning with the 2009-2011 biennium and thereafter. In addition, if cash funds have been appropriated, up to three million dollars may be used for technical assistance grants. The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

(4) In addition to the list of ranked qualified eligible projects, the department shall submit to the appropriate fiscal committees of the legislature a summary report that describes the solicitation and evaluation processes, including but not limited to the number of applications received, the total amount of funding requested, issues encountered, if any, and any recommendations for process improvements.

(5) After the legislature has approved a specific list of projects in law, the department shall develop and manage appropriate contracts with the selected applicants; monitor project expenditures and grantee performance; report project and contract information; and exercise due diligence and other contract management responsibilities as required.

(6) In contracts for grants authorized under this section the department shall include provisions which require that capital improvements shall be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities shall be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant. [2009 c 497 § 6023; 2008 c 327 § 15; 2006 c 371 § 233; 2005 c 160 § 1; 1999 c 295 § 3; 1997 c 374 § 2.]

Expiration date—2009 c 497 §§ 6022 and 6023: See note following RCW 28B.50.360.

Effective date—2009 c 497: See note following RCW 28B.15.210.

Part headings not law—Severability—Effective date—2006 c 371: See notes following RCW 43.325.040.

Findings—1997 c 374: "The legislature finds that nonprofit organizations provide a variety of social services that serve the needs of the citizens of Washington, including many services implemented under contract with state agencies. The legislature also finds that the efficiency and quality of these services may be enhanced by the provision of safe, reliable, and sound facilities, and that, in certain cases, it may be appropriate for the state to assist in the development of these facilities." [1997 c 374 § 1.]

43.63A.125 Nonresidential social services facilities—Building communities fund program—Assistance to nonprofit organizations—Competitive process—Recommendations to legislature for funding. (Effective June 30,

2011.) (1) The department shall establish the building communities fund program. Under the program, capital and technical assistance grants may be made to nonprofit organizations for acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential community services, including social service centers and multipurpose community centers, including those serving a distinct or ethnic population. Such facilities must be located in a distressed community or serve a substantial number of low-income or disadvantaged persons.

(2) The department shall establish a competitive process to solicit and evaluate applications for the building communities fund program as follows:

(a) The department shall conduct a statewide solicitation of project applications from nonprofit organizations.

(b) The department shall evaluate applications in consultation with a citizen advisory committee using objective criteria. To be considered qualified, applicants must demonstrate that the proposed project:

(i) Will increase the range, efficiency, or quality of the services provided to citizens;

(ii) Will be located in a distressed community or will serve a substantial number of low-income or disadvantaged persons;

(iii) Will offer a diverse set of activities that meet multiple community service objectives, including but not limited to: Providing social services; expanding employment opportunities for or increasing the employability of community residents; or offering educational or recreational opportunities separate from the public school system or private schools, as long as recreation is not the sole purpose of the facility;

(iv) Reflects a long-term vision for the development of the community, shared by residents, businesses, leaders, and partners;

(v) Requires state funding to accomplish a discrete, usable phase of the project;

(vi) Is ready to proceed and will make timely use of the funds;

(vii) Is sponsored by one or more entities that have the organizational and financial capacity to fulfill the terms of the grant agreement and to maintain the project into the future;

(viii) Fills an unmet need for community services;

(ix) Will achieve its stated objectives; and

(x) Is a community priority as shown through tangible commitments of existing or future assets made to the project by community residents, leaders, businesses, and government partners.

(c) The evaluation process shall also include an examination of existing assets that applicants may apply to projects. Grant assistance under this section shall not exceed twenty-five percent of the total cost of the project, except, under exceptional circumstances, the department may reduce the amount of nonstate match required. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

(d) The department may not set a monetary limit to funding requests.

(3) The department shall submit annually to the governor and the legislature in the department's capital budget request

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an unranked list of the qualified eligible projects for which applications were received. The list must include a description of each project, its total cost, and the amount of state funding requested. The appropriate fiscal committees of the legislature shall use this list to determine building communities fund projects that may receive funding in the capital budget. The total amount of state capital funding available for all projects on the annual list shall be determined by the capital budget beginning with the 2009-2011 biennium and thereafter. In addition, if cash funds have been appropriated, up to three million dollars may be used for technical assistance grants. The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

(4) In addition to the list of qualified eligible projects, the department shall submit to the appropriate fiscal committees of the legislature a summary report that describes the solicitation and evaluation processes, including but not limited to the number of applications received, the total amount of funding requested, issues encountered, if any, and any recommendations for process improvements.

(5) After the legislature has approved a specific list of projects in law, the department shall develop and manage appropriate contracts with the selected applicants; monitor project expenditures and grantee performance; report project and contract information; and exercise due diligence and other contract management responsibilities as required.

(6) In contracts for grants authorized under this section the department shall include provisions which require that capital improvements shall be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities shall be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant. [2008 c 327 § 15; 2006 c 371 § 233; 2005 c 160 § 1; 1999 c 295 § 3; 1997 c 374 § 2.]

Part headings not law—Severability—Effective date—2006 c 371: See notes following RCW 43.325.040.

Findings—1997 c 374: "The legislature finds that nonprofit organizations provide a variety of social services that serve the needs of the citizens of Washington, including many services implemented under contract with state agencies. The legislature also finds that the efficiency and quality of these services may be enhanced by the provision of safe, reliable, and sound facilities, and that, in certain cases, it may be appropriate for the state to assist in the development of these facilities." [1997 c 374 § 1.]

43.63A.135 Nonresidential youth services facilities—Competitive process—Recommendations to legislature for funding. (1) The *department of community, trade, and economic development must establish a competitive process to solicit proposals for and prioritize projects whose primary objective is to assist nonprofit youth organizations in acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential services, excluding outdoor athletic fields.

(2) The *department of community, trade, and economic development must establish a competitive process to prioritize applications for the assistance as follows:

(a) The *department of community, trade, and economic development must conduct a statewide solicitation of project applications from local governments, nonprofit organizations, and other entities, as determined by the *department of community, trade, and economic development. The *department of community, trade, and economic development must evaluate and rank applications in consultation with a citizen advisory committee using objective criteria. Projects must have a major recreational component, and must have either an educational or social service component. At a minimum, applicants must demonstrate that the requested assistance will increase the efficiency or quality of the services it provides to youth. The evaluation and ranking process must also include an examination of existing assets that applicants may apply to projects. Grant assistance under this section may not exceed twenty-five percent of the total cost of the project. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

(b) The *department of community, trade, and economic development must submit a prioritized list of recommended projects to the governor and the legislature in the department of community, trade, and economic development's biennial capital budget request beginning with the 2005-2007 biennium and thereafter. The list must include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a biennial project list must not exceed eight million dollars. The *department of community, trade, and economic development may not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

(c) In contracts for grants authorized under this section the *department of community, trade, and economic development must include provisions that require that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee must repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant. [2006 c 371 § 234; 2005 c 160 § 4; 2003 1st sp.s. c 7 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Part headings not law—Severability—Effective date—2006 c 371: See notes following RCW 43.325.040.

Findings—2003 1st sp.s. c 7: "The legislature finds that nonprofit youth organizations provide a variety of services for the youth of Washington state, including many services that enable young people, especially those facing challenging and disadvantaged circumstances, to realize their full potential as productive, responsible, and caring citizens. The legislature also finds that the efficiency and quality of these services may be enhanced by the provision of safe, reliable, and sound facilities, and that, in certain cases, it may be appropriate for the state to assist in the development of these facilities." [2003 1st sp.s. c 7 § 1.]

43.63A.155 Local government bond information—Publication—Rules. The *department of community, trade, and economic development shall retain the bond information

it receives under RCW 39.44.210 and 39.44.230 and shall publish summaries of local government bond issues at least once a year.

The *department of community, trade, and economic development shall adopt rules under chapter 34.05 RCW to implement RCW 39.44.210 and 39.44.230. [1993 c 280 § 61; 1989 c 225 § 5; 1985 c 130 § 6.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.63A.190 Distribution of funds for border areas. Funds appropriated by the legislature as supplemental resources for border areas shall be distributed by the state treasurer pursuant to the formula for distributing funds from the liquor revolving fund to border areas, and expenditure requirements for such distributions, under RCW 66.08.196. [1995 c 159 § 5; 1984 c 125 § 11; 1981 c 269 § 2.]

Additional notes found at www.leg.wa.gov

43.63A.215 Accessory apartments—Development and placement—Local governments. (1) The department shall, in consultation with the affordable housing advisory board created in RCW 43.185B.020, report to the legislature on the development and placement of accessory apartments. The department shall produce a written report by December 15, 1993, which:

(a) Identifies local governments that allow the siting of accessory apartments in areas zoned for single-family residential use; and

(b) Makes recommendations to the legislature designed to encourage the development and placement of accessory apartments in areas zoned for single-family residential use.

(2) The recommendations made under subsection (1) of this section shall not take effect before ninety days following adjournment of the 1994 regular legislative session.

(3) Unless provided otherwise by the legislature, by December 31, 1994, local governments shall incorporate in their development regulations, zoning regulations, or official controls the recommendations contained in subsection (1) of this section. The accessory apartment provisions shall be part of the local government's development regulation, zoning regulation, or official control. To allow local flexibility, the recommendations shall be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority.

(4) As used in this section, "local government" means:

(a) A city or code city with a population that exceeds twenty thousand;

(b) A county that is required to or has elected to plan under the state growth management act; and

(c) A county with a population that exceeds one hundred twenty-five thousand. [1993 c 478 § 7.]

43.63A.230 Employee ownership and self-management—Technical assistance and educational programs. The *department of community, trade, and economic development shall provide technical assistance to cooperatives authorized under chapter 23.78 RCW and conduct educational programs on employee ownership and self-management

ment. The department shall include information on the option of employee ownership wherever appropriate in its various programs. [2005 c 136 § 2; 1993 c 280 § 63; 1988 c 186 § 17; 1987 c 457 § 15.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

Additional notes found at www.leg.wa.gov

43.63A.275 Retired senior volunteer programs (RSVP)—Funds distribution. (1) Each biennium the *department of community, trade, and economic development shall distribute such funds as are appropriated for retired senior volunteer programs (RSVP) as follows:

(a) At least sixty-five percent of the moneys may be distributed according to formulae and criteria to be determined by the *department of community, trade, and economic development in consultation with the RSVP directors association.

(b) Up to twenty percent of the moneys may be distributed by competitive grant process to develop RSVP projects in counties not presently being served, or to expand existing RSVP services into counties not presently served.

(c) Ten percent of the moneys may be used by the *department of community, trade, and economic development for administration, monitoring of the grants, and providing technical assistance to the RSVP projects.

(d) Up to five percent of the moneys may be used to support projects that will benefit RSVPs statewide.

(2) Grants under subsection (1) of this section shall give priority to programs in the areas of education, tutoring, English as a second language, combating of and education on drug abuse, housing and homeless, and respite care, and shall be distributed in accordance with the following:

(a) None of the grant moneys may be used to displace any paid employee in the area being served.

(b) Grants shall be made for programs that focus on:

(i) Developing new roles for senior volunteers in nonprofit and public organizations with special emphasis on areas targeted in section 1, chapter 65, Laws of 1992. The roles shall reflect the diversity of the local senior population and shall respect their life experiences;

(ii) Increasing the expertise of volunteer managers and RSVP managers in the areas of communication, recruitment, motivation, and retention of today's over-sixty population;

(iii) Increasing the number of senior citizens recruited, referred, and placed with nonprofit and public organizations; and

(iv) Providing volunteer support such as: Mileage to and from the volunteer assignment, recognition, and volunteer insurance. [1993 c 280 § 67; 1992 c 65 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—1992 c 65: "The legislature finds that there is a growing number of citizens in the state over the age of sixty who have much to offer their fellow citizens and communities through volunteer service. The legislature further finds that public programs for education, at-risk youth, adult literacy, and combating drug abuse have benefited from and are still in need of the assistance of skilled retired senior volunteer programs volunteers. In addition the legislature further finds that public programs for developmentally disabled, environmental protection, corrections, crime prevention, men-

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tal health, long-term and respite care, and housing and homeless, among others, are also in need of volunteer assistance from the retired senior volunteer program.

Therefore, the legislature intends to encourage the increased involvement of senior volunteers by providing funding throughout Washington to promote the development and enhancement of such programs." [1992 c 65 § 1.]

Additional notes found at www.leg.wa.gov

43.63A.305 Independent youth housing program—Created—Collaboration with the department of social and health services—Duties of subcontractor organizations. (1) The independent youth housing program is created in the department to provide housing stipends to eligible youth to be used for independent housing. In developing a plan for the design, implementation, and operation of the independent youth housing program, the department shall:

(a) Adopt policies, requirements, and procedures necessary to administer the program;

(b) Contract with one or more eligible organizations described under RCW 43.185A.040 to provide services and conduct administrative activities as described in subsection (3) of this section;

(c) Establish eligibility criteria for youth to participate in the independent youth housing program, giving priority to youth who have been dependents of the state for at least one year;

(d) Refer interested youth to the designated subcontractor organization administering the program in the area in which the youth intends to reside;

(e) Develop a method for determining the amount of the housing stipend, first and last month's rent, and security deposit, where applicable, to be dedicated to participating youth. The method for determining a housing stipend must take into account a youth's age, the youth's total income from all sources, the fair market rent for the area in which the youth lives or intends to live, and a variety of possible living situations for the youth. The amount of housing stipends must be adjusted, by a method and formula established by the department, to promote the successful transition for youth to complete housing self-sufficiency over time;

(f) Ensure that the independent youth housing program is integrated and aligned with other state rental assistance and case management programs operated by the department, as well as case management and supportive services programs, including the independent living program, the transitional living program, and other related programs offered by the department of social and health services; and

(g) Consult with the department of social and health services and other stakeholders involved with dependent youth, homeless youth, and homeless young adults, as appropriate.

(2) The department of social and health services shall collaborate with the department in implementing and operating the independent youth housing program including, but not limited to, the following:

(a) Refer potential eligible youth to the department before the youth's eighteenth birthday, if feasible, to include an indication, if known, of where the youth plans to reside after aging out of foster care;

(b) Provide information to all youth aged fifteen or older, who are dependents of the state under chapter 13.34 RCW, about the independent youth housing program, encouraging

dependents nearing their eighteenth birthday to consider applying for enrollment in the program;

(c) Encourage organizations participating in the independent living program and the transitional living program to collaborate with independent youth housing program providers whenever possible to capitalize on resources and provide the greatest amount and variety of services to eligible youth;

(d) Annually provide to the department data reflecting changes in the percentage of youth aging out of the state dependency system each year who are eligible for state assistance, as well as any other data and performance measures that may assist the department to measure program success; and

(e) Annually, beginning by December 31, 2007, provide to the appropriate committees of the legislature and the inter-agency council on homelessness as described under RCW 43.185C.170 recommendations of strategies to reach the goals described in RCW 43.63A.311(2)(g).

(3) Under the independent youth housing program, subcontractor organizations shall:

(a) Use moneys awarded to the organizations for housing stipends, security deposits, first and last month's rent stipends, case management program costs, and administrative costs. When subcontractor organizations determine that it is necessary to assist participating youth in accessing and maintaining independent housing, subcontractor organizations may also use moneys awarded to pay for professional mental health services and tuition costs for court-ordered classes and programs;

(i) Administrative costs for each subcontractor organization may not exceed twelve percent of the estimated total annual grant amount to the subcontractor organization;

(ii) All housing stipends, security deposits, and first and last month's rent stipends must be payable only to a landlord or housing manager of any type of independent housing;

(b) Enroll eligible youth who are referred by the department and who choose to reside in their assigned service area;

(c) Enter eligible youth program participants into the homeless client management information system as described in RCW 43.185C.180;

(d) Monitor participating youth's housing status;

(e) Evaluate participating youth's eligibility and compliance with department policies and procedures at least twice a year;

(f) Assist participating youth to develop or update an independent living plan focused on obtaining and retaining independent housing or collaborate with a case manager with whom the youth is already involved to ensure that the youth has an independent living plan;

(g) Educate participating youth on tenant rights and responsibilities;

(h) Provide support to participating youth in the form of general case management and information and referral services, when necessary, or collaborate with a case manager with whom the youth is already involved to ensure that the youth is receiving the case management and information and referral services needed;

(i) Connect participating youth, when possible, with individual development account programs, other financial literacy programs, and other programs that are designed to help young people acquire economic independence and self-suffi-

ciency, or collaborate with a case manager with whom the youth is already involved to ensure that the youth is receiving information and referrals to these programs, when appropriate;

(j) Submit expenditure and performance reports, including information related to the performance measures in RCW 43.63A.311, to the department on a time schedule determined by the department; and

(k) Provide recommendations to the department regarding program improvements and strategies that might assist the state to reach its goals as described in RCW 43.63A.311(2)(g). [2009 c 148 § 1; 2007 c 316 § 3.]

Finding—2007 c 316: "(1) The legislature finds that providing needy youth aging out of the state dependency system with safe and viable options for housing to avoid homelessness confers a valuable benefit on the public that is intended to improve public health, safety, and welfare.

(2) It is the goal of this state to:

(a) Ensure that all youth aging out of the state dependency system have access to a decent, appropriate, and affordable home in a healthy safe environment to prevent such young people from experiencing homelessness; and

(b) Reduce each year the percentage of young people eligible for state assistance upon aging out of the state dependency system." [2007 c 316 § 1.]

Study—2007 c 316: "Beginning in September 2008, the Washington state institute for public policy shall conduct a study measuring the outcomes for youth who are participating or who have participated in the independent youth housing program created in section 3 of this act. The institute shall issue a report containing its preliminary findings to the legislature by December 1, 2009, and a final report by December 1, 2010." [2007 c 316 § 8.]

43.63A.307 Independent youth housing program—Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the *department of community, trade, and economic development.

(2) "Eligible youth" means an individual who:

(a) On or after September 1, 2006, is at least eighteen, was a dependent of the state under chapter 13.34 RCW at any time during the four-month period before his or her eighteenth birthday, and has not yet reached the age of twenty-three;

(b) Except as provided in RCW 43.63A.309(2)(a), has a total income from all sources, except for temporary sources that include, but are not limited to, overtime wages, bonuses, or short-term temporary assignments, that does not exceed fifty percent of the area median income;

(c) Is not receiving services under **RCW 74.13.031(10)(b);

(d) Complies with other eligibility requirements the department may establish.

(3) "Fair market rent" means the fair market rent in each county of the state, as determined by the United States department of housing and urban development.

(4) "Independent housing" means a housing unit that is not owned by or located within the home of the eligible youth's biological parents or any of the eligible youth's former foster care families or dependency guardians. "Independent housing" may include a unit in a transitional or other supportive housing facility.

(5) "Individual development account" or "account" means an account established by contract between a low-income individual and a sponsoring organization for the benefit of the low-income individual and funded through

periodic contributions by the low-income individual that are matched with contributions by or through the sponsoring organization.

(6) "Subcontractor organization" means an eligible organization described under RCW 43.185A.040 that contracts with the department to administer the independent youth housing program. [2009 c 148 § 2; 2007 c 316 § 2.]

Reviser's note: *(1) The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

** (2) RCW 74.13.031 was amended by 2009 c 235 §§ 2 and 4, deleting subsection (10)(b).

Finding—2007 c 316: See note following RCW 43.63A.305.

43.63A.309 Independent youth housing program—Eligible youth—Participation. (1) An eligible youth participating in the independent youth housing program must:

(a) Sign a program compliance agreement stating that the youth agrees to:

(i) Timely pay his or her portion of the independent housing cost;

(ii) Comply with an independent living plan; and

(iii) Comply with other program requirements and policies the department may establish; and

(b) Maintain his or her status as an eligible youth, except as provided in subsection (2) of this section.

(2) The department shall establish policies and procedures to allow the youth to remain in the program and continue to receive a housing stipend if the youth's total income exceeds fifty percent of the area median income during the course of his or her participation in the program. The policies must require the youth to:

(a) Participate in the individual development account program established under RCW 43.31.460 and invest a portion, to be determined by the department, of his or her income that exceeds fifty percent of the area median income in an individual development account; or

(b) If the youth is unable to participate in the individual development account program due to the program's capacity limits or eligibility requirements, participate in an alternate supervised savings program approved by the department, as long as the youth qualifies for and may participate in this savings program.

(3) An eligible youth may participate in the independent youth housing program for any duration of time and may apply to enroll in the program with the department at any time.

(4)(a) A youth may be terminated from the independent youth housing program for a violation of department policies.

(b) Youth who are terminated from the program may apply to the department for reenrollment in the program through a procedure to be developed by the department. The department shall establish criteria to evaluate a reenrollment application and may accept or deny a reenrollment application based on the department's evaluation. [2007 c 316 § 4.]

Finding—2007 c 316: See note following RCW 43.63A.305.

43.63A.311 Independent youth housing program—Subcontractor organization performance review and report. Beginning in 2007, the department must annually review and report on the performance of subcontractor orga-

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nizations participating in the independent youth housing program, as well as the performance of the program as a whole.

(1) Reporting should be within the context of the state homeless housing strategic plan under RCW 43.185C.040 and any other relevant state or local homeless or affordable housing plans. The outcomes of the independent youth housing program must be included in the measurement of any performance measures described in chapter 43.185C RCW.

(2) The independent youth housing program report must include, at a minimum, an update on the following program performance measures, as well as any other performance measures the department may establish, for enrolled youth in consultation with the department of social and health services, to be measured statewide and by county:

(a) Increases in housing stability;

(b) Increases in economic self-sufficiency;

(c) Increases in independent living skills;

(d) Increases in education and job training attainment;

(e) Decreases in the use of all state-funded services over time;

(f) Decreases in the percentage of youth aging out of the state dependency system each year who are eligible for state assistance as reported to the department by the department of social and health services; and

(g) Recommendations to the legislature and to the inter-agency council on homelessness as described under RCW 43.185C.170 on program improvements and on departmental strategies that might assist the state to reach its goals of:

(i) Ensuring that all youth aging out of the state dependency system have access to a decent, appropriate, and affordable home in a healthy safe environment to prevent such youth from experiencing homelessness; and

(ii) Reducing each year the percentage of young people eligible for state assistance upon aging out of the state dependency system. [2007 c 316 § 5.]

Finding—2007 c 316: See note following RCW 43.63A.305.

43.63A.313 Independent youth housing program—Limitations. Chapter 316, Laws of 2007 does not create:

(1) An entitlement to services;

(2) Judicial authority to (a) extend the jurisdiction of juvenile court in a proceeding under chapter 13.34 RCW to a youth who has reached the age of eighteen or (b) order the provision of services to the youth; or

(3) A private right of action or claim on the part of any individual, entity, or agency against the department, the department of social and health services, or any contractor of the departments. [2007 c 316 § 6.]

Finding—2007 c 316: See note following RCW 43.63A.305.

43.63A.315 Independent youth housing account. The independent youth housing account is created in the state treasury. All revenue directed to the independent youth housing program must be deposited into this account. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used for the independent youth housing program as described in RCW 43.63A.305. [2007 c 316 § 7.]

Finding—2007 c 316: See note following RCW 43.63A.305.

43.63A.400 Grants to public broadcast stations. The *department of community, trade, and economic development shall distribute grants to eligible public radio and television broadcast stations under RCW 43.63A.410 and 43.63A.420 to assist with programming, operations, and capital needs. [1993 c 280 § 72; 1987 c 308 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Legislative findings—1987 c 308: "The legislature finds that public broadcasting creates a cultural and educational environment that is important to the citizens of the state. The legislature also finds that it is in the public interest to provide state support to bring cultural, educational, and public affairs broadcasting services to the citizens of the state." [1987 c 308 § 1.]

Additional notes found at www.leg.wa.gov

43.63A.410 Grants to broadcast stations eligible for grants from corporation for public broadcasting—Formula—Annual financial statements. (1) Eligibility for grants under this section shall be limited to broadcast stations which are:

(a) Licensed to Washington state organizations, non-profit corporations, or other entities under section 73.621 of the regulations of the federal communications commission; and

(b) Qualified to receive community service grants from the federally chartered corporation for public broadcasting. Eligibility shall be established as of February 28th of each year.

(2) The formula in this subsection shall be used to compute the amount of each eligible station's grant under this section.

(a) Appropriations under this section shall be divided into a radio fund, which shall be twenty-five percent of the total appropriation under this section, and a television fund, which shall be seventy-five percent of the total appropriation under this section. Each of the two funds shall be divided into a base grant pool, which shall be fifty percent of the fund, and an incentive grant pool, which shall be the remaining fifty percent of the fund.

(b) Each eligible participating public radio station shall receive an equal share of the radio base grant pool, plus a share of the radio incentive grant pool equal to the proportion its nonfederal financial support bears to the sum of all participating radio stations' nonfederal financial support as most recently reported to the corporation for public broadcasting.

(c) Each eligible participating public television station shall receive an equal share of the television base grant pool, plus a share of the television incentive grant pool equal to the proportion its nonfederal financial support bears to the sum of all participating television stations' nonfederal financial support as most recently reported to the corporation for public broadcasting.

(3) Annual financial reports to the corporation for public broadcasting by eligible stations shall also be submitted by the stations to the *department of community, trade, and economic development. [1993 c 280 § 73; 1987 c 308 § 3.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Legislative findings—1987 c 308: See note following RCW 43.63A.400.

Additional notes found at www.leg.wa.gov

43.63A.420 Grants to other broadcast stations—Eligibility—Amounts. (1) Eligibility for grants under this section shall be limited to broadcast stations that:

(a) Have a noncommercial educational license granted by the federal communications commission;

(b) Are not eligible under RCW 43.63A.410;

(c) Have a permanent employee who is assigned operational management responsibility for the station and who is not compensated with moneys granted under this section;

(d) Meet the operating schedule requirements of the station's federal broadcast license;

(e) Have facilities and equipment that allow for program origination and production;

(f) Have a daily broadcast schedule devoted primarily to serving the educational, informational, and cultural needs of the community within its primary service area. The programming shall be intended for a general audience and not designed to further a particular religious philosophy or political organization;

(g) Originate a locally produced program service designed to serve the community;

(h) Maintain financial records in accordance with generally accepted accounting principles; and

(i) Complete an eligibility criteria statement and annual financial survey pursuant to rules adopted by the *department of community development.

(2)(a) A grant of up to ten thousand dollars per year may be made under this section to those eligible stations operating at least twelve hours per day, three hundred sixty-five days each year, with transmitting facilities developed to the maximum combination of effective radiated power and antenna height possible under the station's federal communications commission license.

(b) A grant of up to eight thousand dollars per year may be made under this section to those eligible stations operating at least twelve hours per day, three hundred sixty-five days each year, with transmitting facilities not fully developed under federal communications commission rules.

(c) A grant of up to five thousand dollars per year may be made under this section to those eligible stations operating less than twelve hours per day, three hundred sixty-five days each year, with transmitting facilities developed to the maximum combination of effective radiated power and antenna height possible under the station's federal communications commission license.

(d) A grant of up to one thousand five hundred dollars per year may be made under this section to those eligible stations not meeting the requirements of (a), (b), or (c) of this subsection.

(3) Funding received under this section is specifically for the support of public broadcast operations and facilities improvements which benefit the general community. No funds received under this section may be used for any other purposes by licensees of eligible stations.

(4) Any portion of the appropriation not expended under this section shall be transferred for expenditure under RCW 43.63A.410. [1987 c 308 § 4.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994. The "department of

community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Legislative findings—1987 c 308: See note following RCW 43.63A.400.

43.63A.470 Manufactured housing—Inspections, investigations. (Contingent expiration date.) (1) The director or the director's authorized representative shall conduct such inspections and investigations as may be necessary to implement or enforce manufactured housing rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For the purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge shall:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which manufactured homes are manufactured, stored, or held for sale; and

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Each inspection shall be commenced and completed with reasonable promptness.

(3) For the purpose of carrying out the provisions of this chapter, the director or the director's authorized representative is authorized:

(a) To require, by general or special orders, any factory, warehouse, or establishment in which manufactured homes are manufactured, to file, in such form as prescribed, reports or answers in writing to specific questions relating to any function of the department under this chapter. Such reports and answers shall be made under oath or otherwise, and shall be filed with the department within such reasonable time periods as prescribed by the department; and

(b) To hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records, as the director or such officer or employee deems advisable.

(4) In carrying out the inspections authorized by this section the director shall establish by rule, under chapter 34.05 RCW, and impose on manufactured home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by the director in conducting the inspections, provided these fees are set in accordance with guidelines established by the United States secretary of housing and urban development. [1993 c 124 § 5.]

Contingent expiration date—RCW 43.22A.030 and 43.63A.470 through 43.63A.490: See RCW 43.63A.490.

43.63A.475 Manufactured housing—Rules. (Contingent expiration date.) The department shall adopt all rules under chapter 34.05 RCW necessary to implement chapter 124, Laws of 1993, giving due consideration to standards and regulations adopted by the secretary of housing and urban

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development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) for manufactured housing construction and safety standards. [1993 c 124 § 2.]

Contingent expiration date—RCW 43.22A.030 and 43.63A.470 through 43.63A.490: See RCW 43.63A.490.

43.63A.480 Manufactured housing—Hearing procedures. (Contingent expiration date.) The department shall adopt appropriate hearing procedures under chapter 34.05 RCW for the holding of formal and informal presentation of views, giving due consideration to hearing procedures adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). [1993 c 124 § 3.]

Contingent expiration date—RCW 43.22A.030 and 43.63A.470 through 43.63A.490: See RCW 43.63A.490.

43.63A.485 Manufactured housing—Violations—Fines. (Contingent expiration date.) (1) A person who violates any of the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) applicable to RCW *43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW *43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 is liable to the state of Washington for a civil penalty of not to exceed one thousand dollars for each such violation. Each violation of the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) applicable to RCW *43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW *43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480, shall constitute a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

(2) An individual or a director, officer, or agent of a corporation who knowingly and willfully violates any of the provisions of RCW *43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW *43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480, in a manner that threatens the health or safety of any purchaser, shall be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(3) Any legal fees, court costs, expert witness fees, and staff costs expended by the state in successfully pursuing violators of RCW *43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 shall be reimbursed in full by the violators. [1993 c 124 § 4.]

***Reviser's note:** RCW 43.63A.465 was recodified as RCW 43.22A.030 pursuant to 2007 c 432 § 13.

Contingent expiration date—RCW 43.22A.030 and 43.63A.470 through 43.63A.490: See RCW 43.63A.490.

43.63A.490 Manufactured housing—Contingent expiration date. RCW *43.63A.465 through 43.63A.490 shall expire and be of no force and effect on January 1 in any

year following the failure of the United States department of housing and urban development to reimburse the state for the duties described in RCW *43.63A.465 through 43.63A.490. [1993 c 124 § 6.]

***Reviser's note:** RCW 43.63A.465 was recodified as RCW 43.22A.030 pursuant to 2007 c 432 § 13.

43.63A.500 Farmworker housing construction manuals and plans. The department shall develop, and make available to the public, model or prototype construction plans and manuals for several types of farmworker housing, including but not limited to seasonal housing for individuals and families, campgrounds, and recreational vehicle parks. Any person or organization intending to construct farmworker housing may adopt one or more of these models as the plan for the proposed housing. [1990 c 253 § 5.]

Legislative finding and purpose—1990 c 253: See note following RCW 43.70.340.

43.63A.505 Agricultural employee housing—One-stop clearinghouse. The department shall establish and administer a "one-stop clearinghouse" to coordinate state assistance for growers and nonprofit organizations in developing housing for agricultural employees. Growers, housing authorities, and nonprofit organizations shall have direct access to the one-stop clearinghouse. The department one-stop clearinghouse shall provide assistance on planning and design, building codes, temporary worker housing regulations, financing options, and management to growers and nonprofit organizations interested in farmworker construction. The department one-stop clearinghouse shall also provide educational materials and services to local government authorities on Washington state law concerning farmworker housing. [1999 c 164 § 202.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

43.63A.510 Affordable housing—Inventory of state-owned land. (1) The department shall work with the departments of natural resources, transportation, social and health services, corrections, and general administration to identify and catalog under-utilized, state-owned land and property suitable for the development of affordable housing for very low-income, low-income or moderate-income households. The departments of natural resources, transportation, social and health services, corrections, and general administration shall provide an inventory of real property that is owned or administered by each agency and is available for lease or sale. The inventories shall be provided to the department by November 1, 1993, with inventory revisions provided each November 1 thereafter.

(2) Upon written request, the department shall provide a copy of the inventory of state-owned and publicly owned lands and buildings to parties interested in developing the sites for affordable housing.

(3) As used in this section:

(a) "Affordable housing" means residential housing that is rented or owned by a person who qualifies as a very low-income, low-income, or moderate-income household or who is from a special needs population, and whose monthly hous-

ing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.

(b) "Very low-income household" means a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income, adjusted for household size, for the county where the affordable housing is located.

(c) "Low-income household" means a single person, family, or unrelated persons living together whose income is more than fifty percent but is at or below eighty percent of the median income where the affordable housing is located.

(d) "Moderate-income household" means a single person, family, or unrelated persons living together whose income is more than eighty percent but is at or below one hundred fifteen percent of the median income where the affordable housing is located. [1993 c 461 § 2; 1990 c 253 § 6.]

Finding—1993 c 461: "(1) The legislature finds that:

(a) The lack of affordable housing for very low-income, low-income, or moderate-income households and special needs populations is intensified by the rising cost of land and construction; and

(b) There are publicly owned land and buildings which may be suitable to be marketed, sold, leased, or exchanged for the development of affordable housing.

(2) The legislature declares that the purpose of this act is to:

(a) Provide for an analysis of the inventory of state-owned lands and buildings prepared by the departments of natural resources, transportation, corrections, and general administration;

(b) Identify other publicly owned land and buildings that may be suitable for the development of affordable housing for very-low income, low-income, or moderate-income households and special needs populations;

(c) Provide a central location of inventories of state and publicly owned land and buildings that may be suitable to be marketed, sold, leased, or exchanged for the development of affordable housing; and

(d) Encourage an effective use of publicly owned surplus and underutilized land and buildings suitable for the development of affordable housing for very low-income, low-income, or moderate-income households and special needs populations." [1993 c 461 § 1.]

Legislative finding and purpose—1990 c 253: See note following RCW 43.70.340.

43.63A.550 Growth management—Inventorying and collecting data. (1) The department shall assist in the process of inventorying and collecting data on public and private land for the acquisition of data describing land uses, demographics, infrastructure, critical areas, transportation corridors physical features, housing, and other information useful in managing growth throughout the state. For this purpose the department shall contract with the department of information services and shall form an advisory group consisting of representatives from state, local, and federal agencies, colleges and universities, and private firms with expertise in land planning, and geographic information systems.

(2) The department shall establish a sequence for acquiring data, giving priority to rapidly growing areas. The data shall be retained in a manner to facilitate its use in preparing maps, aggregating with data from multiple jurisdictions, and comparing changes over time. Data shall further be retained in a manner which permits its access via computer.

(3) The department shall work with other state agencies, local governments, and private organizations that are inventorying public and private lands to ensure close coordination and to ensure that duplication of efforts does not occur. [1998 c 245 § 71; 1990 1st ex.s. c 17 § 21.]

Additional notes found at www.leg.wa.gov

43.63A.610 Emergency mortgage assistance—

Guidelines. Emergency mortgage assistance shall be provided under the following general guidelines:

(1) Loans provided under the program shall not exceed an amount equal to twenty-four months of mortgage payments.

(2) The maximum loan amount allowed under the program shall not exceed twenty thousand dollars.

(3) Loans shall be made to applicants who meet specific income guidelines established by the department.

(4) Loan payments shall be made directly to the mortgage lender.

(5) Loans shall be granted on a first-come, first-served basis.

(6) Repayment of loans provided under the program shall be made to eligible local organizations, and must not take more than twenty years. Funds repaid to the program shall be used as grants or loans under the provisions of RCW *43.63A.600 through 43.63A.640. [1994 c 114 § 2; 1991 c 315 § 24.]

***Reviser's note:** RCW 43.63A.600 was repealed by 1995 c 226 § 35, effective June 30, 2001.

Intent—1991 c 315: See note following RCW 28B.50.030.

Additional notes found at www.leg.wa.gov

43.63A.620 Emergency rental assistance—Guidelines.

Emergency rental assistance shall be provided under the following general guidelines:

(1) Rental assistance provided under the program may be in the form of loans or grants and shall not exceed an amount equal to twenty-four months of rental payments.

(2) Rental assistance shall be made to applicants who meet specific income guidelines established by the department.

(3) Rental payments shall be made directly to the landlord.

(4) Rental assistance shall be granted on a first-come, first-served basis. [1994 c 114 § 3; 1991 c 315 § 25.]

Intent—1991 c 315: See note following RCW 28B.50.030.

Additional notes found at www.leg.wa.gov

43.63A.630 Emergency mortgage and rental assistance program—Eligibility. To be eligible for assistance under the program, an applicant must:

(1) Be unable to keep mortgage or rental payments current, due to a loss of employment, and shall be at significant risk of eviction;

(2) Have his or her permanent residence located in an eligible community;

(3) If requesting emergency mortgage assistance, be the owner of an equitable interest in the permanent residence and intend to reside in the home being financed;

(4) Be actively seeking new employment or be enrolled in a training program approved by the director; and

(5) Submit an application for assistance to an organization eligible to receive funds under *RCW 43.63A.600. [1994 c 114 § 4; 1991 c 315 § 26.]

***Reviser's note:** RCW 43.63A.600 was repealed by 1995 c 226 § 35, effective June 30, 2001.

Intent—1991 c 315: See note following RCW 28B.50.030.

(2010 Ed.)

Additional notes found at www.leg.wa.gov

43.63A.640 Emergency mortgage and rental assistance program—Duties—Interest rate, assignment, eligibility. The department shall carry out the following duties:

(1) Administer the program;

(2) Identify organizations eligible to receive funds to implement the program;

(3) Develop and adopt the necessary rules and procedures for implementation of the program and for dispersal of program funds to eligible organizations;

(4) Establish the interest rate for repayment of loans at two percent below the market rate;

(5) Work with lending institutions and social service providers in the eligible communities to assure that all eligible persons are informed about the program;

(6) Utilize federal and state programs that complement or facilitate carrying out the program;

(7) Ensure that local eligible organizations that dissolve or become ineligible assign their program funds, rights to loan repayments, and loan security instruments, to the government of the county in which the local organization is located. If the county government accepts the program assets described in this subsection, it shall act as a local eligible organization under the provisions of RCW *43.63A.600 through 43.63A.640. If the county government declines to participate, the program assets shall revert to the department. [1994 c 114 § 5; 1991 c 315 § 27.]

***Reviser's note:** RCW 43.63A.600 was repealed by 1995 c 226 § 35, effective June 30, 2001.

Intent—1991 c 315: See note following RCW 28B.50.030.

Additional notes found at www.leg.wa.gov

43.63A.645 Emergency housing programs—Rules.

The department shall, by rule, establish program standards, eligibility standards, eligibility criteria, and administrative rules for emergency housing programs and specify other benefits that may arise in consultation with providers. [1999 c 267 § 5.]

Findings—Intent—Severability—1999 c 267: See notes following RCW 43.20A.790.

43.63A.650 Housing—Department's responsibilities.

(1) The department shall be the principal state department responsible for coordinating federal and state resources and activities in housing, except for programs administered by the Washington state housing finance commission under chapter 43.180 RCW, and for evaluating the operations and accomplishments of other state departments and agencies as they affect housing.

(2) The department shall work with local governments, tribal organizations, local housing authorities, nonprofit community or neighborhood-based organizations, and regional or statewide nonprofit housing assistance organizations, for the purpose of coordinating federal and state resources with local resources for housing.

(3) The department shall be the principal state department responsible for providing shelter and housing services to homeless families with children. The department shall have the principal responsibility to coordinate, plan, and oversee the state's activities for developing a coordinated and

comprehensive plan to serve homeless families with children. The plan shall be developed collaboratively with the department of social and health services. The department shall include community organizations involved in the delivery of services to homeless families with children, and experts in the development and ongoing evaluation of the plan. The department shall follow professionally recognized standards and procedures. The plan shall be implemented within amounts appropriated by the legislature for that specific purpose in the operating and capital budgets. The department shall submit the plan to the appropriate committees of the senate and house of representatives no later than September 1, 1999, and shall update the plan and submit it to the appropriate committees of the legislature by January 1st of every odd-numbered year through 2007. The plan shall address at least the following: (a) The need for prevention assistance; (b) the need for emergency shelter; (c) the need for transitional assistance to aid families into permanent housing; (d) the need for linking services with shelter or housing; and (e) the need for ongoing monitoring of the efficiency and effectiveness of the plan's design and implementation. [1999 c 267 § 3; 1993 c 478 § 13.]

Findings—Intent—Severability—1999 c 267: See notes following RCW 43.20A.790.

43.63A.660 Housing—Technical assistance and information, affordable housing. The department shall provide technical assistance and information to state agencies and local governments to assist in the identification and removal of regulatory barriers to the development and placement of affordable housing. In providing assistance the department may:

- (1) Analyze the costs and benefits of state legislation, rules, and administrative actions and their impact on the development and placement of affordable housing;
- (2) Analyze the costs and benefits of local legislation, rules, and administrative actions and their impact on the development and placement of affordable housing;
- (3) Assist state agencies and local governments in determining the impact of existing and anticipated actions, legislation, and rules on the development and placement of affordable housing;
- (4) Investigate techniques and opportunities for reducing the life-cycle housing costs through regulatory reform;
- (5) Develop model standards and ordinances designed to reduce regulatory barriers to affordable housing and assisting in their adoption and use at the state and local government level;
- (6) Provide technical assistance and information to state agencies and local governments for implementation of legislative and administrative reform programs to remove barriers to affordable housing;
- (7) Prepare state regulatory barrier removal strategies;
- (8) Provide staffing to the affordable housing advisory board created in RCW 43.185B.020; and
- (9) Perform other activities as the director deems necessary to assist the state, local governments, and the housing industry in meeting the affordable housing needs of the state. [1993 c 478 § 14.]

43.63A.670 Home-matching program—Finding, purpose. (1) The legislature finds that:

- (a) The trend toward smaller household sizes will continue into the foreseeable future;
- (b) Many of these households are in housing units that contain more bedrooms than occupants;
- (c) There are older homeowners on relatively low, fixed income who are experiencing difficulties maintaining their homes; and
- (d) There are single parents, recently widowed persons, people in the midst of divorce or separation, and handicapped that are faced with displacement due to the high cost of housing.

(2) The legislature declares that the purpose of RCW 43.63A.680 is to develop a pilot program designed to:

- (a) Provide home-matching services that can enable people to continue living in their homes while promoting continuity of home ownership and community stability; and
- (b) Counter the problem of displacement among people on relatively low, fixed incomes by linking people offering living space with people seeking housing. [1993 c 478 § 18.]

43.63A.680 Home-matching program—Pilot programs. (1) The department may develop and administer a home-matching program for the purpose of providing grants and technical assistance to eligible organizations to operate local home-matching programs. For purposes of this section, "eligible organizations" are those organizations eligible to receive assistance through the Washington housing trust fund, chapter 43.185 RCW.

(2) The department may select up to five eligible organizations for the purpose of implementing a local home-matching program. The local home-matching programs are designed to facilitate: (a) Intergenerational homesharing involving older homeowners sharing homes with younger persons; (b) homesharing arrangements that involve an exchange of services such as cooking, housework, gardening, or babysitting for room and board or some financial consideration such as rent; and (c) the more efficient use of available housing.

(3) In selecting local pilot programs under this section, the department shall consider:

- (a) The eligible organization's ability, stability, and resources to implement the local home-matching program;
 - (b) The eligible organization's efforts to coordinate other support services needed by the individual or family participating in the local home-matching program; and
 - (c) Other factors the department deems appropriate.
- (4) The eligible organizations shall establish criteria for participation in the local home-matching program. The eligible organization shall make a determination of eligibility regarding the individuals' or families' participation in the local home-matching program. The determination shall include, but is not limited to a verification of the individual's or family's history of making rent payments in a consistent and timely manner. [1993 c 478 § 19.]

43.63A.690 Minority and women-owned business enterprises—Linked deposit program. (1) The department shall provide technical assistance and loan packaging services that enable minority and women-owned business enter-

prises to obtain financing under the linked deposit program created under RCW 43.86A.060.

(2) The department, in consultation with the office of minority and women's business enterprises, shall develop indicators to measure the performance of the linked deposit program in the areas of job creation or retention and providing access to capital to minority or women's business enterprises. [2005 c 302 § 6; 2002 c 305 § 3; 1993 c 512 § 31.]

Intent—2005 c 302: See note following RCW 43.86A.030.

Finding—Intent—1993 c 512: See note following RCW 43.86A.060.

43.63A.720 Prostitution prevention and intervention services—Grant program. There is established in the *department of community, trade, and economic development a grant program to enhance funding for prostitution prevention and intervention services. Activities that can be funded through this grant program shall provide effective prostitution prevention and intervention services, such as counseling, parenting, housing relief, education, and vocational training, that:

(1) Comprehensively address the problems of persons who are prostitutes; and

(2) Enhance the ability of persons to leave or avoid prostitution. [1995 c 353 § 7.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.63A.725 Prostitution prevention and intervention grants—Eligibility. (1) Applications for funding under this chapter must:

(a) Meet the criteria in RCW 43.63A.720; and

(b) Contain evidence of active participation of the community and its commitment to providing effective prevention and intervention services for prostitutes through the participation of local governments, tribal governments, networks under chapter 70.190 RCW, human service and health organizations, and treatment entities and through meaningful involvement of others, including citizen groups.

(2) Local governments, networks under chapter 70.190 RCW, nonprofit community groups, and nonprofit treatment providers including organizations that provide services, such as emergency housing, counseling, and crisis intervention shall, among others, be eligible for grants established under RCW 43.63A.720. [1995 c 353 § 8.]

43.63A.730 Prostitution prevention and intervention grants—Applications, contents. At a minimum, grant applications must include the following:

(1) The proposed geographic service area;

(2) A description of the extent and effect of the needs for prostitution prevention and intervention within the relevant geographic area;

(3) An explanation of how the funds will be used, their relationship to existing services available within the community, and the need that they will fulfill;

(4) An explanation of what organizations were involved in the development of the proposal; and

(5) The methods that will be employed to measure the success of the program. [1995 c 353 § 9.]

(2010 Ed.)

43.63A.735 Prostitution prevention and intervention grants—Award and use. (1) Subject to funds appropriated by the legislature, including funds in the prostitution prevention and intervention account, the *department of community, trade, and economic development shall make awards under the grant program established by RCW 43.63A.720.

(2) Awards shall be made competitively based on the purposes of and criteria in RCW 43.63A.720 through 43.63A.730.

(3) Activities funded under this section may be considered for funding in future years, but shall be considered under the same terms and criteria as new activities. Funding of a program or activity under this chapter shall not constitute an obligation by the state of Washington to provide ongoing funding.

(4) The *department of community, trade, and economic development may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the grant program established under RCW 43.63A.720 and expend the same or any income from these sources according to the terms of the gifts, grants, or endowments.

(5) The *department of community, trade, and economic development may expend up to five percent of the funds appropriated for the grant program for administrative costs and grant supervision. [1995 c 353 § 10.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.63A.740 Prostitution prevention and intervention account. The prostitution prevention and intervention account is created in the state treasury. All designated receipts from fees under RCW 9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall be deposited into the account. Expenditures from the account may be used in the following order of priority:

(1) Programs that provide mental health and substance abuse counseling, parenting skills training, housing relief, education, and vocational training for youth who have been diverted for a prostitution or prostitution loitering offense pursuant to RCW 13.40.213;

(2) Funding for services provided to sexually exploited children as defined in RCW 13.32A.030 in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs;

(3) Funding for services specified in RCW 74.14B.060 and 74.14B.070 for sexually exploited children; and

(4) Funding the grant program to enhance prostitution prevention and intervention services under RCW 43.63A.720. [2010 c 289 § 18; 2009 c 387 § 2; 1995 c 353 § 11.]

43.63A.750 Performing arts, art museums, cultural facilities—Competitive grant program for nonprofit organizations. (1) A competitive grant program to assist nonprofit organizations in acquiring, constructing, or rehabilitating performing arts, art museums, and cultural facilities is created.

(2)(a) The department shall submit a list of recommended performing arts, art museum projects, and cultural

organization projects eligible for funding to the governor and the legislature in the department's biennial capital budget request beginning with the 2001-2003 biennium and thereafter. The list, in priority order, shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a biennial project list shall not exceed twelve million dollars.

(b) The department shall establish a competitive process to prioritize applications for state assistance as follows:

(i) The department shall conduct a statewide solicitation of project applications from nonprofit organizations, local governments, and other entities, as determined by the department. The department shall evaluate and rank applications in consultation with a citizen advisory committee, including a representative from the state arts commission, using objective criteria. The evaluation and ranking process shall also consider local community support for projects and an examination of existing assets that applicants may apply to projects.

(ii) The department may establish the amount of state grant assistance for individual project applications but the amount shall not exceed twenty percent of the estimated total capital cost or actual cost of a project, whichever is less. The remaining portions of the project capital cost shall be a match from nonstate sources. The nonstate match may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions. The department is authorized to set matching requirements for individual projects. State assistance may be used to fund separate definable phases of a project if the project demonstrates adequate progress and has secured the necessary match funding.

(iii) The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects. In contracts for grants authorized under this section, the department shall include provisions requiring that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant. [2006 c 371 § 235; 2005 c 160 § 2; 1999 c 295 § 1.]

Part headings not law—Severability—Effective date—2006 c 371: See notes following RCW 43.325.040.

43.63A.760 Airport impact mitigation account—Creation—Report. (1) The airport impact mitigation account is created in the custody of the state treasury. Moneys deposited in the account, including moneys received from the port of Seattle for purposes of this section, may be used only for airport mitigation purposes as provided in this section. Only the director of commerce or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The department of commerce shall establish a competitive process to prioritize applications for airport impact mitigation assistance through the account created in subsection (1) of this section. The department shall conduct a solicitation of project applications in the airport impact area as defined in subsection (3) of this section. Eligible applicants include public entities such as cities, counties, schools, parks, fire districts, and shall include organizations eligible to apply for grants under RCW 43.63A.125. The department shall evaluate and rank applications using objective criteria developed by the department. At a minimum, the criteria must consider: The extent to which the applicant is impacted by the airport; and the other resources available to the applicant to mitigate the impact, including other mitigation funds. The director of commerce shall award grants annually to the extent funds are available in the account created in subsection (1) of this section.

(3) The airport impact area includes the incorporated areas of Burien, Normandy Park, Des Moines, SeaTac, Tukwila, Kent, and Federal Way, and the unincorporated portion of west King county.

(4) The department of commerce shall report on its activities related to the account created in this section by January 1, 2004, and each January 1st thereafter. [2010 1st sp.s. c 7 § 6; 2003 1st sp.s. c 26 § 928.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Severability—Effective dates—2003 1st sp.s. c 26: See notes following RCW 43.135.045.

43.63A.764 Building communities fund program—Definitions. The definitions in this section apply throughout RCW 43.63A.125, this section, and RCW 43.63A.766 and 43.63A.768 unless the context clearly requires otherwise.

(1) "Department" means the *department of community, trade, and economic development.

(2) "Distressed community" means: (a) A county that has an unemployment rate that is twenty percent above the state average for the immediately previous three years; (b) an area within a county that the department determines to be a low-income community, using as guidance the low-income community designations under the community development financial institutions fund's new markets tax credit program of the United States department of the treasury; or (c) a school district in which at least fifty percent of local elementary students receive free and reduced-price meals.

(3) "Nonprofit organization" means an organization that is tax exempt, or not required to apply for an exemption, under section 501(c)(3) of the federal internal revenue code of 1986, as amended.

(4) "Technical assistance" means professional services provided under contract to nonprofit organizations for feasibility studies, planning, and project management related to acquiring, constructing, or rehabilitating nonresidential community services facilities. [2008 c 327 § 13.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.63A.766 Building communities fund account. The building communities fund account is created in the state treasury. The account shall consist of legislative appropriation

tions and gifts, grants, or endowments from other sources as permitted by law. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for capital and technical assistance grants as provided in RCW 43.63A.125. [2008 c 327 § 14.]

43.63A.768 Building communities fund program—Accountability and reporting standards—Annual report.

(1) The department shall develop accountability and reporting standards for grant recipients. At a minimum, the department shall use the criteria listed in RCW 43.63A.125(2)(b) to evaluate the progress of each grant recipient.

(2) Beginning January 1, 2011, the department shall submit an annual report to the appropriate committees of the legislature, including:

(a) A list of projects currently under contract with the department under the building communities fund program; a description of each project, its total cost, the amount of state funding awarded and expended to date, the project status, the number of low-income people served, and the extent to which the project has met the criteria in RCW 43.63A.125(2)(b); and

(b) Recommendations, if any, for policy and programmatic changes to the building communities fund program to better achieve program objectives. [2008 c 327 § 16.]

43.63A.900 Severability—1967 c 74. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected. [1967 c 74 § 16.]

43.63A.901 Severability—1984 c 125. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 125 § 23.]

43.63A.902 Headings—1984 c 125. Headings as used in this act constitute no part of the law. [1984 c 125 § 24.]

43.63A.903 Effective date—1984 c 125. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1984. [1984 c 125 § 25.]

Chapter 43.70 RCW

DEPARTMENT OF HEALTH

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- 43.70.190 Violations—Injunctions and legal proceedings authorized.
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- 43.70.230 Office of health consumer assistance created—Duties.
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- 43.70.240 Written operating agreements.
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- 43.70.300 Secretary or secretary's designee ex officio member of health professional licensure and disciplinary boards.
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- 43.70.337 Temporary worker housing building permit—Plans and specifications—Fees—Rules.

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43.70.400 Head injury prevention—Legislative finding.

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43.70.460 Retired primary and specialty care provider liability malpractice insurance—Program authorized.

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43.70.514 Public health—Definitions.

43.70.516 Public health—Department's duties.

43.70.520 Public health services improvement plan—Performance measures.

43.70.522 Public health performance measures—Assessing the use of funds—Secretary's duties.

43.70.525 Immunization assessment and enhancement proposals by local jurisdictions.

43.70.533 Chronic conditions—Training and technical assistance for primary care providers.

43.70.540 Data collection—Legislative finding and intent.

43.70.545 Data collection and reporting rules.

43.70.550 Public health services improvement plan—Contents.

43.70.555 Assessment standards.

43.70.560 Media violence—Reporting reduction efforts.

43.70.570 Intent—1995 c 43.

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43.70.580 Public health improvement plan—Funds—Performance-based contracts—Rules—Evaluation and report.

43.70.590 American Indian health care delivery plan.

43.70.600 Survey regarding exposure to radio frequencies—Results.

43.70.605 Personal wireless services—Random testing on power density analysis—Rules.

43.70.610 Domestic violence education program—Established—Findings.

43.70.615 Multicultural health awareness and education program—Integration into health professions basic education preparation curriculum.

43.70.620 List of contacts—Health care professions.

43.70.630 Cost-reimbursement agreements.

43.70.640 Workplace breastfeeding policies—Infant-friendly designation.

43.70.650 School sealant endorsement program—Rules—Fee—Report to the legislature.

43.70.660 Product safety education.

43.70.665 Early detection breast and cervical cancer screening program—Medical advisory committee.

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43.70.690 State asthma plan.

43.70.695 Workforce supply and demographics—Surveys—Public data set—Report to the legislature.

43.70.700 Locally grown foods—Women, infant, and children farmers market nutrition program—Rules.

43.70.705 Fall prevention program.

43.70.710 Annual review of medication practices of five jails that use nonpractitioner jail personnel—Noncompliance.

43.70.720 Universal vaccine purchase account.

43.70.730 Developmental disabilities endowment—Definitions.

43.70.731 Developmental disabilities endowment—Trust fund.

43.70.732 Developmental disabilities endowment—Authority of state investment board—Authority of governing board.

43.70.733 Developmental disabilities endowment—Governing board—Liability of governing board and state investment board.

43.70.734 Developmental disabilities endowment—Endowment principles.

43.70.735 Developmental disabilities endowment—Development of operating plan—Elements.

43.70.736 Developmental disabilities endowment—Program implementation and administration.

43.70.737 Developmental disabilities endowment—Rules.

43.70.900 References to the secretary or department of social and health services—1989 1st ex.s. c 9.

43.70.901 References to the director or department of licensing—1989 1st ex.s. c 9.

43.70.902 References to the hospital commission—1989 1st ex.s. c 9.

43.70.910 Effective date—1989 1st ex.s. c 9.

43.70.920 Severability—1989 1st ex.s. c 9.

Health, board of: Chapter 43.20 RCW.

Immunization program, departmental participation: RCW 28A.210.060 through 28A.210.170.

Interagency agreement on fetal alcohol exposure programs: RCW 70.96A.510.

Medically accurate sexual education, departmental duties: RCW 28A.300.475.

Visual and auditory screening of pupils, data transferred to secretary: RCW 28A.210.030.

43.70.005 Intent. The legislature finds and declares that it is of importance to the people of Washington state to live in a healthy environment and to expect a minimum standard of quality in health care. The legislature further finds that the social and economic vitality of the state depends on a healthy and productive population. The legislature further declares where it is a duty of the state to assure a healthy environment and minimum standards of quality in health care facilities and among health care professionals, the ultimate responsibility for a healthy society lies with the citizens themselves.

For these reasons, the legislature recognizes the need for a strong, clear focus on health issues in state government and among state health agencies to give expression to the needs of individual citizens and local communities as they seek to preserve the public health. It is the intent of the legislature to form such focus by creating a single department in state government with the primary responsibilities for the preservation of public health, monitoring health care costs, the maintenance of minimal standards for quality in health care delivery, and the general oversight and planning for all the state's activities as they relate to the health of its citizenry.

Further, it is the intent of the legislature to improve illness and injury prevention and health promotion, and restore the confidence of the citizenry in the efficient and accountable expenditure of public funds on health activities that further the mission of the agency via grants and contracts, and to ensure that this new health agency delivers quality health services in an efficient, effective, and economical manner that is faithful and responsive to policies established by the legislature. [2005 c 32 § 1; 1989 1st ex.s. c 9 § 101.]

43.70.010 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "Assessment" means the regular collection, analysis, and sharing of information about health conditions, risks, and resources in a community. Assessment activities identify trends in illness, injury, and death and the factors that may cause these events. They also identify environmental risk factors, community concerns, community health resources, and the use of health services. Assessment includes gathering statistical data as well as conducting epidemiologic and other investigations and evaluations of health emergencies and specific ongoing health problems;

(2) "Board" means the state board of health;

(3) "Department" means the department of health;

(4) "Policy development" means the establishment of social norms, organizational guidelines, operational procedures, rules, ordinances, or statutes that promote health or prevent injury, illness, or death; and

(5) "Secretary" means the secretary of health. [1995 c 269 § 2201; 1994 sp.s. c 7 § 206; 1989 1st ex.s. c 9 § 102.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

43.70.020 Department created. (1) There is hereby created a department of state government to be known as the department of health. The department shall be vested with all powers and duties transferred to it by chapter 9, Laws of 1989 1st ex. sess. and such other powers and duties as may be authorized by law. The main administrative office of the department shall be located in the city of Olympia. The secretary may establish administrative facilities in other locations, if deemed necessary for the efficient operation of the department, and if consistent with the principles set forth in subsection (2) of this section.

(2) The department of health shall be organized consistent with the goals of providing state government with a focus in health and serving the people of this state. The legislature recognizes that the secretary needs sufficient organizational flexibility to carry out the department's various duties. To the extent practical, the secretary shall consider the following organizational principles:

(a) Clear lines of authority which avoid functional duplication within and between subelements of the department;

(b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public;

(c) Maximum span of control without jeopardizing adequate supervision;

(d) A substate or regional organizational structure for the department's health service delivery programs and activities that encourages joint working agreements with local health departments and that is consistent between programs;

(e) Decentralized authority and responsibility, with clear accountability;

(f) A single point of access for persons receiving like services from the department which would limit the number of referrals between divisions.

(3) The department shall provide leadership and coordination in identifying and resolving threats to the public health by:

(a) Working with local health departments and local governments to strengthen the state and local governmental partnership in providing public protection;

(b) Developing intervention strategies;

(c) Providing expert advice to the executive and legislative branches of state government;

(d) Providing active and fair enforcement of rules;

(e) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing health preservation measures;

(f) Providing information to the public; and

(g) Carrying out such other related actions as may be appropriate to this purpose.

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(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the department shall ensure an opportunity for consultation, review, and comment by the department's clients before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the secretary may create such administrative divisions, offices, bureaus, and programs within the department as the secretary deems necessary. The secretary shall have complete charge of and supervisory powers over the department, except where the secretary's authority is specifically limited by law.

(6) The secretary shall appoint such personnel as are necessary to carry out the duties of the department in accordance with chapter 41.06 RCW.

(7) The secretary shall appoint the state health officer and such deputy secretaries, assistant secretaries, and other administrative positions as deemed necessary consistent with the principles set forth in subsection (2) of this section. All persons who administer the necessary divisions, offices, bureaus, and programs, and five additional employees shall be exempt from the provisions of chapter 41.06 RCW. The officers and employees appointed under this subsection shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the state civil service law.

(8) The secretary shall administer family services and programs to promote the state's policy as provided in RCW 74.14A.025. [1992 c 198 § 8; 1989 1st ex.s. c 9 § 103.]

Additional notes found at www.leg.wa.gov

43.70.030 Secretary of health. The executive head and appointing authority of the department shall be the secretary of health. The secretary shall be appointed by, and serve at the pleasure of, the governor in accordance with RCW 43.17.020. The secretary shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. [1989 1st ex.s. c 9 § 104.]

43.70.040 Secretary's powers—Rule-making authority—Report to the legislature. In addition to any other powers granted the secretary, the secretary may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess.: PROVIDED, That for rules adopted after July 23, 1995, the secretary may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The secretary and the board of health shall review each advisory committee within their jurisdiction and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess. in accordance with RCW 43.70.050;

(4) Delegate powers, duties, and functions of the department to employees of the department as the secretary deems necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess.;

(5) Enter into contracts and enter into and distribute grants on behalf of the department to carry out the purposes of chapter 9, Laws of 1989 1st ex. sess. The department must report to the legislature a summary of the grants distributed under this authority, for each year of the first biennium after the department receives authority to distribute grants under this section, and make it electronically available;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program to the purposes of chapter 9, Laws of 1989 1st ex. sess.; or

(7) Solicit and accept gifts, grants, bequests, devises, or other funds from public and private sources. [2005 c 32 § 2; 2001 c 80 § 2; 1995 c 403 § 105; 1989 1st ex.s. c 9 § 106.]

Findings—Intent—2001 c 80: "(1) The legislature finds that developing, creating, and maintaining partnerships between the public and private sectors can enhance and augment current public health services. The legislature further finds that the department of health should have the ability to establish such partnerships, and seek out and accept gifts, grants, and other funding to advance worthy public health goals and programs.

(2) It is the intent of the legislature that gifts and other funds received by the department of health under the authority granted by RCW 43.70.040 may be used to expand or enhance program operations so long as program standards established by the department are maintained, but may not supplant or replace funds for federal, state, county, or city-supported programs." [2001 c 80 § 1.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

43.70.045 Warren Featherstone Reid Award for Excellence in Health Care. There is created an award to honor and recognize cost-effective and quality health care services. This award shall be known as the "Warren Featherstone Reid Award for Excellence in Health Care." [1994 c 7 § 2.]

Finding—1994 c 7: "The legislature recognizes the critical importance of ensuring that all Washington residents have access to quality and affordable health care. The legislature further recognizes that substantial improvements can be made in health care delivery when providers, including health care facilities, are encouraged to continuously strive for excellence in quality management practices, value, and consumer satisfaction. The legislature finds that when centers of quality are highlighted and honored publicly they become examples for other health care providers to emulate, thereby further promoting the implementation of improved health care delivery processes." [1994 c 7 § 1.]

43.70.047 Warren Featherstone Reid Award for Excellence in Health Care. The governor, in conjunction with the secretary of health, shall identify and honor health care providers and facilities in Washington state who exhibit exceptional quality and value in the delivery of health services. The award shall be given annually consistent with the availability of qualified nominees. The secretary may appoint an advisory committee to assist in the selection of nominees, if necessary. [1994 c 7 § 3.]

[Title 43 RCW—page 358]

43.70.050 Collection, use, and accessibility of health-related data. (1) The legislature intends that the department and board promote and assess the quality, cost, and accessibility of health care throughout the state as their roles are specified in chapter 9, Laws of 1989 1st ex. sess. in accordance with the provisions of this chapter. In furtherance of this goal, the secretary shall create an ongoing program of data collection, storage, assessability, and review. The legislature does not intend that the department conduct or contract for the conduct of basic research activity. The secretary may request appropriations for studies according to this section from the legislature, the federal government, or private sources.

(2) All state agencies which collect or have access to population-based, health-related data are directed to allow the secretary access to such data. This includes, but is not limited to, data on needed health services, facilities, and personnel; future health issues; emerging bioethical issues; health promotion; recommendations from state and national organizations and associations; and programmatic and statutory changes needed to address emerging health needs. Private entities, such as insurance companies, health maintenance organizations, and private purchasers are also encouraged to give the secretary access to such data in their possession. The secretary's access to and use of all data shall be in accordance with state and federal confidentiality laws and ethical guidelines. Such data in any form where the patient or provider of health care can be identified shall not be disclosed, subject to disclosure according to chapter 42.56 RCW, discoverable or admissible in judicial or administrative proceedings. Such data can be used in proceedings in which the use of the data is clearly relevant and necessary and both the department and the patient or provider are parties.

(3) The department shall serve as the clearinghouse for information concerning innovations in the delivery of health care services, the enhancement of competition in the health care marketplace, and federal and state information affecting health care costs.

(4) The secretary shall review any data collected, pursuant to this chapter, to:

(a) Identify high-priority health issues that require study or evaluation. Such issues may include, but are not limited to:

(i) Identification of variations of health practice which indicate a lack of consensus of appropriateness;

(ii) Evaluation of outcomes of health care interventions to assess their benefit to the people of the state;

(iii) Evaluation of specific population groups to identify needed changes in health practices and services;

(iv) Evaluation of the risks and benefits of various incentives aimed at individuals and providers for both preventing illnesses and improving health services;

(v) Identification and evaluation of bioethical issues affecting the people of the state; and

(vi) Other such objectives as may be appropriate;

(b) Further identify a list of high-priority health study issues for consideration by the board, within their authority, for inclusion in the state health report required by RCW 43.20.050. The list shall specify the objectives of each study, a study timeline, the specific improvements in the health sta-

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tus of the citizens expected as a result of the study, and the estimated cost of the study; and

(c) Provide background for the state health report required by RCW 43.20.050.

(5) Any data, research, or findings may also be made available to the general public, including health professions, health associations, the governor, professional boards and regulatory agencies and any person or group who has allowed the secretary access to data.

(6) Information submitted as part of the health professional licensing application and renewal process, excluding social security number and background check information, shall be available to the office of financial management consistent with RCW 43.370.020, whether the license is issued by the secretary of the department of health or a board or commission. The department shall replace any social security number with an alternative identifier capable of linking all licensing records of an individual. The office of financial management shall also have access to information submitted to the department of health as part of the medical or health facility licensing process.

(7) The secretary may charge a fee to persons requesting copies of any data, research, or findings. The fee shall be no more than necessary to cover the cost to the department of providing the copy. [2009 c 343 § 2; 2005 c 274 § 301; 1989 1st ex.s. c 9 § 107.]

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

43.70.052 Hospital discharge data—Financial reports—Data retrieval—American Indian health data.

(1) To promote the public interest consistent with the purposes of chapter 492, Laws of 1993 as amended by chapter 267, Laws of 1995, the department shall continue to require hospitals to submit hospital financial and patient discharge information, which shall be collected, maintained, analyzed, and disseminated by the department. The department shall, if deemed cost-effective and efficient, contract with a private entity for any or all parts of data collection. Data elements shall be reported in conformance with a uniform reporting system established by the department. This includes data elements identifying each hospital's revenues, expenses, contractual allowances, charity care, bad debt, other income, total units of inpatient and outpatient services, and other financial information reasonably necessary to fulfill the purposes of this section. Data elements relating to use of hospital services by patients shall be the same as those currently compiled by hospitals through inpatient discharge abstracts. The department shall encourage and permit reporting by electronic transmission or hard copy as is practical and economical to reporters.

(2) In identifying financial reporting requirements, the department may require both annual reports and condensed quarterly reports from hospitals, so as to achieve both accuracy and timeliness in reporting, but shall craft such requirements with due regard of the data reporting burdens of hospitals.

(3) The health care data collected, maintained, and studied by the department shall only be available for retrieval in original or processed form to public and private requestors and shall be available within a reasonable period of time after

the date of request. The cost of retrieving data for state officials and agencies shall be funded through the state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data or studies shall be funded by a fee schedule developed by the department that reflects the direct cost of retrieving the data or study in the requested form.

(4) The department shall, in consultation and collaboration with the federally recognized tribes, urban or other Indian health service organizations, and the federal area Indian health service, design, develop, and maintain an American Indian-specific health data, statistics information system. The department rules regarding confidentiality shall apply to safeguard the information from inappropriate use or release.

(5) All persons subject to the data collection requirements of this section shall comply with departmental requirements established by rule in the acquisition of data. [1995 c 267 § 1.]

Additional notes found at www.leg.wa.gov

43.70.054 Health care data standards—Submittal of standards to legislature.

(1) To promote the public interest consistent with chapter 267, Laws of 1995, the department of health, in cooperation with the information services board established under RCW 43.105.032, shall develop health care data standards to be used by, and developed in collaboration with, consumers, purchasers, health carriers, providers, and state government as consistent with the intent of chapter 492, Laws of 1993 as amended by chapter 267, Laws of 1995, to promote the delivery of quality health services that improve health outcomes for state residents. The data standards shall include content, coding, confidentiality, and transmission standards for all health care data elements necessary to support the intent of this section, and to improve administrative efficiency and reduce cost. Purchasers, as allowed by federal law, health carriers, health facilities and providers as defined in chapter 48.43 RCW, and state government shall utilize the data standards. The information and data elements shall be reported as the department of health directs by rule in accordance with data standards developed under this section.

(2) The health care data collected, maintained, and studied by the department under this section or any other entity:

- (a) Shall include a method of associating all information on health care costs and services with discrete cases;
- (b) shall not contain any means of determining the personal identity of any enrollee, provider, or facility;
- (c) shall only be available for retrieval in original or processed form to public and private requestors;
- (d) shall be available within a reasonable period of time after the date of request; and
- (e) shall give strong consideration to data standards that achieve national uniformity.

(3) The cost of retrieving data for state officials and agencies shall be funded through state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data or studies shall be funded by a fee schedule developed by the department that reflects the direct cost of retrieving the data or study in the requested form.

(4) All persons subject to this section shall comply with departmental requirements established by rule in the acquisition of data, however, the department shall adopt no rule or effect no policy implementing the provisions of this section without an act of law.

(5) The department shall submit developed health care data standards to the appropriate committees of the legislature by December 31, 1995. [1997 c 274 § 2; 1995 c 267 § 2.]

Additional notes found at www.leg.wa.gov

43.70.056 Health care-associated infections—Data collection and reporting—Advisory committee—Rules.

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Health care-associated infection" means a localized or systemic condition that results from adverse reaction to the presence of an infectious agent or its toxins and that was not present or incubating at the time of admission to the hospital.

(b) "Hospital" means a health care facility licensed under chapter 70.41 RCW.

(2)(a) A hospital shall collect data related to health care-associated infections as required under this subsection (2) on the following:

(i) Beginning July 1, 2008, central line-associated bloodstream infection in the intensive care unit;

(ii) Beginning January 1, 2009, ventilator-associated pneumonia; and

(iii) Beginning January 1, 2010, surgical site infection for the following procedures:

(A) Deep sternal wound for cardiac surgery, including coronary artery bypass graft;

(B) Total hip and knee replacement surgery; and

(C) Hysterectomy, abdominal and vaginal.

(b)(i) Except as required under (b)(ii) and (c) of this subsection, a hospital must routinely collect and submit the data required to be collected under (a) of this subsection to the national healthcare safety network of the United States centers for disease control and prevention in accordance with national healthcare safety network definitions, methods, requirements, and procedures.

(ii) Until the national health care safety network releases a revised module that successfully interfaces with a majority of computer systems of Washington hospitals required to report data under (a)(iii) of this subsection or three years, whichever occurs sooner, a hospital shall monthly submit the data required to be collected under (a)(iii) of this subsection to the Washington state hospital association's quality benchmarking system instead of the national health care safety network. The department shall not include data reported to the quality benchmarking system in reports published under subsection (3)(d) of this section. The data the hospital submits to the quality benchmarking system under (b)(ii) of this subsection:

(A) Must include the number of infections and the total number of surgeries performed for each type of surgery; and

(B) Must be the basis for a report developed by the Washington state hospital association and published on its web site that compares the health care-associated infection rates for surgical site infections at individual hospitals in the state using the data reported in the previous calendar year

pursuant to this subsection. The report must be published on December 1, 2010, and every year thereafter until data is again reported to the national health care safety network.

(c)(i) With respect to any of the health care-associated infection measures for which reporting is required under (a) of this subsection, the department must, by rule, require hospitals to collect and submit the data to the centers for medicare and medicaid services according to the definitions, methods, requirements, and procedures of the hospital compare program, or its successor, instead of to the national healthcare safety network, if the department determines that:

(A) The measure is available for reporting under the hospital compare program, or its successor, under substantially the same definition; and

(B) Reporting under this subsection (2)(c) will provide substantially the same information to the public.

(ii) If the department determines that reporting of a measure must be conducted under this subsection (2)(c), the department must adopt rules to implement such reporting. The department's rules must require reporting to the centers for medicare and medicaid services as soon as practicable, but not more than one hundred twenty days, after the centers for medicare and medicaid services allow hospitals to report the respective measure to the hospital compare program, or its successor. However, if the centers for medicare and medicaid services allow infection rates to be reported using the centers for disease control and prevention's national healthcare safety network, the department's rules must require reporting that reduces the burden of data reporting and minimizes changes that hospitals must make to accommodate requirements for reporting.

(d) Data collection and submission required under this subsection (2) must be overseen by a qualified individual with the appropriate level of skill and knowledge to oversee data collection and submission.

(e)(i) A hospital must release to the department, or grant the department access to, its hospital-specific information contained in the reports submitted under this subsection (2), as requested by the department.

(ii) The hospital reports obtained by the department under this subsection (2), and any of the information contained in them, are not subject to discovery by subpoena or admissible as evidence in a civil proceeding, and are not subject to public disclosure as provided in RCW 42.56.360.

(3) The department shall:

(a) Provide oversight of the health care-associated infection reporting program established in this section;

(b) By January 1, 2011, submit a report to the appropriate committees of the legislature based on the recommendations of the advisory committee established in subsection (5) of this section for additional reporting requirements related to health care-associated infections, considering the methodologies and practices of the United States centers for disease control and prevention, the centers for medicare and medicaid services, the joint commission, the national quality forum, the institute for healthcare improvement, and other relevant organizations;

(c) Delete, by rule, the reporting of categories that the department determines are no longer necessary to protect public health and safety;

(d) By December 1, 2009, and by each December 1st thereafter, prepare and publish a report on the department's web site that compares the health care-associated infection rates at individual hospitals in the state using the data reported in the previous calendar year pursuant to subsection (2) of this section. The department may update the reports quarterly. In developing a methodology for the report and determining its contents, the department shall consider the recommendations of the advisory committee established in subsection (5) of this section. The report is subject to the following:

- (i) The report must disclose data in a format that does not release health information about any individual patient; and
- (ii) The report must not include data if the department determines that a data set is too small or possesses other characteristics that make it otherwise unrepresentative of a hospital's particular ability to achieve a specific outcome; and

(e) Evaluate, on a regular basis, the quality and accuracy of health care-associated infection reporting required under subsection (2) of this section and the data collection, analysis, and reporting methodologies.

(4) The department may respond to requests for data and other information from the data required to be reported under subsection (2) of this section, at the requestor's expense, for special studies and analysis consistent with requirements for confidentiality of patient records.

(5)(a) The department shall establish an advisory committee which may include members representing infection control professionals and epidemiologists, licensed health care providers, nursing staff, organizations that represent health care providers and facilities, health maintenance organizations, health care payers and consumers, and the department. The advisory committee shall make recommendations to assist the department in carrying out its responsibilities under this section, including making recommendations on allowing a hospital to review and verify data to be released in the report and on excluding from the report selected data from certified critical access hospitals. Annually, beginning January 1, 2011, the advisory committee shall also make a recommendation to the department as to whether current science supports expanding presurgical screening for methicillin-resistant staphylococcus aureus prior to open chest cardiac, total hip, and total knee elective surgeries.

(b) In developing its recommendations, the advisory committee shall consider methodologies and practices related to health care-associated infections of the United States centers for disease control and prevention, the centers for medicare and medicaid services, the joint commission, the national quality forum, the institute for healthcare improvement, and other relevant organizations.

(6) The department shall adopt rules as necessary to carry out its responsibilities under this section. [2010 c 113 § 1; 2009 c 244 § 2; 2007 c 261 § 2.]

Effective date—2010 c 113: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 18, 2010]." [2010 c 113 § 2.]

Findings—2007 c 261: "The legislature finds that each year health care-associated infections affect two million Americans. These infections result in the unnecessary death of ninety thousand patients and costs the health care system 4.5 billion dollars. Hospitals should be implementing evidence-based measures to reduce hospital-acquired infections. The legisla-

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ture further finds the public should have access to data on outcome measures regarding hospital-acquired infections. Data reporting should be consistent with national hospital reporting standards." [2007 c 261 § 1.]

43.70.060 Duties of department—Promotion of health care cost-effectiveness. It is the intent of the legislature to promote appropriate use of health care resources to maximize access to adequate health care services. The legislature understands that the rapidly increasing costs of health care are limiting access to care. To promote health care cost-effectiveness, the department shall:

- (1) Implement the certificate of need program;
- (2) Monitor and evaluate health care costs;
- (3) Evaluate health services and the utilization of services for outcome and effectiveness; and
- (4) Recommend strategies to encourage adequate and cost-effective services and discourage ineffective services. [1989 1st ex.s. c 9 § 108.]

43.70.064 Health care quality—Findings and intent—Requirements for conducting study under RCW 43.70.066. The legislature finds that it is difficult for consumers of health care services to determine the quality of health care prior to purchase or utilization of medical care. The legislature also finds that accountability is a key component in promoting quality assurance and quality improvement throughout the health care delivery system, including public programs. Quality assurance and improvement standards are necessary to promote the public interest, contribute to cost efficiencies, and improve the ability of consumers to ascertain quality health care purchases.

The legislature intends to have consumers, health carriers, health care providers and facilities, and public agencies participate in the development of quality assurance and improvement standards that can be used to develop a uniform quality assurance program for use by all public and private health plans, providers, and facilities. To that end, in conducting the study required under RCW 43.70.066, the department of health shall:

- (1) Consider the needs of consumers, employers, health care providers and facilities, and public and private health plans;
- (2) Take full advantage of existing national standards of quality assurance to extend to middle-income populations the protections required for state management of health programs for low-income populations;
- (3) Consider the appropriate minimum level of quality assurance standards that should be disclosed to consumers and employers by health care providers and facilities, and public and private health plans; and
- (4) Consider standards that permit health care providers and facilities to share responsibility for participation in a uniform quality assurance program. [1995 c 267 § 3.]

Additional notes found at www.leg.wa.gov

43.70.066 Study—Uniform quality assurance and improvement program—Reports to legislature—Limitation on rule making. (1) The department of health shall study the feasibility of a uniform quality assurance and improvement program for use by all public and private health

plans and health care providers and facilities. In this study, the department shall consult with:

- (a) Public and private purchasers of health care services;
- (b) Health carriers;
- (c) Health care providers and facilities; and
- (d) Consumers of health services.

(2) In conducting the study, the department shall propose standards that meet the needs of affected persons and organizations, whether public or private, without creation of differing levels of quality assurance. All consumers of health services should be afforded the same level of quality assurance.

(3) At a minimum, the study shall include but not be limited to the following program components and indicators appropriate for consumer disclosure:

- (a) Health care provider training, credentialing, and licensure standards;
- (b) Health care facility credentialing and recredentialing;
- (c) Staff ratios in health care facilities;
- (d) Annual mortality and morbidity rates of cases based on a defined set of procedures performed or diagnoses treated in health care facilities, adjusted to fairly consider variable factors such as patient demographics and case severity;
- (e) The average total cost and average length of hospital stay for a defined set of procedures and diagnoses;
- (f) The total number of the defined set of procedures, by specialty, performed by each physician at a health care facility within the previous twelve months;
- (g) Utilization performance profiles by provider, both primary care and specialty care, that have been adjusted to fairly consider variable factors such as patient demographics and severity of case;
- (h) Health plan fiscal performance standards;
- (i) Health care provider and facility recordkeeping and reporting standards;
- (j) Health care utilization management that monitors trends in health service underutilization, as well as overutilization of services;
- (k) Health monitoring that is responsive to consumer, purchaser, and public health assessment needs; and
- (l) Assessment of consumer satisfaction and disclosure of consumer survey results.

(4) In conducting the study, the department shall develop standards that permit each health care facility, provider group, or health carrier to assume responsibility for and determine the physical method of collection, storage, and assimilation of quality indicators for consumer disclosure. The study may define the forms, frequency, and posting requirements for disclosure of information.

In developing proposed standards under this subsection, the department shall identify options that would minimize provider burden and administrative cost resulting from duplicative private sector data submission requirements.

(5) The department shall submit a preliminary report to the legislature by December 31, 1995, including recommendations for initial legislation pursuant to subsection (6) of this section, and may submit supplementary reports and recommendations as completed, consistent with appropriated funds and staffing.

(6) The department shall not adopt any rule implementing the uniform quality assurance program or consumer dis-

closure provisions unless expressly directed to do so by an act of law. [1998 c 245 § 72; 1997 c 274 § 3; 1995 c 267 § 4.]

Additional notes found at www.leg.wa.gov

43.70.068 Quality assurance—Interagency cooperation. The department of health, the health care authority, the department of social and health services, the office of the insurance commissioner, and the department of labor and industries shall form an interagency group for coordination and consultation on quality assurance activities and collaboration on final recommendations for the study required under RCW 43.70.066. [1997 c 274 § 4; 1995 c 267 § 5.]

Additional notes found at www.leg.wa.gov

43.70.070 Duties of department—Analysis of health services. The department shall evaluate and analyze readily available data and information to determine the outcome and effectiveness of health services, utilization of services, and payment methods. This section should not be construed as allowing the department access to proprietary information.

(1) The department shall make its evaluations available to the board for use in preparation of the state health report required by RCW 43.20.050, and to consumers, purchasers, and providers of health care.

(2) The department shall use the information to:

- (a) Develop guidelines which may be used by consumers, purchasers, and providers of health care to encourage necessary and cost-effective services; and
- (b) Make recommendations to the governor on how state government and private purchasers may be prudent purchasers of cost-effective, adequate health services. [1995 c 269 § 2202; 1989 1st ex.s. c 9 § 109.]

Additional notes found at www.leg.wa.gov

43.70.075 Identity of whistleblower protected—Remedy for retaliatory action—Definitions—Rules. (1) The identity of a whistleblower who complains, in good faith, to the department of health about the improper quality of care by a health care provider, or in a health care facility, as defined in *RCW 43.72.010, or who submits a notification or report of an adverse event or an incident, in good faith, to the department of health under RCW 70.56.020 or to the independent entity under RCW 70.56.040, shall remain confidential. The provisions of RCW 4.24.500 through 4.24.520, providing certain protections to persons who communicate to government agencies, shall apply to complaints and notifications or reports of adverse events or incidents filed under this section. The identity of the whistleblower shall remain confidential unless the department determines that the complaint or notification or report of the adverse event or incident was not made in good faith. An employee who is a whistleblower, as defined in this section, and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action has the remedies provided under chapter 49.60 RCW.

(2)(a) "Improper quality of care" means any practice, procedure, action, or failure to act that violates any state law or rule of the applicable state health licensing authority under Title 18 or chapters 70.41, 70.96A, 70.127, 70.175, 71.05, 71.12, and 71.24 RCW, and enforced by the department of

health. Each health disciplinary authority as defined in RCW 18.130.040 may, with consultation and interdisciplinary coordination provided by the state department of health, adopt rules defining accepted standards of practice for their profession that shall further define improper quality of care. Improper quality of care shall not include good faith personnel actions related to employee performance or actions taken according to established terms and conditions of employment.

(b) "Reprisal or retaliatory action" means but is not limited to: Denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unwarranted and unsubstantiated report of misconduct pursuant to Title 18 RCW; letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; suspension; dismissal; denial of employment; and a supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower.

(c) "Whistleblower" means a consumer, employee, or health care professional who in good faith reports alleged quality of care concerns to the department of health.

(3) Nothing in this section prohibits a health care facility from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower.

(4) The department shall adopt rules to implement procedures for filing, investigation, and resolution of whistleblower complaints that are integrated with complaint procedures under Title 18 RCW for health professionals or health care facilities. [2006 c 8 § 109; 1995 c 265 § 19.]

***Reviser's note:** RCW 43.72.010 was repealed by 1995 c 265 § 27. RCW 48.43.005 was enacted by chapter 265, Laws of 1995, and includes a definition of "health care facility."

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW 5.64.010.

Additional notes found at www.leg.wa.gov

43.70.080 Transfer of powers and duties from the department of social and health services. The powers and duties of the department of social and health services and the secretary of social and health services under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 16.70, 18.20, 18.46, 18.71, 18.73, 18.76, 69.30, 70.28, 70.30, *70.32, *70.33, 70.50, 70.58, 70.62, 70.83, **70.83B, 70.90, 70.98, 70.104, 70.116, 70.118, 70.119, 70.119A, 70.121, 70.127, 70.142, and 80.50 RCW. More specifically, the following programs and services presently administered by the department of social and health services are hereby transferred to the department of health:

(1) Personal health and protection programs and related management and support services, including, but not limited to: Immunizations; tuberculosis; sexually transmitted diseases; AIDS; diabetes control; primary health care; cardiovascular risk reduction; kidney disease; regional genetic services; newborn metabolic screening; sentinel birth defects; cytogenetics; communicable disease epidemiology; and chronic disease epidemiology;

(2) Environmental health protection services and related management and support services, including, but not limited to: Radiation, including X-ray control, radioactive materials, uranium mills, low-level waste, emergency response and reactor safety, and environmental radiation protection; drinking water; toxic substances; on-site sewage; recreational water contact facilities; food services sanitation; shellfish; and general environmental health services, including schools, vectors, parks, and camps;

(3) Public health laboratory;

(4) Public health support services, including, but not limited to: Vital records; health data; local public health services support; and health education and information;

(5) Licensing and certification services including, but not limited to: Health and personal care facility survey, construction review, emergency medical services, laboratory quality assurance, and accommodations surveys; and

(6) Effective January 1, 1991, parent and child health services and related management support services, including, but not limited to: Maternal and infant health; child health; parental health; nutrition; handicapped children's services; family planning; adolescent pregnancy services; high priority infant tracking; early intervention; parenting education; prenatal regionalization; and power and duties under RCW 43.20A.635. The director of the office of financial management may recommend to the legislature a delay in this transfer, if it is determined that this time frame is not adequate. [1989 1st ex.s. c 9 § 201.]

Reviser's note: *(1) Chapters 70.32 and 70.33 RCW were repealed and/or recodified in their entirety pursuant to 1999 c 172.

***(2) Chapter 70.83B RCW expired June 30, 1993, pursuant to 1988 c 276 § 12.

43.70.090 Authority to administer oaths and issue subpoenas—Provisions governing subpoenas. (1) The secretary shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the secretary together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings shall be governed by RCW 34.05.588(1).

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by RCW 34.05.588(2). [1989 1st ex.s. c 9 § 252.]

43.70.095 Civil fines. This section governs the assessment of a civil fine against a person by the department. This section does not govern actions taken under chapter 18.130 RCW.

(1) The department shall give written notice to the person against whom it assesses a civil fine. The notice shall state the reasons for the adverse action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in an other [another] manner that shows proof of receipt.

(2) Except as otherwise provided in subsection (4) of this section, the civil fine is due and payable twenty-eight days

after receipt. The department may make the date the fine is due later than twenty-eight days after receipt. When the department does so, it shall state the effective date in the written notice given the person against whom it assesses the fine.

(3) The person against whom the department assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the fine, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the person's receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(4) If the person files a timely and sufficient appeal, the department shall not implement the action until the final order has been served. The presiding or reviewing officer may permit the department to implement part or all of the action while the proceedings are pending if the appellant causes an unreasonable delay in the proceedings or for other good cause. [1991 c 3 § 378.]

43.70.097 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the director or the department shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 626.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

43.70.100 Reports of violations by secretary—Duty to institute proceedings—Notice to alleged violator. (1) It shall be the duty of each assistant attorney general, prosecuting attorney, or city attorney to whom the secretary reports any violation of chapter 43.20 or 43.70 RCW, or regulations promulgated under them, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of chapter 43.20 or 43.70 RCW is reported by the secretary to the prosecuting attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his or her views to the secretary, either orally or in writing, with regard to such contemplated proceeding. [1989 1st ex.s. c 9 § 262.]

43.70.110 License fees—Costs—Other charges—Waiver. (1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

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(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202, until June 30, 2013;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, and East Asian medicine practitioners licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees. [2010 c 286 § 15; 2009 c 403 § 5; 2007 c 259 § 11; 2006 c 72 § 3; 2005 c 268 § 2; 1993 sp.s. c 24 § 918; 1989 1st ex.s. c 9 § 263.]

Intent—2010 c 286: See RCW 18.06.005.

Finding—Intent—2009 c 403: See note following RCW 18.71.080.

Severability—Subheadings not law—2007 c 259: See notes following RCW 41.05.033.

Finding—2005 c 268: See note following RCW 18.79.202.

Additional notes found at www.leg.wa.gov

43.70.112 Online access to health care resources—Annual accounting of use of funds and use of online resources—University of Washington. Within the amounts transferred from the department of health under RCW 43.70.110(3), the University of Washington shall, through the health sciences library, provide online access to selected vital clinical resources, medical journals, decision support tools, and evidence-based reviews of procedures, drugs, and devices to the health professionals listed in RCW 43.70.110(3)(c). Online access shall be available no later than January 1, 2009. Each year, by December 1st, the University of Washington shall provide an annual accounting of the use of the funds transferred, including which categories of health professionals are using the materials available under the program. The accounting must be transmitted by elec-

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tronic mail to the members of the health care committees of the legislature. [2009 c 558 § 2; 2007 c 259 § 12.]

Severability—Subheadings not law—2007 c 259: See notes following RCW 41.05.033.

43.70.115 Licenses—Denial, suspension, revocation, modification. This section governs the denial of an application for a license or the suspension, revocation, or modification of a license by the department. This section does not govern actions taken under chapter 18.130 RCW.

(1) The department shall give written notice of the denial of an application for a license to the applicant or his or her agent. The department shall give written notice of revocation, suspension, or modification of a license to the licensee or his or her agent. The notice shall state the reasons for the action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in another manner that shows proof of receipt.

(2) Except as otherwise provided in this subsection and in subsection (4) of this section, revocation, suspension, or modification is effective twenty-eight days after the licensee or the agent receives the notice.

(a) The department may make the date the action is effective later than twenty-eight days after receipt. If the department does so, it shall state the effective date in the written notice given the licensee or agent.

(b) The department may make the date the action is effective sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or agent.

(c) When the department has received certification pursuant to chapter 74.20A RCW from the department of social and health services that the licensee is a person who is not in compliance with a child support order or *an order from a court stating that the licensee is in noncompliance with a residential or visitation order under chapter 26.09 RCW, the department shall provide that the suspension is effective immediately upon receipt of the suspension notice by the licensee.

(3) Except for licensees suspended for noncompliance with a child support order under chapter 74.20A RCW or noncompliance with a residential or visitation order under *chapter 26.09 RCW, a license applicant or licensee who is aggrieved by a department denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the license applicant's or licensee's receiving the adverse notice, and be served in a manner that shows proof of receipt.

(4)(a) If the department gives a licensee twenty-eight or more days notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the

appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause. [1997 c 58 § 843; 1991 c 3 § 377.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

43.70.120 Federal programs—Rules—Statutes to be construed to meet federal law. In furtherance of the policy of this state to cooperate with the federal government in the public health programs, the department of health shall adopt such rules and regulations as may become necessary to entitle this state to participate in federal funds unless the same be expressly prohibited by law. Any section or provision of the public health laws of this state which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy federal laws entitling this state to receive federal funds for the various programs of public health. [1989 1st ex.s. c 9 § 264.]

43.70.125 Health care facility certification—Unfunded federal mandates—Applicant fees. The federal government requires Washington health care facilities to be certified in order to receive federal health care program reimbursement. The department receives funding from the federal government to perform the certifications and recertifications of these health care facilities. When the federal government does not provide sufficient funding to cover all certifications and recertifications, the secretary may assess fees on certification and recertification applicants to fund the certifications and recertifications. [2007 c 279 § 1.]

43.70.130 Powers and duties of secretary—General. The secretary of health shall:

(1) Exercise all the powers and perform all the duties prescribed by law with respect to public health and vital statistics;

(2) Investigate and study factors relating to the preservation, promotion, and improvement of the health of the people, the causes of morbidity and mortality, and the effects of the environment and other conditions upon the public health, and report the findings to the state board of health for such action as the board determines is necessary;

(3) Strictly enforce all laws for the protection of the public health and the improvement of sanitary conditions in the

state, and all rules, regulations, and orders of the state board of health;

(4) Enforce the public health laws of the state and the rules and regulations promulgated by the department or the board of health in local matters, when in its opinion an emergency exists and the local board of health has failed to act with sufficient promptness or efficiency, or is unable for reasons beyond its control to act, or when no local board has been established, and all expenses so incurred shall be paid upon demand of the secretary of the department of health by the local health department for which such services are rendered, out of moneys accruing to the credit of the municipality or the local health department in the current expense fund of the county;

(5) Investigate outbreaks and epidemics of disease that may occur and advise local health officers as to measures to be taken to prevent and control the same;

(6) Exercise general supervision over the work of all local health departments and establish uniform reporting systems by local health officers to the state department of health;

(7) Have the same authority as local health officers, except that the secretary shall not exercise such authority unless the local health officer fails or is unable to do so, or when in an emergency the safety of the public health demands it, or by agreement with the local health officer or local board of health;

(8) Cause to be made from time to time, personal health and sanitation inspections at state owned or contracted institutions and facilities to determine compliance with sanitary and health care standards as adopted by the department, and require the governing authorities thereof to take such action as will conserve the health of all persons connected therewith, and report the findings to the governor;

(9) Review and approve plans for public water system design, engineering, operation, maintenance, financing, and emergency response, as required under state board of health rules;

(10) Take such measures as the secretary deems necessary in order to promote the public health, to establish or participate in the establishment of health educational or training activities, and to provide funds for and to authorize the attendance and participation in such activities of employees of the state or local health departments and other individuals engaged in programs related to or part of the public health programs of the local health departments or the state department of health. The secretary is also authorized to accept any funds from the federal government or any public or private agency made available for health education training purposes and to conform with such requirements as are necessary in order to receive such funds; and

(11) Establish and maintain laboratory facilities and services as are necessary to carry out the responsibilities of the department. [1990 c 132 § 2; 1989 1st ex.s. c 9 § 251; 1985 c 213 § 2; 1979 c 141 § 46; 1967 ex.s. c 102 § 1; 1965 c 8 § 43.20.010. Prior: (i) 1909 c 208 § 2; RRS § 6004. (ii) 1921 c 7 § 59; RRS § 10817. Formerly RCW 43.20A.600 and 43.20.010.]

Legislative findings—Severability—1990 c 132: See note following RCW 43.20.240.

Public water systems—Complaint process: RCW 43.20.240.

Additional notes found at www.leg.wa.gov

43.70.140 Annual conference of health officers. In order to receive the assistance and advice of local health officers in carrying out the secretary's duties and responsibilities, the secretary of health shall hold annually a conference of local health officers, at such place as the secretary deems convenient, for the discussion of questions pertaining to public health, sanitation, and other matters pertaining to the duties and functions of the local health departments, which shall continue in session for such time not exceeding three days as the secretary deems necessary.

The health officer of each county, district, municipality and county-city department shall attend such conference during its entire session, and receive therefor his or her actual and necessary traveling expenses, to be paid by his or her county, district, and municipality or county-city department. No claim for such expenses shall be allowed or paid unless it is accompanied by a certificate from the secretary of health attesting the attendance of the claimant. [1989 1st ex.s. c 9 § 253; 1979 c 141 § 50; 1967 ex.s. c 102 § 10; 1965 c 8 § 43.20.060. Prior: 1915 c 75 § 1; RRS § 6005. Formerly RCW 43.20A.615 and 43.20.060.]

Additional notes found at www.leg.wa.gov

43.70.150 Registration of vital statistics. The secretary of health shall have charge of the state system of registration of births, deaths, fetal deaths, marriages, and decrees of divorce, annulment and separate maintenance, and shall prepare the necessary rules, forms, and blanks for obtaining records, and insure the faithful registration thereof. [1989 1st ex.s. c 9 § 254; 1979 c 141 § 51; 1967 c 26 § 1; 1965 c 8 § 43.20.070. Prior: 1907 c 83 § 1; RRS § 6018. Formerly RCW 43.20A.620 and 43.20.070.]

Vital statistics: Chapter 70.58 RCW.

Additional notes found at www.leg.wa.gov

43.70.160 Duties of registrar. The state registrar of vital statistics shall prepare, print, and supply to all registrars all blanks and forms used in registering, recording, and preserving the returns, or in otherwise carrying out the purposes of Title 70 RCW; and shall prepare and issue such detailed instructions as may be required to secure the uniform observance of its provisions and the maintenance of a perfect system of registration. No other blanks shall be used than those supplied by the state registrar. The state registrar shall carefully examine the certificates received monthly from the local registrars, county auditors, and clerks of the court and, if any are incomplete or unsatisfactory, the state registrar shall require such further information to be furnished as may be necessary to make the record complete and satisfactory, and shall cause such further information to be incorporated in or attached to and filed with the certificate. The state registrar shall furnish, arrange, bind, and make a permanent record of the certificate in a systematic manner, and shall prepare and maintain a comprehensive index of all births, deaths, fetal deaths, marriages, and decrees of divorce, annulment and separate maintenance registered. [1989 1st ex.s. c 9 § 255; 1967 c 26 § 2; 1965 c 8 § 43.20.080. Prior: 1961 ex.s. c 5 § 2; 1951 c 106 § 1; 1915 c 180 § 9; 1907 c 83 § 17; RRS § 6034. Formerly RCW 43.20A.625 and 43.20.080.]

Vital statistics: Chapter 70.58 RCW.

Additional notes found at www.leg.wa.gov

43.70.170 Threat to public health—Investigation, examination or sampling of articles or conditions constituting—Access—Subpoena power. The secretary on his or her own motion or upon the complaint of any interested party, may investigate, examine, sample or inspect any article or condition constituting a threat to the public health including, but not limited to, outbreaks of communicable diseases, food poisoning, contaminated water supplies, and all other matters injurious to the public health. When not otherwise available, the department may purchase such samples or specimens as may be necessary to determine whether or not there exists a threat to the public health. In furtherance of any such investigation, examination or inspection, the secretary or the secretary's authorized representative may examine that portion of the ledgers, books, accounts, memorandums, and other documents and other articles and things used in connection with the business of such person relating to the actions involved.

For purposes of such investigation, the secretary or the secretary's representative shall at all times have free and unimpeded access to all buildings, yards, warehouses, storage and transportation facilities or any other place. The secretary may also, for the purposes of such investigation, issue subpoenas to compel the attendance of witnesses, as provided for in RCW 43.70.090 or the production of books and documents anywhere in the state. [1989 1st ex.s. c 9 § 256; 1979 c 141 § 53; 1967 ex.s. c 102 § 3. Formerly RCW 43.20A.640 and 43.20.150.]

Additional notes found at www.leg.wa.gov

43.70.180 Threat to public health—Order prohibiting sale or disposition of food or other items pending investigation. Pending the results of an investigation provided for under RCW 43.70.170, the secretary may issue an order prohibiting the disposition or sale of any food or other item involved in the investigation. The order of the secretary shall not be effective for more than fifteen days without the commencement of a legal action as provided for under RCW 43.70.190. [1989 1st ex.s. c 9 § 257; 1979 c 141 § 54; 1967 ex.s. c 102 § 4. Formerly RCW 43.20A.645 and 43.20.160.]

Additional notes found at www.leg.wa.gov

43.70.185 Inspection of property where marine species located—Prohibitions on harvest or landing—Penalties. (1) The department may enter and inspect any property, lands, or waters, of this state in or on which any marine species are located or from which such species are harvested, whether recreationally or for sale or barter, and any land or water of this state which may cause or contribute to the pollution of areas in or on which such species are harvested or processed. The department may take any reasonably necessary samples to determine whether such species or any lot, batch, or quantity of such species is safe for human consumption.

(2) If the department determines that any species or any lot, batch, or other quantity of such species is unsafe for human consumption because consumption is likely to cause actual harm or because consumption presents a potential risk

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of substantial harm, the department may, by order under chapter 34.05 RCW, prohibit or restrict the commercial or recreational harvest or landing of any marine species except the recreational harvest of shellfish as defined in chapter 69.30 RCW if taken from privately owned tidelands.

(3) It is unlawful to harvest any marine species in violation of a departmental order prohibiting or restricting such harvest under this section or to possess or sell any marine species so harvested.

(4)(a) Any person who sells any marine species taken in violation of this section is guilty of a gross misdemeanor and subject to the penalties provided in RCW 69.30.140 and 69.30.150.

(b) Any person who harvests or possesses marine species taken in violation of this section is guilty of a civil infraction and is subject to the penalties provided in RCW 69.30.150.

(c) Notwithstanding this section, any person who harvests, possesses, sells, offers to sell, culls, shucks, or packs shellfish is subject to the penalty provisions of chapter 69.30 RCW.

(d) Charges shall not be brought against a person under both chapter 69.30 RCW and this section in connection with this same action, incident, or event.

(5) The criminal provisions of this section are subject to enforcement by fish and wildlife officers or ex officio fish and wildlife officers as defined in RCW 77.08.010.

(6) As used in this section, marine species include all fish, invertebrate or plant species which are found during any portion of the life cycle of those species in the marine environment. [2003 c 53 § 231; 2001 c 253 § 2; 1995 c 147 § 7.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

43.70.190 Violations—Injunctions and legal proceedings authorized. The secretary of health or local health officer may bring an action to enjoin a violation or the threatened violation of any of the provisions of the public health laws of this state or any rules or regulation made by the state board of health or the department of health pursuant to said laws, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the superior court in the county in which such violation occurs or is about to occur, or in the superior court of Thurston county. Upon the filing of any action, the court may, upon a showing of an immediate and serious danger to residents constituting an emergency, issue a temporary injunctive order ex parte. [1990 c 133 § 3; 1989 1st ex.s. c 9 § 258; 1979 c 141 § 55; 1967 ex.s. c 102 § 5. Formerly RCW 43.20A.650 and 43.20.170.]

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Additional notes found at www.leg.wa.gov

43.70.195 Public water systems—Receivership actions brought by secretary—Plan for disposition. (1) In any action brought by the secretary of health or by a local health officer pursuant to chapter 7.60 RCW to place a public water system in receivership, the petition shall include the names of one or more suitable candidates for receiver who have consented to assume operation of the water system. The department shall maintain a list of interested and qualified

individuals, municipal entities, special purpose districts, and investor-owned water companies with experience in the provision of water service and a history of satisfactory operation of a water system. If there is no other person willing and able to be named as receiver, the court shall appoint the county in which the water system is located as receiver. The county may designate a county agency to operate the system, or it may contract with another individual or public water system to provide management for the system. If the county is appointed as receiver, the secretary of health and the county health officer shall provide regulatory oversight for the agency or other person responsible for managing the water system.

(2) In any petition for receivership under subsection (1) of this section, the department shall recommend that the court grant to the receiver full authority to act in the best interests of the customers served by the public water system. The receiver shall assess the capability, in conjunction with the department and local government, for the system to operate in compliance with health and safety standards, and shall report to the court and the petitioning agency its recommendations for the system's future operation, including the formation of a water-sewer district or other public entity, or ownership by another existing water system capable of providing service.

(3) If a petition for receivership and verifying affidavit executed by an appropriate departmental official allege an immediate and serious danger to residents constituting an emergency, the court shall set the matter for hearing within three days and may appoint a temporary receiver *ex parte* upon the strength of such petition and affidavit pending a full evidentiary hearing, which shall be held within fourteen days after receipt of the petition.

(4) A bond, if any is imposed upon a receiver, shall be minimal and shall reasonably relate to the level of operating revenue generated by the system. Any receiver appointed pursuant to this section shall not be held personally liable for any good faith, reasonable effort to assume possession of, and to operate, the system in compliance with the court's orders.

(5) The court shall authorize the receiver to impose reasonable assessments on a water system's customers to recover expenditures for improvements necessary for the public health and safety.

(6) No later than twelve months after appointment of a receiver, the petitioning agency, in conjunction with the county in which the system is located, and the appropriate state and local health agencies, shall develop and present to the court a plan for the disposition of the system. The report shall include the recommendations of the receiver made pursuant to subsection (2) of this section. The report shall include all reasonable and feasible alternatives. After receiving the report, the court shall provide notice to interested parties and conduct such hearings as are necessary. The court shall then order the parties to implement one of the alternatives, or any combination thereof, for the disposition of the system. Such order shall include a date, or proposed date, for the termination of the receivership. Nothing in this section authorizes a court to require a city, town, public utility district, water-sewer district, or irrigation district to accept a system that has been in receivership unless the city, town, public

utility district, water-sewer district, or irrigation district agrees to the terms and conditions outlined in the plan adopted by the court.

(7) The court shall not terminate the receivership, and order the return of the system to the owners, unless the department of health approves of such an action. The court may impose reasonable conditions upon the return of the system to the owner, including the posting of a bond or other security, routine performance and financial audits, employment of qualified operators and other staff or contracted services, compliance with financial viability requirements, or other measures sufficient to ensure the ongoing proper operation of the system.

(8) If, as part of the ultimate disposition of the system, an eminent domain action is commenced by a public entity to acquire the system, the court shall oversee any appraisal of the system conducted under Title 7 RCW to assure that the appraised value properly reflects any reduced value because of the necessity to make improvements to the system. The court shall have the authority to approve the appraisal, and to modify it based on any information provided at an evidentiary hearing. The court's determination of the proper value of the system, based on the appraisal, shall be final, and only appealable if not supported by substantial evidence. If the appraised value is appealed, the court may order that the system's ownership be transferred upon payment of the approved appraised value. [1999 c 153 § 57; 1994 c 292 § 3; 1990 c 133 § 4.]

Findings—Intent—1994 c 292: See note following RCW 57.04.050.

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Additional notes found at www.leg.wa.gov

43.70.200 Enforcement of health laws and state or local rules and regulations upon request of local health officer. Upon the request of a local health officer, the secretary of health is hereby authorized and empowered to take legal action to enforce the public health laws and rules and regulations of the state board of health or local rules and regulations within the jurisdiction served by the local health department, and may institute any civil legal proceeding authorized by the laws of the state of Washington, including a proceeding under Title 7 RCW. [1990 c 133 § 5; 1989 1st ex.s. c 9 § 259; 1979 c 141 § 56; 1967 ex.s. c 102 § 6. Formerly RCW 43.20A.655 and 43.20.180.]

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Additional notes found at www.leg.wa.gov

43.70.210 Right of person to rely on prayer to alleviate ailments not abridged. Nothing in chapter 43.20 or 43.70 RCW, or RCW 43.70.120 shall be construed to abridge the right of any person to rely exclusively on spiritual means alone through prayer to alleviate human ailments, sickness or disease, in accordance with the tenets and practice of the Church of Christ, Scientist, nor shall anything in chapters 43.20, 43.70 RCW, or RCW 43.70.120 be deemed to prohibit a person so relying who is afflicted with a contagious or communicable disease from being isolated or quarantined in a private place of his or her own choice, provided, it is approved by the local health officer, and all laws, rules and

regulations governing control, sanitation, isolation and quarantine are complied with. [2009 c 549 § 5145; 1989 1st ex.s. c 9 § 260; 1979 c 141 § 59; 1967 ex.s. c 102 § 14. Formerly RCW 43.20A.665 and 43.20.210.]

Prayer: RCW 18.50.030, 70.127.040, 70.128.170, 74.09.190.

Additional notes found at www.leg.wa.gov

43.70.220 Transfer of powers and duties from the department of licensing. The powers and duties of the department of licensing and the director of licensing under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 18.06, 18.19, 18.22, 18.25, 18.29, 18.32, 18.34, 18.35, 18.36A, 18.50, 18.52, 18.52C, 18.53, 18.54, 18.55, 18.57, 18.57A, 18.59, 18.71, 18.71A, 18.74, 18.83, 18.84, 18.79, 18.89, 18.92, 18.108, 18.135, and 18.138 RCW. More specifically, the health professions regulatory programs and services presently administered by the department of licensing are hereby transferred to the department of health. [1994 sp.s. c 9 § 727; 1989 1st ex.s. c 9 § 301.]

Additional notes found at www.leg.wa.gov

43.70.230 Office of health consumer assistance created—Duties. There is created in the department an office of health consumer assistance. The office shall establish a state-wide hot line and shall assist and serve as an advocate for consumers who are complainants or witnesses in a licensing or disciplinary proceeding. [1989 1st ex.s. c 9 § 303.]

43.70.235 Health care disputes—Certifying independent review organizations—Application—Restrictions—Maximum fee schedule for conducting reviews—Rules.

(1) The department shall adopt rules providing a procedure and criteria for certifying one or more organizations to perform independent review of health care disputes described in RCW 48.43.535.

(2) The rules must require that the organization ensure:

(a) The confidentiality of medical records transmitted to an independent review organization for use in independent reviews;

(b) That each health care provider, physician, or contract specialist making review determinations for an independent review organization is qualified. Physicians, other health care providers, and, if applicable, contract specialists must be appropriately licensed, certified, or registered as required in Washington state or in at least one state with standards substantially comparable to Washington state. Reviewers may be drawn from nationally recognized centers of excellence, academic institutions, and recognized leading practice sites. Expert medical reviewers should have substantial, recent clinical experience dealing with the same or similar health conditions. The organization must have demonstrated expertise and a history of reviewing health care in terms of medical necessity, appropriateness, and the application of other health plan coverage provisions;

(c) That any physician, health care provider, or contract specialist making a review determination in a specific review is free of any actual or potential conflict of interest or bias. Neither the expert reviewer, nor the independent review organization, nor any officer, director, or management employee

of the independent review organization may have any material professional, familial, or financial affiliation with any of the following: The health carrier; professional associations of carriers and providers; the provider; the provider's medical or practice group; the health facility at which the service would be provided; the developer or manufacturer of a drug or device under review; or the enrollee;

(d) The fairness of the procedures used by the independent review organization in making the determinations;

(e) That each independent review organization make its determination:

(i) Not later than the earlier of:

(A) The fifteenth day after the date the independent review organization receives the information necessary to make the determination; or

(B) The twentieth day after the date the independent review organization receives the request that the determination be made. In exceptional circumstances, when the independent review organization has not obtained information necessary to make a determination, a determination may be made by the twenty-fifth day after the date the organization received the request for the determination; and

(ii) In cases of a condition that could seriously jeopardize the enrollee's health or ability to regain maximum function, not later than the earlier of:

(A) Seventy-two hours after the date the independent review organization receives the information necessary to make the determination; or

(B) The eighth day after the date the independent review organization receives the request that the determination be made;

(f) That timely notice is provided to enrollees of the results of the independent review, including the clinical basis for the determination;

(g) That the independent review organization has a quality assurance mechanism in place that ensures the timeliness and quality of review and communication of determinations to enrollees and carriers, and the qualifications, impartiality, and freedom from conflict of interest of the organization, its staff, and expert reviewers; and

(h) That the independent review organization meets any other reasonable requirements of the department directly related to the functions the organization is to perform under this section and RCW 48.43.535, and related to assessing fees to carriers in a manner consistent with the maximum fee schedule developed under this section.

(3) To be certified as an independent review organization under this chapter, an organization must submit to the department an application in the form required by the department. The application must include:

(a) For an applicant that is publicly held, the name of each stockholder or owner of more than five percent of any stock or options;

(b) The name of any holder of bonds or notes of the applicant that exceed one hundred thousand dollars;

(c) The name and type of business of each corporation or other organization that the applicant controls or is affiliated with and the nature and extent of the affiliation or control;

(d) The name and a biographical sketch of each director, officer, and executive of the applicant and any entity listed

under (c) of this subsection and a description of any relationship the named individual has with:

- (i) A carrier;
 - (ii) A utilization review agent;
 - (iii) A nonprofit or for-profit health corporation;
 - (iv) A health care provider;
 - (v) A drug or device manufacturer; or
 - (vi) A group representing any of the entities described by (d)(i) through (v) of this subsection;
- (e) The percentage of the applicant's revenues that are anticipated to be derived from reviews conducted under RCW 48.43.535;

(f) A description of the areas of expertise of the health care professionals and contract specialists making review determinations for the applicant; and

(g) The procedures to be used by the independent review organization in making review determinations regarding reviews conducted under RCW 48.43.535.

(4) If at any time there is a material change in the information included in the application under subsection (3) of this section, the independent review organization shall submit updated information to the department.

(5) An independent review organization may not be a subsidiary of, or in any way owned or controlled by, a carrier or a trade or professional association of health care providers or carriers.

(6) An independent review organization, and individuals acting on its behalf, are immune from suit in a civil action when performing functions under chapter 5, Laws of 2000. However, this immunity does not apply to an act or omission made in bad faith or that involves gross negligence.

(7) Independent review organizations must be free from interference by state government in its functioning except as provided in subsection (8) of this section.

(8) The rules adopted under this section shall include provisions for terminating the certification of an independent review organization for failure to comply with the requirements for certification. The department may review the operation and performance of an independent review organization in response to complaints or other concerns about compliance. No later than January 1, 2006, the department shall develop a reasonable maximum fee schedule that independent review organizations shall use to assess carriers for conducting reviews authorized under RCW 48.43.535.

(9) In adopting rules for this section, the department shall take into consideration standards for independent review organizations adopted by national accreditation organizations. The department may accept national accreditation or certification by another state as evidence that an organization satisfies some or all of the requirements for certification by the department as an independent review organization. [2005 c 54 § 1; 2000 c 5 § 12.]

Intent—Purpose—2000 c 5: See RCW 48.43.500.

Application—Short title—Captions not law—Construction—Severability—Application to contracts—Effective dates—2000 c 5: See notes following RCW 48.43.500.

43.70.240 Written operating agreements. The secretary and each of the professional licensing and disciplinary boards under the administration of the department shall enter into written operating agreements on administrative proce-

dures with input from the regulated profession and the public. The intent of these agreements is to provide a process for the department to consult each board on administrative matters and to ensure that the administration and staff functions effectively enable each board to fulfill its statutory responsibilities. The agreements shall include, but not be limited to, the following provisions:

(1) Administrative activities supporting the board's policies, goals, and objectives;

(2) Development and review of the agency budget as it relates to the board; and

(3) Board related personnel issues.

The agreements shall be reviewed and revised in like manner if appropriate at the beginning of each fiscal year, and at other times upon written request by the secretary or the board. [1998 c 245 § 73; 1989 1st ex.s. c 9 § 304.]

43.70.250 License fees for professions, occupations, and businesses. It shall be the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business. The secretary shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations, or businesses administered by the department. In fixing said fees, the secretary shall set the fees for each program at a sufficient level to defray the costs of administering that program and the cost of regulating licensed volunteer medical workers in accordance with RCW 18.130.360, except as provided in RCW 18.79.202 until June 30, 2013. All such fees shall be fixed by rule adopted by the secretary in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW. [2006 c 72 § 4; 2005 c 268 § 3; 1996 c 191 § 1; 1989 1st ex.s. c 9 § 319.]

Finding—2005 c 268: See note following RCW 18.79.202.

43.70.260 Appointment of temporary additional members of boards and committees for administration and grading of examinations. The secretary may, at the request of a board or committee established under Title 18 RCW under the administrative authority of the department of health, appoint temporary additional members for the purpose of participating as members during the administration and grading of practical examinations for licensure, certification, or registration. The appointment shall be for the duration of the examination specified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or committee, including the requirement to be licensed, certified, or registered. While serving as board or committee members, persons so appointed have all the powers, duties, and immunities and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board or committee. This authority is intended to provide for more efficient, economical, and effective examinations. [1989 1st ex.s. c 9 § 320.]

43.70.270 License moratorium for persons in the service. Notwithstanding any provision of law to the contrary, the license of any person licensed by the secretary of health to practice a profession or engage in an occupation, if valid and in force and effect at the time the licensee entered service in the armed forces or the merchant marine of the United States, shall continue in full force and effect so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The secretary shall renew the license of every such person who applies for renewal thereof within six months after being honorably discharged from service upon payment of the renewal fee applicable to the then current year or other license period. [1989 1st ex.s. c 9 § 321.]

43.70.280 Procedure for issuance, renewal, or reissuance of credentials—Extension or modification of licensing, certification, or registration period authorized. (1) The secretary, in consultation with health profession boards and commissions, shall establish by rule the administrative procedures, administrative requirements, and fees for initial issue, renewal, and reissue of a credential for professions under RCW 18.130.040, including procedures and requirements for late renewals and uniform application of late renewal penalties. Failure to renew invalidates the credential and all privileges granted by the credential. Administrative procedures and administrative requirements do not include establishing, monitoring, and enforcing qualifications for licensure, scope or standards of practice, continuing competency mechanisms, and discipline when such authority is authorized in statute to a health profession board or commission. For the purposes of this section, "in consultation with" means providing an opportunity for meaningful participation in development of rules consistent with processes set forth in RCW 34.05.310.

(2) Notwithstanding any provision of law to the contrary which provides for a licensing period for any type of license subject to this chapter including those under RCW 18.130.040, the secretary of health may, from time to time, extend or otherwise modify the duration of any licensing, certification, or registration period, whether an initial or renewal period, if the secretary determines that it would result in a more economical or efficient operation of state government and that the public health, safety, or welfare would not be substantially adversely affected thereby. However, no license, certification, or registration may be issued or approved for a period in excess of four years, without renewal. Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of health adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period. [1999 c 34 § 1; 1998 c 29 § 1; 1996 c 191 § 2; 1989 1st ex.s. c 9 § 322.]

43.70.290 Funeral directors and embalmers subject to chapter 18.130 RCW. Funeral directors and embalmers, licensed under chapter 18.39 RCW, are subject to the provisions of chapter 18.130 RCW under the administration of the department of licensing. The department of licensing shall

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review the statutes authorizing the regulation of funeral directors and embalmers, and recommend any changes necessary by January 1, 1990. [1989 1st ex.s. c 9 § 323.]

43.70.300 Secretary or secretary's designee ex officio member of health professional licensure and disciplinary boards. In order to provide liaison with the department of health, provide continuity between changes in board membership, achieve uniformity as appropriate in licensure or regulated activities under the jurisdiction of the department, and to better represent the public interest, the secretary, or a designee appointed by the secretary, shall serve as an ex officio member of every health professional licensure or disciplinary board established under Title 18 RCW under the administrative authority of the department of health. The secretary shall have no vote unless otherwise authorized by law. [1989 1st ex.s. c 9 § 318; 1983 c 168 § 11. Formerly RCW 43.24.015.]

Additional notes found at www.leg.wa.gov

43.70.310 Cooperation with department of ecology. Where feasible, the department and the state board of health shall consult with the department of ecology in order that, to the fullest extent possible, agencies concerned with the preservation of life and health and agencies concerned with protection of the environment may integrate their efforts and endorse policies in common. [1987 c 109 § 25; 1970 ex.s. c 18 § 12. Formerly RCW 43.20A.140.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.70.320 Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds. (1) There is created in the state treasury an account to be known as the health professions account. All fees received by the department for health professions licenses, registration, certifications, renewals, or examinations and the civil penalties assessed and collected by the department under RCW 18.130.190 shall be forwarded to the state treasurer who shall credit such moneys to the health professions account.

(2) All expenses incurred in carrying out the health professions licensing activities of the department shall be paid from the account as authorized by legislative appropriation, except as provided in subsection (4) of this section. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium.

(3) The secretary shall biennially prepare a budget request based on the anticipated costs of administering the health professions licensing activities of the department which shall include the estimated income from health professions fees.

(4) The secretary shall, at the request of a board or commission as applicable, spend unappropriated funds in the health professions account that are allocated to the requesting board or commission to meet unanticipated costs of that board or commission when revenues exceed more than fifteen percent over the department's estimated six-year spending projections for the requesting board or commission. Unanticipated costs shall be limited to spending as authorized in subsection (3) of this section for anticipated costs. [2008 c

134 § 16; 1993 c 492 § 411; 1991 sp.s. c 13 § 18; 1991 c 3 § 299; 1985 c 57 § 29; 1983 c 168 § 5. Formerly RCW 43.24.072.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.
Additional notes found at www.leg.wa.gov

43.70.323 Hospital infection control grant account.

The hospital infection control grant account is created in the custody of the state treasury. All receipts from gifts, grants, bequests, devises, or other funds from public or private sources to support its activities must be deposited into the account. Expenditures from the account may be used only for awarding hospital infection control grants to hospitals and public agencies for establishing and maintaining hospital infection control and surveillance programs, for providing support for such programs, and for the administrative costs associated with the grant program. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2007 c 261 § 5.]

Findings—2007 c 261: See note following RCW 43.70.056.

43.70.325 Rural health access account. The rural health access account is created in the custody of the state treasurer. The account may receive moneys through gift, grant, or donation to the state for the purposes of the account. Expenditures from the account may be used only for rural health programs including, but not limited to, those authorized in chapters 70.175 and 70.180 RCW, the health professional and loan repayment programs authorized in chapter 28B.115 RCW, and to make grants to small or rural hospitals, or rural public hospital districts, for the purpose of developing viable, integrated rural health systems. Only the secretary of health or the secretary's designee may authorize expenditures from the account. No appropriation is required for an expenditure from the account. Any residue in the account shall accumulate in the account and shall not revert to the general fund at the end of the biennium. Costs incurred by the department in administering the account shall be paid from the account. [1992 c 120 § 1.]

43.70.327 Public health supplemental account—Annual statement. (1) The public health supplemental account is created in the state treasury. All receipts from gifts, bequests, devises, or funds, whose use is determined to further the purpose of maintaining and improving the health of Washington residents through the public health system must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for maintaining and improving the health of Washington residents through the public health system. Expenditures from the account shall not be used to pay for or add permanent full-time equivalent staff positions.

(2) The department shall file an annual statement of the financial condition, transactions, and affairs of any program funded under this section in a form and manner prescribed by the office of financial management. A copy of the annual

statement shall be filed with the speaker of the house of representatives and the president of the senate. [2001 c 80 § 3.]

Findings—Intent—2001 c 80: See note following RCW 43.70.040.

43.70.334 Temporary worker housing—Definition.

For the purposes of RCW 43.70.335, 43.70.337, and 43.70.340, "temporary worker housing" has the same meaning as provided in RCW 70.114A.020. [1999 c 374 § 9.]

43.70.335 Temporary worker housing operating license—Fee—Display—Suspension or revocation—Fines—Refunds—Rules—Application of department of labor and industries standards.

(1) Any person providing temporary worker housing consisting of five or more dwelling units, or any combination of dwelling units, dormitories, or spaces that house ten or more occupants, or any person providing temporary worker housing who makes the election to comply with the temporary worker building code under RCW 70.114A.081(1)(g), shall secure an annual operating license prior to occupancy and shall pay a fee according to RCW 43.70.340. The license shall be conspicuously displayed on site.

(2) Licenses issued under this chapter may be suspended or revoked upon the failure or refusal of the person providing temporary worker housing to comply with rules adopted under this section or chapter 70.114A RCW by the department. All such proceedings shall be governed by the provisions of chapter 34.05 RCW.

(3) The department may assess a civil fine in accordance with RCW 43.70.095 for failure or refusal to obtain a license prior to occupancy of temporary worker housing. The department may refund all or part of the civil fine collected once the operator obtains a valid operating license.

(4) Civil fines under this section shall not exceed twice the cost of the license plus the cost of the initial on-site inspection for the first violation of this section, and shall not exceed ten times the cost of the license plus the cost of the initial on-site inspection for second and subsequent violations within any five-year period. The department may adopt rules as necessary to assure compliance with this section. [1999 c 374 § 10; 1998 c 37 § 5.]

43.70.337 Temporary worker housing building permit—Plans and specifications—Fees—Rules.

(1) Any person who constructs, alters, or makes an addition to temporary worker housing consisting of five or more dwelling units, or any combination of dwelling units, dormitories, or spaces that house ten or more occupants, or any person who constructs, alters, or makes an addition to temporary worker housing who elects to comply with the temporary worker building code under RCW 70.114A.081(1)(g), shall:

(a) Submit plans and specifications for the alteration, addition, or new construction of this housing prior to beginning any alteration, addition, or new construction on this housing;

(b) Apply for and obtain a temporary worker housing building permit from the department prior to construction or alteration of this housing; and

(c) Submit a plan review and permit fee to the department of health pursuant to RCW 43.70.340.

(2) The department shall adopt rules as necessary, for the application procedures for the temporary worker housing plan review and permit process.

(3) Any alteration of a manufactured structure to be used for temporary worker housing remains subject to chapter 43.22 RCW, and the rules adopted under chapter 43.22 RCW. [1998 c 37 § 6.]

43.70.340 Temporary worker housing inspection fund—Fees on temporary worker housing operating licenses and building permits—Licenses generally. (1) The temporary worker housing fund is established in the custody of the state treasury. The department shall deposit all funds received under subsections (2) and (3) of this section and from the legislature to administer a temporary worker housing permitting, licensing, and inspection program conducted by the department. Disbursement from the fund shall be on authorization of the secretary of health or the secretary's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

(2) There is imposed a fee on each operating license issued by the department to every operator of temporary worker housing that is regulated by the state board of health. In establishing the fee to be paid under this subsection the department shall consider the cost of administering a license as well as enforcing applicable state board of health rules on temporary worker housing.

(3) There is imposed a fee on each temporary worker housing building permit issued by the department to every operator of temporary worker housing as required by RCW 43.70.337. The fee shall include the cost of administering a permit as well as enforcing the department's temporary worker building code as adopted under RCW 70.114A.081.

(4) The department shall conduct a fee study for:

- (a) A temporary worker housing operator's license;
- (b) On-site inspections; and
- (c) A plan review and building permit for new construction.

After completion of the study, the department shall adopt these fees by rule by no later than December 31, 1998.

(5) The term of the operating license and the application procedures shall be established, by rule, by the department. [1998 c 37 § 7; 1990 c 253 § 3.]

Legislative finding and purpose—1990 c 253: "The legislature finds that the demand for housing for migrant and seasonal farmworkers far exceeds the supply of adequate housing in the state of Washington. In addition, increasing numbers of these housing units are in deteriorated condition because they cannot be economically maintained and repaired.

The legislature further finds that the lack of a clear program for the regulation and inspection of farmworker housing has impeded the construction and renovation of housing units in this state.

It is the purpose of this act for the various agencies involved in the regulation of farmworker housing to coordinate and consolidate their activities to provide for efficient and effective monitoring of farmworker housing. It is intended that this action will provide greater responsiveness in dealing with public concerns over farmworker housing, and allow greater numbers of housing units to be built." [1990 c 253 § 1.]

43.70.400 Head injury prevention—Legislative finding. The legislature finds that head injury is a major cause of death and disability for Washington citizens. The costs of head injury treatment and rehabilitation are extensive and

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resultant disabilities are long and indeterminate. These costs are often borne by public programs such as medicaid. The legislature finds further that many such injuries are preventable. The legislature intends to reduce the occurrence of head injury by educating persons whose behavior may place them at risk and by regulating certain activities. [1990 c 270 § 2.]

43.70.410 Head injury prevention—Program, generally. As used in RCW 43.70.400 through 43.70.440, the term "head injury" means traumatic brain injury.

A head injury prevention program is created in the department of health. The program's functions may be integrated with those of similar programs to promote comprehensive, integrated, and effective health promotion and disease prevention.

In consultation with the traffic safety commission, the department shall, directly or by contract, identify and coordinate public education efforts currently underway within state government and among private groups to prevent traumatic brain injury, including, but not limited to, bicycle safety, pedestrian safety, bicycle passenger seat safety, motorcycle safety, motor vehicle safety, and sports safety. If the department finds that programs are not available or not in use, it may, within funds appropriated for the purpose, provide grants to promote public education efforts. Grants may be awarded only after recipients have demonstrated coordination with relevant and knowledgeable groups within their communities, including at least schools, brain injury support organizations, hospitals, physicians, traffic safety specialists, police, and the public. The department may accept grants, gifts, and donations from public or private sources to use to carry out the head injury prevention program.

The department may assess or contract for the assessment of the effectiveness of public education efforts coordinated or initiated by any agency of state government. Agencies are directed to cooperate with assessment efforts by providing access to data and program records as reasonably required. The department may seek and receive additional funds from the federal government or private sources for assessments. Assessments shall contain findings and recommendations that will improve the effectiveness of public education efforts. These findings shall be distributed among public and private groups concerned with traumatic brain injury prevention. [1990 c 270 § 3.]

Bicycle awareness program: RCW 43.43.390.

43.70.420 Head injury prevention—Information preparation. The department of health, the department of licensing, and the traffic safety commission shall jointly prepare information for driver license manuals, driver education programs, and driving tests to increase driver awareness of pedestrian safety, to increase driver skills in avoiding pedestrian and motor vehicle accidents, and to determine drivers' abilities to avoid pedestrian motor vehicle accidents. [1990 c 270 § 4.]

43.70.430 Head injury prevention—Guidelines on training and education—Training of emergency medical personnel. The department shall prepare guidelines on relevant training and education regarding traumatic brain injury

for health and education professionals, and relevant public safety and law enforcement officials. The department shall distribute such guidelines and any recommendations for training or educational requirements for health professionals or educators to the disciplinary authorities governed by chapter 18.130 RCW and to educational service districts established under chapter 28A.310 RCW. Specifically, all emergency medical personnel shall be trained in proper helmet removal. [1990 c 270 § 6.]

43.70.440 Head injury prevention act—Short title—1990 c 270. This act shall be known and cited as the Head Injury Prevention Act of 1990. [1990 c 270 § 1.]

43.70.460 Retired primary and specialty care provider liability malpractice insurance—Program authorized. (1) The department may establish a program to purchase and maintain liability malpractice insurance for retired primary and specialty care providers who provide health care services to low-income patients. The following conditions apply to the program:

(a) Health care services shall be provided at clinics serving low-income patients that are public or private tax-exempt corporations or other established practice settings as defined by the department;

(b) Health care services provided at the clinics shall be offered to low-income patients based on their ability to pay;

(c) Retired health care providers providing health care services shall not receive compensation for their services; and

(d) The department shall contract only with a liability insurer authorized to offer liability malpractice insurance in the state.

(e) Specialists in this program will be limited to those whose malpractice insurance premiums are comparable to primary care providers.

(2) This section and RCW 43.70.470 shall not be interpreted to require a liability insurer to provide coverage to a health care provider should the insurer determine that coverage should not be offered to a health care provider because of past claims experience or for other appropriate reasons.

(3) The state and its employees who operate the program shall be immune from any civil or criminal action involving claims against clinics or health care providers that provided health care services under this section and RCW 43.70.470. This protection of immunity shall not extend to any clinic or health care provider participating in the program.

(4) The department may monitor the claims experience of retired health care providers covered by liability insurers contracting with the department.

(5) The department may provide liability insurance under chapter 113, Laws of 1992 only to the extent funds are provided for this purpose by the legislature. If there are insufficient funds to support all applications for liability insurance coverage, priority shall be given to those retired health care providers working at clinics operated by public or private tax-exempt corporations rather than clinics operated by for-profit corporations. [2005 c 156 § 1; 2004 c 184 § 1; 1993 c 492 § 276; 1992 c 113 § 2.]

Finding—1993 c 492: See note following RCW 28B.115.080.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

43.70.470 Retired health care provider liability malpractice insurance—Conditions. The department may establish by rule the conditions of participation in the liability insurance program by retired health care providers at clinics utilizing retired health care providers for the purposes of this section and RCW 43.70.460. These conditions shall include, but not be limited to, the following:

(1) The participating health care provider associated with the clinic shall hold a valid license to practice as a physician under chapter 18.71 or 18.57 RCW, a naturopath under chapter 18.36A RCW, a physician assistant under chapter 18.71A or 18.57A RCW, an advanced registered nurse practitioner under chapter 18.79 RCW, a dentist under chapter 18.32 RCW, or other health professionals as may be deemed in short supply by the department. All health care providers must be in conformity with current requirements for licensure, including continuing education requirements;

(2) Health care shall be limited to noninvasive procedures and shall not include obstetrical care. Noninvasive procedures include injections, suturing of minor lacerations, and incisions of boils or superficial abscesses. Primary dental care shall be limited to diagnosis, oral hygiene, restoration, and extractions and shall not include orthodontia, or other specialized care and treatment;

(3) The provision of liability insurance coverage shall not extend to acts outside the scope of rendering health care services pursuant to this section and RCW 43.70.460;

(4) The participating health care provider shall limit the provision of health care services to primarily low-income persons provided that clinics may, but are not required to, provide means tests for eligibility as a condition for obtaining health care services;

(5) The participating health care provider shall not accept compensation for providing health care services from patients served pursuant to this section and RCW 43.70.460, nor from clinics serving these patients. "Compensation" shall mean any remuneration of value to the participating health care provider for services provided by the health care provider, but shall not be construed to include any nominal copayments charged by the clinic, nor reimbursement of related expenses of a participating health care provider authorized by the clinic in advance of being incurred; and

(6) The use of mediation or arbitration for resolving questions of potential liability may be used, however any mediation or arbitration agreement format shall be expressed in terms clear enough for a person with a sixth grade level of education to understand, and on a form no longer than one page in length. [2005 c 156 § 2; 2004 c 184 § 2; 1993 c 492 § 277; 1992 c 113 § 3.]

Finding—1993 c 492: See note following RCW 28B.115.080.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

43.70.480 Emergency medical personnel—Futile treatment and natural death directives—Guidelines. The department of health shall adopt guidelines and protocols for how emergency medical personnel shall respond when sum-

moned to the site of an injury or illness for the treatment of a person who has signed a written directive or durable power of attorney requesting that he or she not receive futile emergency medical treatment.

The guidelines shall include development of a simple form that shall be used statewide. [2000 c 70 § 1; 1992 c 98 § 14.]

Additional notes found at www.leg.wa.gov

43.70.500 Health care services practice indicators and risk management protocols. The department of health shall consult with health care providers and facilities, purchasers, health professional regulatory authorities under RCW 18.130.040, appropriate research and clinical experts, and consumers of health care services to identify specific practice areas where practice indicators and risk management protocols have been developed, including those that have been demonstrated to be effective among persons of color. Practice indicators shall be based upon expert consensus and best available scientific evidence. The department shall:

(1) Develop a definition of expert consensus and best available scientific evidence so that practice indicators can serve as a standard for excellence in the provision of health care services.

(2) Establish a process to identify and evaluate practice indicators and risk management protocols as they are developed by the appropriate professional, scientific, and clinical communities.

(3) Recommend the use of practice indicators and risk management protocols in quality assurance, utilization review, or provider payment to the health services commission. [1993 c 492 § 410.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

43.70.510 Health care services coordinated quality improvement program—Rules. (1)(a) Health care institutions and medical facilities, other than hospitals, that are licensed by the department, professional societies or organizations, health care service contractors, health maintenance organizations, health carriers approved pursuant to chapter 48.43 RCW, and any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction and regulation of any state agency or any subdivision thereof may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200.

(b) All such programs shall comply with the requirements of RCW 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the institution, facility, professional societies or organizations, health care service contractors, health maintenance organizations, health carriers, or any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction and regulation of any state agency or any subdivision thereof, unless an alternative quality improvement program substantially equivalent to RCW 70.41.200(1)(a) is developed. All such programs, whether complying with the

requirement set forth in RCW 70.41.200(1)(a) or in the form of an alternative program, must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section and the exemption under RCW 42.56.360(1)(c) and subsection (5) of this section shall apply. In reviewing plans submitted by licensed entities that are associated with physicians' offices, the department shall ensure that the exemption under RCW 42.56.360(1)(c) and the discovery limitations of this section are applied only to information and documents related specifically to quality improvement activities undertaken by the licensed entity.

(2) Health care provider groups of five or more providers may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200. For purposes of this section, a health care provider group may be a consortium of providers consisting of five or more providers in total. All such programs shall comply with the requirements of RCW 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the health care provider group. All such programs must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section and the exemption under RCW 42.56.360(1)(c) and subsection (5) of this section shall apply.

(3) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (6) of this section is not subject to an action for civil damages or other relief as a result of the activity or its consequences. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(4) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to review or disclosure, except as provided in this section, or discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts that form the basis for the institution of such proceedings of which the person had personal knowl-

edge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action challenging the termination of a contract by a state agency with any entity maintaining a coordinated quality improvement program under this section if the termination was on the basis of quality of care concerns, introduction into evidence of information created, collected, or maintained by the quality improvement committees of the subject entity, which may be under terms of a protective order as specified by the court; (e) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (f) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department of health to be made regarding the care and treatment received.

(5) Information and documents created specifically for, and collected and maintained by, a quality improvement committee are exempt from disclosure under chapter 42.56 RCW.

(6) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or with RCW 70.41.200, a coordinated quality improvement committee maintained by an ambulatory surgical facility under RCW 70.230.070, a quality assurance committee maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (4) of this section and RCW 4.24.250.

(7) The department of health shall adopt rules as are necessary to implement this section. [2007 c 273 § 21. Prior: 2006 c 8 § 113; 2005 c 291 § 2; 2005 c 274 § 302; 2005 c 33 § 6; 2004 c 145 § 2; 1995 c 267 § 7; 1993 c 492 § 417.]

Effective date—Implementation—2007 c 273: See RCW 70.230.900 and 70.230.901.

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW 5.64.010.

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Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Findings—2005 c 33: See note following RCW 18.20.390.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

43.70.512 Public health—Required measurable outcomes. (1) Protecting the public's health across the state is a fundamental responsibility of the state. With any new state funding of the public health system as appropriated for the purposes of *sections 60 through 65 of this act, the state expects that measurable benefits will be realized to the health of the residents of Washington. A transparent process that shows the impact of increased public health spending on performance measures related to the health outcomes in subsection (2) of this section is of great value to the state and its residents. In addition, a well-funded public health system is expected to become a more integral part of the state's emergency preparedness system.

(2) Subject to the availability of amounts appropriated for the purposes of *sections 60 through 65 of this act, distributions to local health jurisdictions shall deliver the following outcomes:

(a) Create a disease response system capable of responding at all times;

(b) Stop the increase in, and reduce, sexually transmitted disease rates;

(c) Reduce vaccine preventable diseases;

(d) Build capacity to quickly contain disease outbreaks;

(e) Decrease childhood and adult obesity and types I and II diabetes rates, and resulting kidney failure and dialysis;

(f) Increase childhood immunization rates;

(g) Improve birth outcomes and decrease child abuse;

(h) Reduce animal-to-human disease rates; and

(i) Monitor and protect drinking water across jurisdictional boundaries.

(3) Benchmarks for these outcomes shall be drawn from the national healthy people 2010 goals, other reliable data sets, and any subsequent national goals. [2007 c 259 § 60.]

***Reviser's note:** "Sections 60 through 65 of this act" include this section, RCW 43.70.514 through 43.70.518, and 43.70.522, and the 2007 c 259 amendments to RCW 43.70.520. RCW 43.70.518 was repealed by 2009 c 518 § 10.

Severability—Subheadings not law—2007 c 259: See notes following RCW 41.05.033.

43.70.514 Public health—Definitions. The definitions in this section apply throughout *sections 60 through 65 of this act unless the context clearly requires otherwise.

(1) "Core public health functions of statewide significance" or "public health functions" means health services that:

(a) Address: Communicable disease prevention and response; preparation for, and response to, public health emergencies caused by pandemic disease, earthquake, flood, or terrorism; prevention and management of chronic diseases and disabilities; promotion of healthy families and the development of children; assessment of local health conditions, risks, and trends, and evaluation of the effectiveness of intervention efforts; and environmental health concerns;

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(b) Promote uniformity in the public health activities conducted by all local health jurisdictions in the public health system, increase the overall strength of the public health system, or apply to broad public health efforts; and

(c) If left neglected or inadequately addressed, are reasonably likely to have a significant adverse impact on counties beyond the borders of the local health jurisdiction.

(2) "Local health jurisdiction" or "jurisdiction" means a county board of health organized under chapter 70.05 RCW, a health district organized under chapter 70.46 RCW, or a combined city and county health department organized under chapter 70.08 RCW. [2007 c 259 § 61.]

***Reviser's note:** "Sections 60 through 65 of this act" include this section, RCW 43.70.512, 43.70.516, 43.70.518, and 43.70.522, and the 2007 c 259 amendments to RCW 43.70.520. RCW 43.70.518 was repealed by 2009 c 518 § 10.

Severability—Subheadings not law—2007 c 259: See notes following RCW 41.05.033.

43.70.516 Public health—Department's duties. (1) The department shall accomplish the tasks included in subsection (2) of this section by utilizing the expertise of varied interests, as provided in this subsection.

(a) In addition to the perspectives of local health jurisdictions, the state board of health, the Washington health foundation, and department staff that are currently engaged in development of the public health services improvement plan under RCW 43.70.520, the secretary shall actively engage:

(i) Individuals or entities with expertise in the development of performance measures, accountability and systems management, such as the University of Washington school of public health and community medicine, and experts in the development of evidence-based medical guidelines or public health practice guidelines; and

(ii) Individuals or entities who will be impacted by performance measures developed under this section and have relevant expertise, such as community clinics, public health nurses, large employers, tribal health providers, family planning providers, and physicians.

(b) In developing the performance measures, consideration shall be given to levels of performance necessary to promote uniformity in core public health functions of statewide significance among all local health jurisdictions, best scientific evidence, national standards of performance, and innovations in public health practice. The performance measures shall be developed to meet the goals and outcomes in RCW 43.70.512. The office of the state auditor shall provide advice and consultation to the committee to assist in the development of effective performance measures and health status indicators.

(c) On or before November 1, 2007, the experts assembled under this section shall provide recommendations to the secretary related to the activities and services that qualify as core public health functions of statewide significance and performance measures. The secretary shall provide written justification for any departure from the recommendations.

(2) By January 1, 2008, the department shall:

(a) Adopt a prioritized list of activities and services performed by local health jurisdictions that qualify as core public health functions of statewide significance as defined in RCW 43.70.514; and

(b) Adopt appropriate performance measures with the intent of improving health status indicators applicable to the core public health functions of statewide significance that local health jurisdictions must provide.

(3) The secretary may revise the list of activities and the performance measures in future years as appropriate. Prior to modifying either the list or the performance measures, the secretary must provide a written explanation of the rationale for such changes.

(4) The department and the local health jurisdictions shall abide by the prioritized list of activities and services and the performance measures developed pursuant to this section.

(5) The department, in consultation with representatives of county governments, shall provide local jurisdictions with financial incentives to encourage and increase local investments in core public health functions. The local jurisdictions shall not supplant existing local funding with such state-incented resources. [2007 c 259 § 62.]

Severability—Subheadings not law—2007 c 259: See notes following RCW 41.05.033.

43.70.520 Public health services improvement plan—Performance measures. (1) The legislature finds that the public health functions of community assessment, policy development, and assurance of service delivery are essential elements in achieving the objectives of health reform in Washington state. The legislature further finds that the population-based services provided by state and local health departments are cost-effective and are a critical strategy for the long-term containment of health care costs. The legislature further finds that the public health system in the state lacks the capacity to fulfill these functions consistent with the needs of a reformed health care system. The legislature further finds that public health nurses and nursing services are an essential part of our public health system, delivering evidence-based care and providing core services including prevention of illness, injury, or disability; the promotion of health; and maintenance of the health of populations.

(2) The department of health shall develop, in consultation with local health departments and districts, the state board of health, the health services commission, area Indian health service, and other state agencies, health services providers, and citizens concerned about public health, a public health services improvement plan. The plan shall provide a detailed accounting of deficits in the core functions of assessment, policy development, assurance of the current public health system, how additional public health funding would be used, and describe the benefits expected from expanded expenditures.

(3) The plan shall include:

(a) Definition of minimum standards for public health protection through assessment, policy development, and assurances:

(i) Enumeration of communities not meeting those standards;

(ii) A budget and staffing plan for bringing all communities up to minimum standards;

(iii) An analysis of the costs and benefits expected from adopting minimum public health standards for assessment, policy development, and assurances;

(b) Recommended strategies and a schedule for improving public health programs throughout the state, including:

(i) Strategies for transferring personal health care services from the public health system, into the uniform benefits package where feasible; and

(ii) Linking funding for public health services to performance measures that relate to achieving improved health outcomes; and

(c) A recommended level of dedicated funding for public health services to be expressed in terms of a percentage of total health service expenditures in the state or a set per person amount; such recommendation shall also include methods to ensure that such funding does not supplant existing federal, state, and local funds received by local health departments, and methods of distributing funds among local health departments.

(4) The department shall coordinate this planning process with the study activities required in section 258, chapter 492, Laws of 1993.

(5) By March 1, 1994, the department shall provide initial recommendations of the public health services improvement plan to the legislature regarding minimum public health standards, and public health programs needed to address urgent needs, such as those cited in subsection (7) of this section.

(6) By December 1, 1994, the department shall present the public health services improvement plan to the legislature, with specific recommendations for each element of the plan to be implemented over the period from 1995 through 1997.

(7) Thereafter, the department shall update the public health services improvement plan for presentation to the legislature prior to the beginning of a new biennium.

(8) Among the specific population-based public health activities to be considered in the public health services improvement plan are: Health data assessment and chronic and infectious disease surveillance; rapid response to outbreaks of communicable disease; efforts to prevent and control specific communicable diseases, such as tuberculosis and acquired immune deficiency syndrome; health education to promote healthy behaviors and to reduce the prevalence of chronic disease, such as those linked to the use of tobacco; access to primary care in coordination with existing community and migrant health clinics and other not for profit health care organizations; programs to ensure children are born as healthy as possible and they receive immunizations and adequate nutrition; efforts to prevent intentional and unintentional injury; programs to ensure the safety of drinking water and food supplies; poison control; trauma services; and other activities that have the potential to improve the health of the population or special populations and reduce the need for or cost of health services. [2007 c 259 § 64; 1993 c 492 § 467.]

Severability—Subheadings not law—2007 c 259: See notes following RCW 41.05.033.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.
Additional contents: RCW 43.70.550.

Additional notes found at www.leg.wa.gov

43.70.522 Public health performance measures—Assessing the use of funds—Secretary's duties. (1) Each

local health jurisdiction shall submit to the secretary such data as the secretary determines is necessary to allow the secretary to assess whether the local health jurisdiction has used the funds in a manner consistent with achieving the performance measures in RCW 43.70.516.

(2) If the secretary determines that the data submitted demonstrates that the local health jurisdiction is not spending the funds in a manner consistent with achieving the performance measures, the secretary shall:

(a) Provide a report to the governor identifying the local health jurisdiction and the specific items that the secretary identified as inconsistent with achieving the performance measures; and

(b) Require that the local health jurisdiction submit a plan of correction to the secretary within sixty days of receiving notice from the secretary, which explains the measures that the jurisdiction will take to resume spending funds in a manner consistent with achieving the performance measures. The secretary shall provide technical assistance to the local health jurisdiction to support the jurisdiction in successfully completing the activities included in the plan of correction.

(3) Upon a determination by the secretary that a local health jurisdiction that had previously been identified as not spending the funds in a manner consistent with achieving the performance measures has resumed consistency, the secretary shall notify the governor that the jurisdiction has returned to consistent status.

(4) Any local health jurisdiction that has not resumed spending funds in a manner consistent with achieving the performance measures within one year of the secretary reporting the jurisdiction to the governor shall be precluded from receiving any funds appropriated for the purposes of *sections 60 through 65 of this act. Funds may resume once the local health jurisdiction has demonstrated to the satisfaction of the secretary that it has returned to consistent status. [2007 c 259 § 65.]

***Reviser's note:** "Sections 60 through 65 of this act" include this section, RCW 43.70.512, 43.70.514, 43.70.516, and 43.70.518, and the 2007 c 259 amendments to RCW 43.70.520. RCW 43.70.518 was repealed by 2009 c 518 § 10.

Severability—Subheadings not law—2007 c 259: See notes following RCW 41.05.033.

43.70.525 Immunization assessment and enhancement proposals by local jurisdictions. (1) The department, in conjunction with local health jurisdictions, shall require each local health jurisdiction to submit an immunization assessment and enhancement proposal, consistent with the standards established in the public health [services] improvement plan, to provide immunization protection to the children of the state to further reduce vaccine-preventable diseases.

(2) These plans shall include, but not be limited to:

(a) A description of the population groups in the jurisdiction that are in the greatest need of immunizations;

(b) A description of strategies to use outreach, volunteer, and other local educational resources to enhance immunization rates; and

(c) A description of the capacity required to accomplish the enhancement proposal.

(3) This section shall be implemented consistent with available funding.

(4) The secretary shall report through the public health [services] improvement plan to the health care and fiscal committees of the legislature on the status of the program and progress made toward increasing immunization rates in population groups of greatest need. [1994 c 299 § 29.]

Intent—Finding—Severability—Conflict with federal requirements—1994 c 299: See notes following RCW 74.12.400.

Immunization: RCW 28A.210.060.

43.70.533 Chronic conditions—Training and technical assistance for primary care providers. (1) The department shall conduct a program of training and technical assistance regarding care of people with chronic conditions for providers of primary care. The program shall emphasize evidence-based high quality preventive and chronic disease care. The department may designate one or more chronic conditions to be the subject of the program.

(2) The training and technical assistance program shall include the following elements:

- (a) Clinical information systems and sharing and organization of patient data;
- (b) Decision support to promote evidence-based care;
- (c) Clinical delivery system design;
- (d) Support for patients managing their own conditions; and

(e) Identification and use of community resources that are available in the community for patients and their families.

(3) In selecting primary care providers to participate in the program, the department shall consider the number and type of patients with chronic conditions the provider serves, and the provider's participation in the medicaid program, the basic health plan, and health plans offered through the public employees' benefits board. [2007 c 259 § 5.]

Severability—Subheadings not law—2007 c 259: See notes following RCW 41.05.033.

43.70.540 Data collection—Legislative finding and intent. The legislature recognizes that the state patrol, the administrative office of the courts, the sheriffs' and police chiefs' association, the department of social and health services, the *department of community, trade, and economic development, the sentencing guidelines commission, the department of corrections, and the superintendent of public instruction each have comprehensive data and analysis capabilities that have contributed greatly to our current understanding of crime and violence, and their causes.

The legislature finds, however, that a single health-oriented agency must be designated to provide consistent guidelines to all these groups regarding the way in which their data systems collect this important data. It is not the intent of the legislature by RCW 43.70.545 to transfer data collection requirements from existing agencies or to require the addition of major new data systems. It is rather the intent to make only the minimum required changes in existing data systems to increase compatibility and comparability, reduce duplication, and to increase the usefulness of data collected by these agencies in developing more accurate descriptions of violence. [2005 c 282 § 45; 1995 c 399 § 76; 1994 sp.s. c 7 § 201.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

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Legislative finding and intent—1994 sp.s. c 7: "The legislature finds that the increasing violence in our society causes great concern for the immediate health and safety of our citizens and our social institutions. Youth violence is increasing at an alarming rate and young people between the ages of fifteen and twenty-four are at the highest risk of being perpetrators and victims of violence. Additionally, random violence, including homicide and the use of firearms, has dramatically increased over the last decade.

The legislature finds that violence is abhorrent to the aims of a free society and that it cannot be tolerated. State efforts at reducing violence must include changes in criminal penalties, reducing the unlawful use of and access to firearms, increasing educational efforts to encourage nonviolent means for resolving conflicts, and allowing communities to design their prevention efforts.

The legislature finds that the problem of violence can be addressed with many of the same approaches that public health programs have used to control other problems such as infectious disease, tobacco use, and traffic fatalities.

Addressing the problem of violence requires the concerted effort of all communities and all parts of state and local governments. It is the immediate purpose of chapter 7, Laws of 1994 sp. sess. to: (1) Prevent acts of violence by encouraging change in social norms and individual behaviors that have been shown to increase the risk of violence; (2) reduce the rate of at-risk children and youth, as defined in *RCW 70.190.010; (3) increase the severity and certainty of punishment for youth and adults who commit violent acts; (4) reduce the severity of harm to individuals when violence occurs; (5) empower communities to focus their concerns and allow them to control the funds dedicated to empirically supported preventive efforts in their region; and (6) reduce the fiscal and social impact of violence on our society." [1994 sp.s. c 7 § 101.]

***Reviser's note:** The governor vetoed 1994 sp.s. c 7 § 302, which amended RCW 70.190.010 to define "at-risk children and youth." RCW 70.190.010 was subsequently amended by 1996 c 132 § 2, which now includes a definition for "at-risk children."

***Reviser's note:** Sections 901 through 909, chapter 7, Laws of 1994 sp. sess. were approved and ratified by the voters on November 8, 1994, in Referendum Bill No. 43. Therefore, the amendments to sections 510 through 512, 519, 521, 525, and 527, chapter 7, Laws of 1994 sp. sess. do not expire on July 1, 1995.

Additional notes found at www.leg.wa.gov

43.70.545 Data collection and reporting rules. (1) The department of health shall develop, based on recommendations in the public health services improvement plan and in consultation with affected groups or agencies, comprehensive rules for the collection and reporting of data relating to acts of violence, at-risk behaviors, and risk and protective factors. The data collection and reporting rules shall be used by any public or private entity that is required to report data relating to these behaviors and conditions. The department may require any agency or program that is state-funded or that accepts state funds and any licensed or regulated person or professional to report these behaviors and conditions. To the extent possible the department shall require the reports to be filed through existing data systems. The department may also require reporting of attempted acts of violence and of nonphysical injuries. For the purposes of this section "acts of violence" means self-directed and interpersonal behaviors that can result in suicide, homicide, and nonfatal intentional injuries. "At-risk behaviors," "protective factors," and "risk factors" have the same meanings as provided in RCW 70.190.010. A copy of the data used by a school district to prepare and submit a report to the department shall be retained by the district and, in the copy retained by the district, identify the reported acts or behaviors by school site.

(2) The department is designated as the statewide agency for the coordination of all information relating to violence and other intentional injuries, at-risk behaviors, and risk and protective factors.

(3) The department shall provide necessary data to the local health departments for use in planning by or evaluation of any community network authorized under RCW 70.190.060.

(4) The department shall by rule establish requirements for local health departments to perform assessment related to at-risk behaviors and risk and protective factors and to assist community networks in policy development and in planning and other duties under chapter 7, Laws of 1994 sp. sess.

(5) The department may, consistent with its general authority and directives under RCW 43.70.540 through 43.70.560, contract with a college or university that has experience in data collection relating to the health and overall welfare of children to provide assistance to:

(a) State and local health departments in developing new sources of data to track acts of violence, at-risk behaviors, and risk and protective factors; and

(b) Local health departments to compile and effectively communicate data in their communities. [1998 c 245 § 76; 1994 sp.s. c 7 § 202.]

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.70.550 Public health services improvement plan—Contents. The public health services improvement plan developed under RCW 43.70.520 shall include:

(1) Minimum standards for state and local public health assessment, performance measurement, policy development, and assurance regarding social development to reduce at-risk behaviors and risk and protective factors. The department in the development of data collection and reporting requirements for the superintendent of public instruction, schools, and school districts shall consult with the joint select committee on education restructuring and local school districts.

(2)(a) Measurable risk factors that are empirically linked to violent criminal acts by juveniles, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence; and

(b) An evaluation of other factors to determine whether they are empirically related risk factors, such as: Out-of-home placements, poverty, single-parent households, inadequate nutrition, hunger, unemployment, lack of job skills, gang affiliation, lack of recreational or cultural opportunities, school absenteeism, court-ordered parenting plans, physical, emotional, or behavioral problems requiring special needs assistance in K-12 schools, learning disabilities, and any other possible factors.

(3) Data collection and analysis standards on at-risk behaviors and risk and protective factors for use by the local public health departments and the *state council and the local community networks to ensure consistent and interchangeable data.

(4) Recommendations regarding any state or federal statutory barriers affecting data collection or reporting.

The department shall provide an annual report to the Washington state institute for public policy on the implementation of this section. [1994 sp.s. c 7 § 203.]

***Reviser's note:** RCW 70.170.030, which created the health care access and cost control council, was repealed by 1995 c 269 § 2204, effective July 1, 1995.

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.70.555 Assessment standards. The department, in consultation with the family policy council created in chapter 70.190 RCW, shall establish, by rule, standards for local health departments and networks to use in assessment, performance measurement, policy development, and assurance regarding social development to prevent health problems caused by risk factors empirically linked to: Violent criminal acts by juveniles, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence. The standards shall be based on the standards set forth in the public health services improvement plan as required by RCW 43.70.550. [1998 c 245 § 77; 1994 sp.s. c 7 § 204.]

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.70.560 Media violence—Reporting reduction efforts. The legislature encourages the use of a statewide voluntary, socially responsible policy to reduce the emphasis, amount, and type of violence in all public media. The department shall develop a suggested reporting format for use by the print, television, and radio media in reporting their voluntary violence reduction efforts. Each area of the public media may carry out the policy in whatever manner that area deems appropriate. [1994 sp.s. c 7 § 205.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.70.570 Intent—1995 c 43. The legislature declares its intent to implement the recommendations of the public health improvement plan by initiating a program to provide the public health system with the necessary capacity to improve the health outcomes of the population of Washington state and establishing the methodology by which improvement in the health outcomes and delivery of public health activities will be assessed. [1995 c 43 § 1.]

Additional notes found at www.leg.wa.gov

43.70.575 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.70.570 through 43.70.580.

(1) "Capacity" means actions that public health jurisdictions must do as part of ongoing daily operations to adequately protect and promote health and prevent disease, injury, and premature death. The public health improvement plan identifies capacity necessary for assessment, policy development, administration, prevention, including promotion and protection, and access and quality.

(2) "Department" means the department of health.

(3) "Local health jurisdiction" means the local health agency, either county or multicounty, operated by local government, with oversight and direction from a local board of health, that provides public health services throughout a defined geographic area.

(4) "Health outcomes" means long-term objectives that define optimal, measurable, future levels of health status, maximum acceptable levels of disease, injury, or dysfunction, or prevalence of risk factors in areas such as improving

the rate of immunizations for infants and children to ninety percent and controlling and reducing the spread of tuberculosis and that are stated in the public health improvement plan.

(5) "Public health improvement plan," also known as the public health services improvement plan, means the public health services improvement plan established under RCW 43.70.520, developed by the department, in consultation with local health departments and districts, the state board of health, the health services commission, area Indian health services, and other state agencies, health services providers, and residents concerned about public health, to provide a detailed accounting of deficits in the core functions of assessment, policy development, and assurance of the current public health system, how additional public health funding would be used, and to describe the benefits expected from expanded expenditures.

(6) "Public health" means activities that society does collectively to assure the conditions in which people can be healthy. This includes organized community efforts to prevent, identify, preempt, and counter threats to the public's health.

(7) "Public health system" means the department, the state board of health, and local health jurisdictions. [1995 c 43 § 2.]

Additional notes found at www.leg.wa.gov

43.70.580 Public health improvement plan—Funds—Performance-based contracts—Rules—Evaluation and report. The primary responsibility of the public health system, is to take those actions necessary to protect, promote, and improve the health of the population. In order to accomplish this, the department shall:

(1) Identify, as part of the public health improvement plan, the key health outcomes sought for the population and the capacity needed by the public health system to fulfill its responsibilities in improving health outcomes.

(2)(a) Distribute state funds that, in conjunction with local revenues, are intended to improve the capacity of the public health system. The distribution methodology shall encourage system-wide effectiveness and efficiency and provide local health jurisdictions with the flexibility both to determine governance structures and address their unique needs.

(b) Enter into with each local health jurisdiction performance-based contracts that establish clear measures of the degree to which the local health jurisdiction is attaining the capacity necessary to improve health outcomes. The contracts negotiated between the local health jurisdictions and the department of health must identify the specific measurable progress that local health jurisdictions will make toward achieving health outcomes. A community assessment conducted by the local health jurisdiction according to the public health improvement plan, which shall include the results of the comprehensive plan prepared according to RCW 70.190.130, will be used as the basis for identifying the health outcomes. The contracts shall include provisions to encourage collaboration among local health jurisdictions. State funds shall be used solely to expand and complement, but not to supplant city and county government support for public health programs.

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(3) Develop criteria to assess the degree to which capacity is being achieved and ensure compliance by public health jurisdictions.

(4) Adopt rules necessary to carry out the purposes of chapter 43, Laws of 1995.

(5) Biennially, within the public health improvement plan, evaluate the effectiveness of the public health system, assess the degree to which the public health system is attaining the capacity to improve the status of the public's health, and report progress made by each local health jurisdiction toward improving health outcomes. [1995 c 43 § 3.]

Additional notes found at www.leg.wa.gov

43.70.590 American Indian health care delivery plan. Consistent with funds appropriated specifically for this purpose, the department shall establish in conjunction with the area Indian health services system and providers an advisory group comprised of Indian and non-Indian health care facilities and providers to formulate an American Indian health care delivery plan. The plan shall include:

(1) Recommendations to providers and facilities methods for coordinating and joint venturing with the Indian health services for service delivery;

(2) Methods to improve American Indian-specific health programming; and

(3) Creation of co-funding recommendations and opportunities for the unmet health services programming needs of American Indians. [1995 c 43 § 4; 1993 c 492 § 468. Formerly RCW 41.05.240.]

Reviser's note: RCW 41.05.240 was amended and recodified as RCW 43.70.590 by 1995 c 43 without cognizance of the repeal by 1995 1st sp.s. c 6 § 9. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Additional notes found at www.leg.wa.gov

43.70.600 Survey regarding exposure to radio frequencies—Results. When funds are appropriated for this purpose, the department shall conduct a survey of scientific literature regarding the possible health effects of human exposure to the radio frequency part of the electromagnetic spectrum (300Hz to 300GHz). The department may submit the survey results to the legislature, prepare a summary of that survey, and make the summary available to the public. The department may update the survey and summary periodically. [1998 c 245 § 78; 1996 c 323 § 6.]

Findings—1996 c 323: "The legislature finds that concerns have been raised over possible health effects from exposure to some wireless telecommunications facilities, and that exposures from these facilities should be kept as low as reasonably achievable while still allowing the operation of these networks. The legislature further finds that the department of health should serve as the state agency that follows the issues and compiles information pertaining to potential health effects from wireless telecommunications facilities." [1996 c 323 § 1.]

43.70.605 Personal wireless services—Random testing on power density analysis—Rules. Unless this section is preempted by applicable federal statutes, the department may require that in residential zones or areas, all providers of personal wireless services, as defined in *section 1 of this act, provide random test results on power density analysis for the provider's licensed frequencies showing radio frequency levels before and after development of the personal wireless service antenna facilities, following national standards or protocols of the federal communications commission or other federal agencies. This section shall not apply to microcells as

defined in RCW 80.36.375. The department may adopt rules to implement this section. [1996 c 323 § 7.]

***Reviser's note:** The reference to section 1 of this act is erroneous. Section 2 of the act, codified as RCW 43.21C.0384, was apparently intended.

Findings—1996 c 323: See note following RCW 43.70.600.

43.70.610 Domestic violence education program—Established—Findings. The legislature finds that domestic violence is the leading cause of injury among women and is linked to numerous health problems, including depression, abuse of alcohol and other drugs, and suicide. Despite the frequency of medical attention, few people are diagnosed as victims of spousal abuse. The department, in consultation with the disciplinary authorities as defined in RCW 18.130.040, shall establish, within available department general funds, an ongoing domestic violence education program as an integral part of its health professions regulation. The purpose of the education program is to raise awareness and educate health care professionals regarding the identification, appropriate treatment, and appropriate referral of victims of domestic violence. The disciplinary authorities having the authority to offer continuing education may provide training in the dynamics of domestic violence. No funds from the health professions account may be utilized to fund activities under this section unless the disciplinary authority authorizes expenditures from its proportions of the account. A disciplinary authority may defray costs by authorizing a fee to be charged for participants or materials relating to any sponsored program. [1996 c 191 § 89.]

43.70.615 Multicultural health awareness and education program—Integration into health professions basic education preparation curriculum. (1) For the purposes of this section, "multicultural health" means the provision of health care services with the knowledge and awareness of the causes and effects of the determinants of health that lead to disparities in health status between different genders and racial and ethnic populations and the practice skills necessary to respond appropriately.

(2) The department, in consultation with the disciplining authorities as defined in RCW 18.130.040, shall establish, within available department general funds, an ongoing multicultural health awareness and education program as an integral part of its health professions regulation. The purpose of the education program is to raise awareness and educate health care professionals regarding the knowledge, attitudes, and practice skills necessary to care for diverse populations to achieve a greater understanding of the relationship between culture and health. The disciplining authorities having the authority to offer continuing education may provide training in the dynamics of providing culturally competent, multicultural health care to diverse populations. Any such education shall be developed in collaboration with education programs that train students in that health profession. A disciplining authority may require that instructors of continuing education or continuing competency programs integrate multicultural health into their curricula when it is appropriate to the subject matter of the instruction. No funds from the health professions account may be utilized to fund activities under this section unless the disciplining authority authorizes

expenditures from its proportions of the account. A disciplining authority may defray costs by authorizing a fee to be charged for participants or materials relating to any sponsored program.

(3) By July 1, 2008, each education program with a curriculum to train health professionals for employment in a profession credentialed by a disciplining authority under chapter 18.130 RCW shall integrate into the curriculum instruction in multicultural health as part of its basic education preparation curriculum. The department may not deny the application of any applicant for a credential to practice a health profession on the basis that the education or training program that the applicant successfully completed did not include integrated multicultural health curriculum as part of its basic instruction. [2006 c 237 § 2.]

Findings—2006 c 237: "The legislature finds that women and people of color experience significant disparities from the general population in education, employment, healthy living conditions, access to health care, and other social determinants of health. The legislature finds that it shall be a priority for the state to develop the knowledge, attitudes, and practice skills of health professionals and those working with diverse populations to achieve a greater understanding of the relationship between culture and health and gender and health." [2006 c 237 § 1.]

43.70.620 List of contacts—Health care professions. The secretary shall create and maintain a list of contacts with each of the health care professions regulated under the following chapters for the purpose of policy advice and information dissemination: RCW 18.06.080, 18.89.050, and 18.138.070 and chapters 18.135, 18.55, and 18.88A RCW. [1999 c 151 § 402.]

Additional notes found at www.leg.wa.gov

43.70.630 Cost-reimbursement agreements. (1) The department may enter into a written cost-reimbursement agreement with a permit applicant or project proponent to recover from the applicant or proponent the reasonable costs incurred by the department in carrying out the requirements of this chapter, as well as the requirements of other relevant laws, as they relate to permit coordination, environmental review, application review, technical studies, and permit processing.

(2) The cost-reimbursement agreement shall identify the tasks and costs for work to be conducted under the agreement. The agreement must include a schedule that states:

- (a) The estimated number of weeks for initial review of the permit application;
- (b) The estimated number of revision cycles;
- (c) The estimated number of weeks for review of subsequent revision submittals;
- (d) The estimated number of billable hours of employee time;
- (e) The rate per hour; and
- (f) A date for revision of the agreement if necessary.

(3) The written cost-reimbursement agreement shall be negotiated with the permit applicant or project proponent. Under the provisions of a cost-reimbursement agreement, funds from the applicant or proponent shall be used by the department to contract with an independent consultant to carry out the work covered by the cost-reimbursement agreement. The department may also use funds provided under a cost-reimbursement agreement to hire temporary employees,

to assign current staff to review the work of the consultant, to provide necessary technical assistance when an independent consultant with comparable technical skills is unavailable, and to recover reasonable and necessary direct and indirect costs that arise from processing the permit. The department shall, in developing the agreement, ensure that final decisions that involve policy matters are made by the agency and not by the consultant. The department shall make an estimate of the number of permanent staff hours to process the permits, and shall contract with consultants or hire temporary employees to replace the time and functions committed by these permanent staff to the project. The billing process shall provide for accurate time and cost accounting and may include a billing cycle that provides for progress payments.

(4) The cost-reimbursement agreement must not negatively impact the processing of other permit applications. In order to maintain permit processing capacity, the agency may hire outside consultants, temporary employees, or make internal administrative changes. Consultants or temporary employees hired as part of a cost-reimbursement agreement or to maintain agency capacity are hired as agents of the state not of the permit applicant. The restrictions of chapter 42.52 RCW apply to any cost-reimbursement agreement, and to any person hired as a result of a cost-reimbursement agreement. [2009 c 97 § 10; 2007 c 94 § 12; 2003 c 70 § 3; 2000 c 251 § 4.]

Intent—Captions not law—Effective date—2000 c 251: See notes following RCW 43.21A.690.

43.70.640 Workplace breastfeeding policies—Infant-friendly designation. (1) An employer may use the designation "infant-friendly" on its promotional materials if the employer has an approved workplace breastfeeding policy addressing at least the following:

(a) Flexible work scheduling, including scheduling breaks and permitting work patterns that provide time for expression of breast milk;

(b) A convenient, sanitary, safe, and private location, other than a restroom, allowing privacy for breastfeeding or expressing breast milk;

(c) A convenient clean and safe water source with facilities for washing hands and rinsing breast-pumping equipment located in the private location specified in (b) of this subsection; and

(d) A convenient hygienic refrigerator in the workplace for the mother's breast milk.

(2) Employers seeking approval of a workplace breastfeeding policy must submit the policy to the department of health. The department of health shall review and approve those policies that meet the requirements of this section. The department may directly develop and implement the criteria for "infant-friendly" employers, or contract with a vendor for this purpose.

(3) For the purposes of this section, "employer" includes those employers defined in RCW 49.12.005 and also includes the state, state institutions, state agencies, political subdivisions of the state, and municipal corporations or quasi-municipal corporations. [2001 c 88 § 3.]

Acknowledgment—Declaration—Findings—2001 c 88: "(1) The legislature acknowledges the surgeon general's summons to all sectors of society and government to help redress the low breastfeeding rates and dura-

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tion in the United States, including the social and workplace factors that can make it difficult for women to breastfeed. The legislature also acknowledges the surgeon general's report on the health and economic importance of breastfeeding which concludes that:

(a) Breastfeeding is one of the most important contributors to infant health;

(b) Breastfeeding provides a range of benefits for the infant's growth, immunity, and development; and

(c) Breastfeeding improves maternal health and contributes economic benefits to the family, health care system, and workplace.

(2) The legislature declares that the achievement of optimal infant and child health, growth, and development requires protection and support for the practice of breastfeeding. The legislature finds that:

(a) The American academy of pediatrics recommends exclusive breastfeeding for the first six months of a child's life and breastfeeding with the addition of solid foods to continue for at least twelve months, and that arrangements be made to provide expressed breast milk if the mother and child must separate during the first year. Children should be breastfed or fed expressed breast milk when they show signs of need, rather than according to a set schedule or the location;

(b) Breast milk contains all the nutrients a child needs for optimal health, growth, and development, many of which can only be found in breast milk;

(c) Research in developed countries provides strong evidence that breastfeeding decreases the incidence and/or severity of diarrhea, lower respiratory tract infection, otitis media, bacteremia, bacterial meningitis, urinary tract infection, and necrotizing enterocolitis. In addition, a number of studies show a possible protective effect of breastfeeding against AIDS, Type I diabetes mellitus, Crohn's disease, lymphoma, ulcerative colitis, and allergic diseases;

(d) Studies also indicate health benefits in mothers who breastfeed. Breastfeeding is one of the few ways that mothers may be able to lower their risk of developing breast and ovarian cancer, with benefits proportional to the duration that they are able to breastfeed. In addition, the maternal hormonal changes stimulated by breastfeeding also help the uterus recover faster and minimize the amount of blood mothers lose after birth. Breastfeeding inhibits ovulation and menstrual bleeding, thereby decreasing the risk of anemia and a precipitous subsequent pregnancy. Breastfeeding women also have an earlier return to prepregnancy weight;

(e) Approximately two-thirds of women who are employed when they become pregnant return to the workforce by the time their children are six months old;

(f) Employers benefit when their employees breastfeed. Breastfed infants are sick less often; therefore, maternal absenteeism from work is lower in companies with established lactation programs. In addition, employee medical costs are lower and employee productivity is higher;

(g) According to a survey of mothers in Washington, most want to breastfeed but discontinue sooner than they hope, citing lack of societal and workplace support as key factors limiting their ability to breastfeed;

(h) Many mothers fear that they are not making enough breast milk and therefore decrease or discontinue breastfeeding. Frequency of breastfeeding or expressing breast milk is the main regulator of milk supply, such that forcing mothers to go prolonged periods without breastfeeding or expressing breast milk can undermine their ability to maintain breastfeeding; and

(i) Maternal stress can physiologically inhibit a mother's ability to produce and let down milk. Mothers report modifiable sources of stress related to breastfeeding, including lack of protection from harassment and difficulty finding time and an appropriate location to express milk while away from their babies.

(3) The legislature encourages state and local governmental agencies, and private and public sector businesses to consider the benefits of providing convenient, sanitary, safe, and private rooms for mothers to express breast milk." [2001 c 88 § 1.]

43.70.650 School sealant endorsement program—Rules—Fee—Report to the legislature. The secretary is authorized to create a school sealant endorsement program for dental hygienists and dental assistants. The secretary of health, in consultation with the dental quality assurance commission and the dental hygiene examining committee, shall adopt rules to implement this section.

(1) A dental hygienist licensed in this state after April 19, 2001, is eligible to apply for endorsement by the department

of health as a school sealant dental hygienist upon completion of the Washington state school sealant endorsement program. While otherwise authorized to act, currently licensed hygienists may still elect to apply for the endorsement.

(2) A dental assistant employed after April 19, 2001, by a dentist licensed in this state, who has worked under dental supervision for at least two hundred hours, is eligible to apply for endorsement by the department of health as a school sealant dental assistant upon completion of the Washington state school sealant endorsement program. While otherwise authorized to act, currently employed dental assistants may still elect to apply for the endorsement.

(3) The department may impose a fee for implementation of this section.

(4) The secretary shall provide a report to the legislature by December 1, 2005, evaluating the outcome of chapter 93, Laws of 2001. [2001 c 93 § 2.]

Findings—Intent—2001 c 93: "The legislature finds that access to preventive and restorative oral health services by low-income children is currently restricted by complex regulatory, financial, cultural, and geographic barriers that have resulted in a large number of children suffering unnecessarily from dental disease. The legislature also finds that very early exposure to oral health care can reverse this disease in many cases, thereby significantly reducing costs of providing dental services to low-income populations.

It is the intent of the legislature to address the problem of poor access to oral health care by providing for school-based sealant programs through the endorsement of dental hygienists." [2001 c 93 § 1.]

Effective date—2001 c 93: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 19, 2001]." [2001 c 93 § 5.]

43.70.660 Product safety education. (1) The legislature authorizes the secretary to establish and maintain a product safety education campaign to promote greater awareness of products designed to be used by infants and children that:

(a) Are recalled by the United States consumer products safety commission;

(b) Do not meet federal safety regulations and voluntary safety standards;

(c) Are unsafe or illegal to place into the stream of commerce under the infant crib safety act, chapter 70.111 RCW; or

(d) Contain chemicals of high concern for children as identified under RCW 70.240.030.

(2) The department shall make reasonable efforts to ensure that this infant and children product safety education campaign reaches the target population. The target population for this campaign includes, but is not limited to, parents, foster parents and other caregivers, child care providers, consignment and resale stores selling infant and child products, and charitable and governmental entities serving infants, children, and families.

(3) The secretary may utilize a combination of methods to achieve this outreach and education goal, including but not limited to print and electronic media. The secretary may operate the campaign or may contract with a vendor.

(4) The department shall coordinate this infant and children product safety education campaign with child-serving entities including, but not limited to, hospitals, birthing centers, midwives, pediatricians, obstetricians, family practice

physicians, governmental and private entities serving infants, children, and families, and relevant manufacturers.

(5) The department shall coordinate with other agencies and entities to eliminate duplication of effort in disseminating infant and children consumer product safety information.

(6) The department may receive funding for this infant and children product safety education effort from federal, state, and local governmental entities, child-serving foundations, or other private sources. [2008 c 288 § 6; 2001 c 257 § 2.]

Findings—Intent—2001 c 257: "(1) The legislature finds that infants and children in Washington are injured, sometimes fatally, by unsafe consumer products designed for use by infants and children.

(2) The legislature finds that parents and other persons responsible for the care of infants and children are often unaware that some of these consumer products have been recalled or are unsafe.

(3) The legislature intends to address this lack of awareness by establishing a statewide infant and children product safety campaign across Washington state." [2001 c 257 § 1.]

43.70.665 Early detection breast and cervical cancer screening program—Medical advisory committee. (1)

The legislature finds that Washington state has the highest incidence of breast cancer in the nation. Despite this, mortality rates from breast cancer have declined due largely to early screening and detection. Invasive cervical cancer is the most preventable type of cancer. The Pap test, used to detect early signs of this disease, has been called "medicine's most successful screening test." Applied consistently, invasive cervical cancer could nearly be eliminated. The legislature further finds that increasing access to breast and cervical cancer screening is critical to reducing incidence and mortality rates, and eliminating the disparities of this disease in women in Washington state. Furthermore, the legislature finds there is a need for a permanent program providing early detection and screening to the women and families of Washington state.

It is the intent of the legislature to establish an early detection breast and cervical cancer screening program as a voluntary screening program directed at reducing mortalities through early detection to be offered to eligible women only as funds are available.

(2) As used in this section:

(a) "Eligible woman" means a woman who is age forty to sixty-four, and whose income is at or below two hundred fifty percent of the federal poverty level, as published annually by the federal department of health and human services. Priority enrollment shall be given to women as defined by the federal national breast and cervical cancer early detection program, under P.L. 101-354.

(b) "Approved providers" means those state-supported health providers, radiology facilities, and cytological laboratories that are recognized by the department as meeting the minimum program policies and procedures adopted by the department to qualify under the federal national breast and cervical cancer early detection program, and are designated as eligible for funding by the department.

(c) "Comprehensive" means a screening program that focuses on breast and cervical cancer screening as a preventive health measure, and includes diagnostic and case management services.

(3) The department of health is authorized to administer a state-supported early detection breast and cervical cancer

screening program to assist eligible women with preventive health services. To the extent of available funding, eligible women may be enrolled in the early detection breast and cervical cancer screening program and additional eligible women may be enrolled to the extent that grants and contributions from community sources provide sufficient funds for expanding the program.

(4) Funds appropriated for the state program shall be used only to operate early detection breast and cervical cancer screening programs that have been approved by the department, or to increase access to existing state-approved programs, and shall not supplant federally supported breast and cervical cancer early detection programs.

(5) Enrollment in the early detection breast and cervical cancer screening program shall not result in expenditures that exceed the amount that has been appropriated for the program in the operating budget. If it appears that continued enrollment will result in expenditures exceeding the appropriated level for a particular fiscal year, the department may freeze new enrollment in the program. Nothing in this section prevents the department from continuing enrollment in the program if there are adequate private or public funds in addition to those appropriated in the biennial budget to support the cost of such enrollment.

(6) The department shall establish a medical advisory committee composed of interested medical professionals and consumer liaisons with expertise in a variety of areas relevant to breast and cervical health to provide expert medical advice and guidance. The medical advisory committee shall address national, state, and local concerns regarding best practices in the field of early prevention and detection for breast and cervical cancer and assist the early detection breast and cervical cancer screening program in implementing program policy that follows the best practices of high quality health care for clinical, diagnostic, pathologic, radiological, and oncology services. [2006 c 55 § 1.]

43.70.670 Human immunodeficiency virus insurance program. (1) "Human immunodeficiency virus insurance program," as used in this section, means a program that provides health insurance coverage for individuals with human immunodeficiency virus, as defined in RCW 70.24.017(7), who are not eligible for medical assistance programs from the department of social and health services as defined in *RCW 74.09.010(8) and meet eligibility requirements established by the department of health.

(2) The department of health may pay for health insurance coverage on behalf of persons with human immunodeficiency virus, who meet department eligibility requirements, and who are eligible for "continuation coverage" as provided by the federal consolidated omnibus budget reconciliation act of 1985, group health insurance policies, or individual policies. [2007 c 259 § 38; 2003 c 274 § 2.]

*Reviser's note: RCW 74.09.010 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (8) to subsection (9).

Severability—Subheadings not law—2007 c 259: See notes following RCW 41.05.033.

Rules—2003 c 274: "The department of health shall adopt rules to implement this act." [2003 c 274 § 3.]

Effective date—2003 c 274: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2003." [2003 c 274 § 4.]

ernment and its existing public institutions, and takes effect July 1, 2003." [2003 c 274 § 4.]

43.70.680 Volunteers for emergency or disaster assistance. (1) The department is authorized to contact persons issued credentials under this title for the purpose of requesting permission to collect his or her name, profession, and contact information as a possible volunteer in the event of a bioterrorism incident, natural disaster, public health emergency, or other emergency or disaster, as defined in RCW 38.52.010, that requires the services of health care providers.

(2) The department shall maintain a record of all volunteers who provide information under subsection (1) of this section. Upon request, the department shall provide the record of volunteers to:

- (a) Local health departments;
- (b) State agencies engaged in public health emergency planning and response, including the state military department;
- (c) Agencies of other states responsible for public health emergency planning and response; and
- (d) The centers for disease control and prevention. [2003 c 384 § 1.]

43.70.690 State asthma plan. (1) The department, in collaboration with its public and private partners, shall design a state asthma plan, based on clinically sound criteria including nationally recognized guidelines such as those established by the national asthma education prevention partnership expert panel report guidelines for the diagnosis and management of asthma.

(2) The plan shall include recommendations in the following areas:

- (a) Evidence-based processes for the prevention and management of asthma;
- (b) Data systems that support asthma prevalence reporting, including population disparities and practice variation in the treatment of asthma;
- (c) Quality improvement strategies addressing the successful diagnosis and management of the disease; and
- (d) Cost estimates and sources of funding for plan implementation.

(3) The department shall submit the completed state plan to the governor and the legislature by December 1, 2005.

(4) The department shall implement the state plan recommendations made under subsection (2) of this section only to the extent that federal, state, or private funds, including grants, are available for that purpose. [2009 c 518 § 8; 2005 c 462 § 4.]

Findings—2005 c 462: See note following RCW 28A.210.370.

43.70.695 Workforce supply and demographics—Surveys—Public data set—Report to the legislature. (Expires January 1, 2012.) (1) The department, in collaboration with the workforce training and education coordinating board, shall distribute survey questions for the purpose of gathering data related to workforce supply and demographics to all health care providers who hold a license to practice a health profession. The department shall adopt a schedule for distributing surveys by profession so that each profession is surveyed every two years. In developing the survey, the

department shall seek advice from researchers that are likely to use the survey data.

(2)(a) At a minimum, the survey shall include questions related to understanding the following characteristics of individuals in the health care workforce:

- (i) Specialty;
- (ii) Birthdate and gender;
- (iii) Race and ethnicity;
- (iv) Hours in practice per week;
- (v) Practice statistics, including hours spent in direct patient care;
- (vi) Zip codes of the location where the provider practices;
- (vii) Years in practice, years in practice in Washington, location and years in practice in other jurisdictions;
- (viii) Education and training background, including the location and types of education and training received; and
- (ix) Type of facilities where the provider practices.

(b) The department may approve proposals for the distribution of surveys containing additional data elements to selected health care professions if it determines that there is a legitimate research interest in obtaining the information, the additional burden on members of the health care profession is not unreasonable, the effect on survey response rates is not unreasonable, and there are funds available. The department may accept funds through contracts, grants, donations, or other forms of contributions to support more detailed surveys.

(3) The department must make a public data set available that meets the confidentiality requirements of subsection (5) of this section. The department may respond to requests for data and other information from the registry for special studies and analysis pursuant to a data-sharing agreement. Any use of the data by the requestor must comply with the confidentiality requirements of subsection (5) of this section. The department may require requestors to pay any or all of the reasonable costs associated with such requests that may be approved.

(4) The failure to complete or return the survey may not be grounds to withhold, fail to renew, or revoke a license or to impose any other disciplinary sanctions against a credentialed health care provider.

(5) The department must process the surveys that it receives in such a way that the identity of individual providers remains confidential. Data elements related to the identification of individual providers are confidential and are exempt from RCW 42.56.040 through 42.56.570 and *42.17.350 through 42.17.450, except as provided in a data-sharing agreement approved by the department pursuant to subsection (3) of this section.

(6) By July 1, 2009, the department shall provide a report to the appropriate committees of the legislature on the effectiveness of using a survey to obtain information on the supply of health care professionals, the distribution and use of the information obtained by the surveys by employers and health professions education and training programs[,], and the extent to which the surveys have alleviated identified shortages of trained health care providers. [2006 c 236 § 2.]

*Reviser's note: Chapter 42.17 RCW relating to "campaign finance" was recodified pursuant to 2010 c 204 § 1102, effective January 1, 2012. See

Comparative Table for chapter 42.17 RCW in the Table of Disposition of Former RCW Sections, Volume 0.

Findings—Intent—2006 c 236: "The legislature finds that people of color experience significant disparities from the general population in education, employment, healthy living conditions, access to health care, and other social determinants of health. The legislature intends to address barriers to gender-appropriate and culturally and linguistically appropriate health care and health education materials, including increasing the number of female and minority health care providers, through expanded recruiting, education, and retention programs. The legislature finds that before developing a workforce that is representative of the diversity of the state's population, relevant and accurate data on health care professionals, students in health care professions, and recipients of health services must first be collected." [2006 c 236 § 1.]

Effective date—2006 c 236 § 1: "Section 1 of this act takes effect July 1, 2006." [2006 c 236 § 3.]

Expiration date—2006 c 236: "This act expires January 1, 2012." [2006 c 236 § 4.]

43.70.700 Locally grown foods—Women, infant, and children farmers market nutrition program—Rules. (1) The department shall adopt rules authorizing retail operation farms stores, owned and operated by a farmer and colocated with a site of agricultural production, to participate in the women, infant, and children farmers market nutrition program to provide locally grown, nutritious, unprepared fruits and vegetables to eligible program participants.

(2) Such rules must meet the provisions of 7 C.F.R. part 3016, uniform administrative requirements for grants and cooperative agreements to state and local governments, as it existed on June 12, 2008, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. [2008 c 215 § 8.]

Findings—Intent—Short title—Captions not law—Conflict with federal requirements—2008 c 215: See notes following RCW 15.64.060.

43.70.705 Fall prevention program. Within funds appropriated for this purpose, the department shall develop a statewide fall prevention program. The program shall include networking community services, identifying service gaps, making affordable senior-based, evaluated exercise programs more available, providing consumer education to older adults, their adult children, and the community at large, and conducting professional education on fall risk identification and reduction. [2008 c 146 § 7.]

Findings—Intent—Severability—2008 c 146: See notes following RCW 74.41.040.

43.70.710 Annual review of medication practices of five jails that use nonpractitioner jail personnel—Non-compliance. The department of health shall annually review the medication practices of five jails that provide for the delivery and administration of medications to inmates in their custody by nonpractitioner jail personnel. The review shall assess whether the jails are in compliance with sections 3 and 4, chapter 411, Laws of 2009. To the extent that a jail is found not in compliance, the department shall provide technical assistance to assist the jail in resolving any areas of non-compliance. [2009 c 411 § 5.]

43.70.720 Universal vaccine purchase account. The universal vaccine purchase account is created in the custody of the state treasurer. Receipts from public and private

sources for the purpose of increasing access to vaccines for children may be deposited into the account. Expenditures from the account must be used exclusively for the purchase of vaccines, at no cost to health care providers in Washington, to administer to children under nineteen years old who are not eligible to receive vaccines at no cost through federal programs. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2010 c 174 § 10; 2009 c 564 § 934.]

Effective date—2010 c 174: See RCW 70.290.900.

Effective date—2009 c 564: See note following RCW 2.68.020.

43.70.730 Developmental disabilities endowment—Definitions. The definitions in this section apply throughout *RCW 43.330.200 through 43.330.230.

(1) "Developmental disability" has the meaning in RCW 71A.10.020(3).

(2) "Developmental disabilities endowment trust fund" means the fund established in the custody of the state treasurer in *RCW 43.330.200, comprised of private, public, or private and public sources, to finance services for persons with developmental disabilities. All moneys in the fund, all property and rights purchased from the fund, and all income attributable to the fund, shall be held in trust by the state investment board, as provided in RCW 43.33A.030, for the exclusive benefit of fund beneficiaries. The principal and interest of the endowment fund must be maintained until such time as the governing board policy specifies except for the costs and expenses of the state treasurer and the state investment board otherwise provided for in chapter 120, Laws of 2000.

(3) "Governing board" means the developmental disabilities endowment governing board in *RCW 43.330.205.

(4) "Individual trust account" means accounts established within the endowment trust fund for each individual named beneficiary for the benefit of whom contributions have been made to the fund. The money in each of the individual accounts is held in trust as provided for in subsection (2) of this section, and shall not be considered state funds or revenues of the state. The governing board serves as administrator, manager, and recordkeeper for the individual trust accounts for the benefit of the individual beneficiaries. The policies governing the disbursements, and the qualifying services for the trust accounts, shall be established by the governing board. Individual trust accounts are separate accounts within the developmental disabilities endowment trust fund, and are invested for the beneficiaries through the endowment trust fund. [2000 c 120 § 2. Formerly RCW 43.330.195.]

***Reviser's note:** RCW 43.330.200 through 43.330.230 were recodified as RCW 43.70.731 through 43.70.736, respectively, pursuant to 2010 c 271 § 203.

43.70.731 Developmental disabilities endowment—Trust fund. (1) The developmental disabilities endowment trust fund is created in the custody of the state treasurer. Expenditures from the fund may be used only for the purposes of the developmental disabilities endowment established under this chapter, except for expenses of the state investment board and the state treasurer as specified in sub-

section (2) of this section. Only the developmental disabilities endowment governing board or the board's designee may authorize expenditures from the fund. The fund shall retain its interest earnings in accordance with RCW 43.79A.040.

(2) The developmental disabilities endowment governing board shall deposit in the fund all money received for the program, including state appropriations and private contributions. With the exception of investment and operating costs associated with the investment of money by the investment board paid under RCW 43.33A.160 and 43.84.160 and the expenses and operating costs of the state treasurer paid under RCW 43.08.190 and 43.79A.040, the fund shall be credited with all investment income earned by the fund. Disbursements from the fund are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. However, money used for program administration by the department or the governing board is subject to the allotment and budgetary controls of chapter 43.88 RCW, and an appropriation is required for these expenditures. [2000 c 120 § 3; 1999 c 384 § 2. Formerly RCW 43.330.200.]

Intent—1999 c 384: "The legislature recognizes that the main and most enduring support for persons with developmental disabilities, along with public resources, is their immediate and extended families. The legislature recognizes that these families are searching for ways to provide for the long-term continuing care of their disabled family member when the family can no longer provide that care. It is the intent of the legislature to encourage and assist families to engage in long-range financial planning and to contribute to the lifetime care of their disabled family member. To further these objectives, this chapter is enacted to finance lifetime services and supports for persons with developmental disabilities through an endowment funded jointly by the investment of public funds and dedicated family contributions.

The establishment of this endowment is not intended to diminish the state's responsibility for funding services currently available to future endowment participants, subject to available funding, nor is it the intent of the legislature, by the creation of this public/private endowment, to impose additional, unintended financial liabilities on the public." [2000 c 120 § 1; 1999 c 384 § 1.]

Additional notes found at www.leg.wa.gov

43.70.732 Developmental disabilities endowment—Authority of state investment board—Authority of governing board. (1) The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the developmental disabilities endowment trust fund. All investment and operating costs associated with the investment of money shall be paid under RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the fund.

(2) All investments made by the state investment board shall be made with the exercise of that degree of judgment and care under RCW 43.33A.140 and the investment policy established by the state investment board.

(3) As deemed appropriate by the investment board, money in the fund may be commingled for investment with other funds subject to investment by the board.

(4) The authority to establish all policies relating to the fund, other than the investment policies as set forth in subsections (1) through (3) of this section, resides with the governing board acting in accordance with the principles set forth in *RCW 43.330.220. With the exception of expenses of the state treasurer in *RCW 43.330.200 and the investment board set forth in subsection (1) of this section, disbursements from the fund shall be made only on the authorization of the gov-

erning board or the board's designee, and money in the fund may be spent only for the purposes of the developmental disabilities endowment program as specified in this chapter.

(5) The investment board shall routinely consult and communicate with the governing board on the investment policy, earnings of the trust, and related needs of the program. [2000 c 120 § 4. Formerly RCW 43.330.205.]

*Reviser's note: RCW 43.330.220 and 43.330.200 were recodified as RCW 43.70.734 and 43.70.731, respectively, pursuant to 2010 c 271 § 203.

43.70.733 Developmental disabilities endowment—Governing board—Liability of governing board and state investment board. The developmental disabilities endowment governing board is established to design and administer the developmental disabilities endowment. To the extent funds are appropriated for this purpose, the secretary of the department shall provide staff and administrative support to the governing board.

(1) The governing board shall consist of seven members as follows:

(a) Three of the members, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as finance, actuarial science, management, business, or public policy.

(b) Three members of the board, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as business, developmental disabilities service design, management, or public policy, and shall be family members of persons with developmental disabilities.

(c) The seventh member of the board, who shall serve as chair of the board, shall be appointed by the remaining six members of the board.

(2) Members of the board shall serve terms of four years and may be appointed for successive terms of four years at the discretion of the appointing authority. However, the governor may stagger the terms of the initial six members of the board so that approximately one-fourth of the members' terms expire each year.

(3) Members of the board shall be compensated for their service under RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The board shall meet periodically as specified by the call of the chair, or a majority of the board.

(5) Members of the governing board and the state investment board shall not be considered an insurer of the funds or assets of the endowment trust fund or the individual trust accounts. Neither of these two boards or their members shall be liable for the action or inaction of the other.

(6) Members of the governing board and the state investment board are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The department and the state investment board, respectively, may purchase liability insurance for members. [2010 c 271 § 201; 2009 c 565 § 11; 2000 c 120 § 5; 1999 c 384 § 4. Formerly RCW 43.330.210.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Intent—Captions not law—1999 c 384: See notes following RCW 43.70.731.

43.70.734 Developmental disabilities endowment—Endowment principles. The design, implementation, and administration of the developmental disabilities endowment shall be governed by the following principles:

(1) The design and operation of the endowment should reward families who set aside resources for their child's future care and provide incentives for continued caregiving by the family.

(2) The endowment should encourage financial planning and reward caregiving by a broad range of families, not just those who have substantial financial resources.

(3) Families should not feel compelled to contribute to the endowment in order to meet the needs of continuing care for their child.

(4) All families should have equal access to developmental disabilities services not funded through the endowment regardless of whether they contribute to the endowment.

(5) Services funded through the endowment should be stable, ongoing, of reasonable quality, and respectful of individual and family preferences.

(6) Endowment resources should be expended economically in order to benefit as many families as possible.

(7) Endowment resources should be managed prudently so that families can be confident that their agreement with the endowment on behalf of their child will be honored.

(8) The private financial contribution on behalf of each person receiving services from the endowment shall be at least equal to the state's contribution to the endowment.

(9) In order to be matched with funding from the state's contribution to the endowment, the private contribution on behalf of a beneficiary must be sufficient to support the beneficiary's approved service plan for a significant portion of the beneficiary's anticipated remaining lifetime.

(10) The rate that state appropriations to the endowment are used to match private contributions shall be such that each legislative appropriation to the developmental disabilities endowment trust fund, including principal and investment income, is not depleted in a period of less than five years.

(11) Private contributions made on behalf of a particular individual, and the associated state match, shall only be used for services provided upon that person's behalf.

(12) State funds contributed to the developmental disabilities endowment trust fund are to support the individual trust accounts established by individual private contributions made by families or other interested persons for named individual beneficiaries.

(13) The governing board shall explore methods to solicit private donations. The governing board shall explore mechanisms to support individuals with developmental disabilities who do not have individual private contributions made on their behalf. The governing board shall establish policies for the use of any private donations.

(14) Types of services funded by money managed through the developmental disabilities endowment trust fund shall be approved by the governing board or its designee. [2000 c 120 § 6; 1999 c 384 § 5. Formerly RCW 43.330.220.]

Intent—Captions not law—1999 c 384: See notes following RCW 43.70.731.

43.70.735 Developmental disabilities endowment—Development of operating plan—Elements. To the extent funds are appropriated for this purpose, the governing board shall contract with an appropriate organization for the development of a proposed operating plan for the developmental disabilities endowment program. The proposed operating plan shall be consistent with the endowment principles specified in *RCW 43.330.220. The plan shall address at least the following elements:

(1) The recommended types of services to be available through the endowment program and their projected average costs per beneficiary;

(2) An assessment of the number of people likely to apply for participation in the endowment under alternative rates of matching funds, minimum service year requirements, and contribution timing approaches;

(3) An actuarial analysis of the number of disabled beneficiaries who are likely to be supported under alternative levels of public contribution to the endowment, and the length of time the beneficiaries are likely to be served, under alternative rates of matching funds, minimum service year requirements, and contribution timing approaches;

(4) Recommended eligibility criteria for participation in the endowment program;

(5) Recommended policies regarding withdrawal of private contributions from the endowment in cases of movement out of state, death of the beneficiary, or other circumstances;

(6) Recommended matching rate of public and private contributions and, for each beneficiary, the maximum annual and lifetime amount of private contributions eligible for public matching funds;

(7) The recommended minimum years of service on behalf of a beneficiary that must be supported by private contributions in order for the contributions to qualify for public matching funds from the endowment;

(8) The recommended schedule according to which lump sum or periodic private contributions should be made to the endowment in order to qualify for public matching funds;

(9) A recommended program for educating families about the endowment, and about planning for their child's long-term future; and

(10) Recommended criteria and procedure for selecting an organization or organizations to administer the developmental disabilities endowment program, and projected administrative costs. [2000 c 120 § 7. Formerly RCW 43.330.225.]

***Reviser's note:** RCW 43.330.220 was recodified as RCW 43.70.734 pursuant to 2010 c 271 § 203.

43.70.736 Developmental disabilities endowment—Program implementation and administration. Based on the proposed operating plan under *RCW 43.330.225, and to the extent funds are appropriated for this purpose, the developmental disabilities endowment governing board shall implement and administer, or contract for the administration of, the developmental disabilities endowment program under the principles specified in *RCW 43.330.220. By December 1, 2000, and prior to implementation, the final program

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design shall be submitted to the appropriate committees of the legislature.

The secretary of the department of social and health services shall seek to maximize federal reimbursement and matching funds for expenditures made under the endowment program, and shall seek waivers from federal requirements as necessary for the receipt of federal funds.

The governing board may receive gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the endowment program and may expend the gifts, grants, and endowments according to their terms. [2000 c 120 § 8; 1999 c 384 § 7. Formerly RCW 43.330.230.]

***Reviser's note:** RCW 43.330.225 and 43.330.220 were recodified as RCW 43.70.735 and 43.70.734, respectively, pursuant to 2010 c 271 § 203.

Intent—Captions not law—1999 c 384: See notes following RCW 43.70.731.

43.70.737 Developmental disabilities endowment—Rules. The department shall adopt rules for the implementation of policies established by the governing board in RCW 43.70.731 through 43.70.736. Such rules will be consistent with those statutes and chapter 34.05 RCW. [2010 c 271 § 202; 2009 c 565 § 12; 2000 c 120 § 9. Formerly RCW 43.330.240.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

43.70.900 References to the secretary or department of social and health services—1989 1st ex.s. c 9. All references to the secretary or department of social and health services in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the functions transferred in RCW 43.70.080, 18.104.005, 43.83B.005, 43.99D.005, 43.99E.005, 70.08.005, 70.22.005, 70.24.005, 70.40.005, 70.41.005, and 70.54.005. [2007 c 52 § 2; 1990 c 33 § 580; 1989 1st ex.s. c 9 § 801.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

43.70.901 References to the director or department of licensing—1989 1st ex.s. c 9. All references to the director of licensing or department of licensing in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the functions transferred in RCW 43.70.220. [1989 1st ex.s. c 9 § 802.]

43.70.902 References to the hospital commission—1989 1st ex.s. c 9. All references to the hospital commission in the Revised Code of Washington shall be construed to mean the secretary or the department of health. [1989 1st ex.s. c 9 § 803.]

43.70.910 Effective date—1989 1st ex.s. c 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989. [1989 1st ex.s. c 9 § 825.]

43.70.920 Severability—1989 1st ex.s. c 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 1st ex.s. c 9 § 826.]

Chapter 43.72 RCW

HEALTH SYSTEM REFORM— HEALTH SERVICES COMMISSION

Sections

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43.72.915	Effective dates—1993 c 492.
43.72.916	Effective date—1993 c 494.

43.72.011 Definitions. As used in this chapter, "health carrier," "health care provider," "provider," "health plan," and "health care facility" have the same meaning as provided in RCW 48.43.005. [1997 c 274 § 5.]

Additional notes found at www.leg.wa.gov

43.72.090 Uniform or supplemental benefits—Provision by certified health plan only—Uniform benefits package as minimum. (1) On and after December 31, 1995, no person or entity in this state shall provide the uniform benefits package and supplemental benefits as defined in *RCW 43.72.010 without being certified as a certified health plan by the insurance commissioner.

(2) On and after December 31, 1995, no certified health plan may offer less than the uniform benefits package to residents of this state and no registered employer health plan may provide less than the uniform benefits package to its employees and their dependents.

(3) The health services commission may authorize renewal or continuation until December 31, 1996, of health care service contracts, disability group insurance, or health maintenance policies in effect on December 31, 1995. [1995 c 2 § 1; 1993 c 492 § 427.]

Reviser's note: *(1) RCW 43.72.010 was repealed by 1995 c 265 § 27, effective July 1, 1995.

(2) RCW 43.72.090 was also repealed by 1995 c 265 § 27 without cognizance of its amendment by 1995 c 2 § 1. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

Certification: Chapter 48.43 RCW.

Additional notes found at www.leg.wa.gov

43.72.090 Uniform or supplemental benefits—Provision by certified health plan only—Uniform benefits package as minimum. [1993 c 492 § 427.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

Reviser's note: RCW 43.72.090 was also amended by 1995 c 2 § 1 without cognizance of its repeal by 1995 c 265 § 27. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

43.72.180 Legislative approval—Uniform benefits package and medical risk adjustment mechanisms. The legislature may disapprove of the uniform benefits package developed under *RCW 43.72.130 and medi-

cal risk adjustment mechanisms developed under **RCW 43.72.040(7) by an act of law at any time prior to the last day of the following regular legislative session. If such disapproval action is taken, the commission shall resubmit a modified package to the legislature within fifteen days of the disapproval. If the legislature does not disapprove or modify the package by an act of law by the end of that regular session, the package is deemed approved. [1995 c 2 § 2; 1993 c 492 § 454.]

Reviser's note: *(1) RCW 43.72.130 was repealed by 1995 c 265 § 27, effective July 1, 1995.

** (2) RCW 43.72.040 was repealed by 1995 c 265 § 27, effective July 1, 1995.

(3) RCW 43.72.180 was also repealed by 1995 c 265 § 27 without cognizance of its amendment by 1995 c 2 § 2. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

Additional notes found at www.leg.wa.gov

43.72.180 Legislative approval—Uniform benefits package and medical risk adjustment mechanisms. [1993 c 492 § 454.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

Reviser's note: RCW 43.72.180 was also amended by 1995 c 2 § 2 without cognizance of its repeal by 1995 c 265 § 27. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

43.72.300 Managed competition—Findings and intent. (1) The legislature recognizes that competition among health care providers, facilities, payers, and purchasers will yield the best allocation of health care resources, the lowest prices for health care services, and the highest quality of health care when there exists a large number of buyers and sellers, easily comparable health plans and services, minimal barriers to entry and exit into the health care market, and adequate information for buyers and sellers to base purchasing and production decisions. However, the legislature finds that purchasers of health care services and health care coverage do not have adequate information upon which to base purchasing decisions; that health care facilities and providers of health care services face legal and market disincentives to develop economies of scale or to provide the most cost-efficient and efficacious service; that health insurers, contractors, and health maintenance organizations face market disincentives in providing health care coverage to those Washington residents with the most need for health care coverage; and that potential competitors in the provision of health care coverage bear unequal burdens in entering the market for health care coverage.

(2) The legislature therefore intends to exempt from state anti-trust laws, and to provide immunity from federal anti-trust laws through the state action doctrine for activities approved under this chapter that might otherwise be constrained by such laws and intends to displace competition in the health care market: To contain the aggregate cost of health care services; to promote the development of comprehensive, integrated, and cost-effective health care delivery systems through cooperative activities among health care providers and facilities; to promote comparability of health care coverage; to improve the cost-effectiveness in providing health care coverage relative to health promotion, disease prevention, and the amelioration or cure of illness; to assure universal access to a publicly determined, uniform package of health care benefits; and to create reasonable equity in the distribution of funds, treatment, and medical risk among purchasers of health care coverage, payers of health care ser-

vices, providers of health care services, health care facilities, and Washington residents. To these ends, any lawful action taken pursuant to chapter 492, Laws of 1993 by any person or entity created or regulated by chapter 492, Laws of 1993 are declared to be taken pursuant to state statute and in furtherance of the public purposes of the state of Washington.

(3) The legislature does not intend and unless explicitly permitted in accordance with RCW 43.72.310 or under rules adopted pursuant to chapter 492, Laws of 1993, does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal anti-trust laws including but not limited to conspiracies or agreements:

(a) Among competing health care providers not to grant discounts, not to provide services, or to fix the price of their services;

(b) Among health carriers as to the price or level of reimbursement for health care services;

(c) Among health carriers to boycott a group or class of health care service providers;

(d) Among purchasers of health plan coverage to boycott a particular plan or class of plans;

(e) Among health carriers to divide the market for health care coverage; or

(f) Among health carriers and purchasers to attract or discourage enrollment of any Washington resident or groups of residents in a health plan based upon the perceived or actual risk of loss in including such resident or group of residents in a health plan or purchasing group. [1997 c 274 § 6; 1993 c 492 § 447.]

Additional notes found at www.leg.wa.gov

43.72.310 Managed competition—Competitive oversight—Attorney general duties—Anti-trust immunity—Fees. (1) A health carrier, health care facility, health care provider, or other person involved in the development, delivery, or marketing of health care or health plans may request, in writing, that the department of health obtain an informal opinion from the attorney general as to whether particular conduct is authorized by chapter 492, Laws of 1993. Trade secret or proprietary information contained in a request for informal opinion shall be identified as such and shall not be disclosed other than to an authorized employee of the department of health or attorney general without the consent of the party making the request, except that information in summary or aggregate form and market share data may be contained in the informal opinion issued by the attorney general. The attorney general shall issue such opinion within thirty days of receipt of a written request for an opinion or within thirty days of receipt of any additional information requested by the attorney general necessary for rendering an opinion unless extended by the attorney general for good cause shown. If the attorney general concludes that such conduct is not authorized by chapter 492, Laws of 1993, the person or organization making the request may petition the department of health for review and approval of such conduct in accordance with subsection (3) of this section.

(2) After obtaining the written opinion of the attorney general and consistent with such opinion, the department of health:

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(a) May authorize conduct by a health carrier, health care facility, health care provider, or any other person that could tend to lessen competition in the relevant market upon a strong showing that the conduct is likely to achieve the policy goals of chapter 492, Laws of 1993 and a more competitive alternative is impractical;

(b) Shall adopt rules governing conduct among providers, health care facilities, and health carriers including rules governing provider and facility contracts with health carriers, rules governing the use of "most favored nation" clauses and exclusive dealing clauses in such contracts, and rules providing that health carriers in rural areas contract with a sufficient number and type of health care providers and facilities to ensure consumer access to local health care services;

(c) Shall adopt rules permitting health care providers within the service area of a plan to collectively negotiate the terms and conditions of contracts with a health carrier including the ability of providers to meet and communicate for the purposes of these negotiations;

(d) Shall adopt rules governing cooperative activities among health care facilities and providers; and

(e) Effective July 1, 1997, in addition to the rule-making authority granted to the department under this section, the department shall have the authority to enforce and administer rules previously adopted by the health services commission and the health care policy board pursuant to RCW 43.72.310.

(3) A health carrier, health care facility, health care provider, or any other person involved in the development, delivery, and marketing of health care services or health plans may file a written petition with the department of health requesting approval of conduct that could tend to lessen competition in the relevant market. Such petition shall be filed in a form and manner prescribed by rule of the department of health.

The department of health shall issue a written decision approving or denying a petition filed under this section within ninety days of receipt of a properly completed written petition unless extended by the department of health for good cause shown. The decision shall set forth findings as to benefits and disadvantages and conclusions as to whether the benefits outweigh the disadvantages.

(4) In authorizing conduct and adopting rules of conduct under this section, the department of health with the advice of the attorney general, shall consider the benefits of such conduct in furthering the goals of health care reform including but not limited to:

(a) Enhancement of the quality of health services to consumers;

(b) Gains in cost efficiency of health services;

(c) Improvements in utilization of health services and equipment;

(d) Avoidance of duplication of health services resources; or

(e) And as to (b) and (c) of this subsection: (i) Facilitates the exchange of information relating to performance expectations; (ii) simplifies the negotiation of delivery arrangements and relationships; and (iii) reduces the transactions costs on the part of health carriers and providers in negotiating more cost-effective delivery arrangements.

These benefits must outweigh disadvantages including and not limited to:

(i) Reduced competition among health carriers, health care providers, or health care facilities;

(ii) Adverse impact on quality, availability, or price of health care services to consumers; or

(iii) The availability of arrangements less restrictive to competition that achieve the same benefits.

(5) Conduct authorized by the department of health shall be deemed taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(6) With the assistance of the attorney general's office, the department of health shall actively supervise any conduct authorized under this section to determine whether such conduct or rules permitting certain conduct should be continued and whether a more competitive alternative is practical. The department of health shall periodically review petitioned conduct through, at least, annual progress reports from petitioners, annual or more frequent reviews by the department of health that evaluate whether the conduct is consistent with the petition, and whether the benefits continue to outweigh any disadvantages. If the department of health determines that the likely benefits of any conduct approved through rule, petition, or otherwise by the department of health no longer outweigh the disadvantages attributable to potential reduction in competition, the department of health shall order a modification or discontinuance of such conduct. Conduct ordered discontinued by the department of health shall no longer be deemed to be taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(7) Nothing contained in chapter 492, Laws of 1993 is intended to in any way limit the ability of rural hospital districts to enter into cooperative agreements and contracts pursuant to RCW 70.44.450 and chapter 39.34 RCW.

(8) The secretary of health shall from time to time establish fees to accompany the filing of a petition or a written request to the department to obtain an opinion from the attorney general under this section and for the active supervision of conduct approved under this section. Such fees may vary according to the size of the transaction proposed in the petition or under active supervision. In setting such fees, the secretary shall consider that consumers and the public benefit when activities meeting the standards of this section are permitted to proceed; the importance of assuring that persons sponsoring beneficial activities are not foreclosed from filing a petition under this section because of the fee; and the necessity to avoid a conflict, or the appearance of a conflict, between the interests of the department and the public. The total fee for a petition under this section, a written request to the department to obtain an opinion from the attorney general, or a combination of both regarding the same conduct shall not exceed the level that will defray the reasonable costs the department and attorney general incur in considering a petition and in no event shall be greater than twenty-five thousand dollars. The fee for review of approved conduct shall not exceed the level that will defray the reasonable costs the department and attorney general incur in conducting such a review and in no event shall be greater than ten thousand dollars per annum. The fees shall be fixed by rule adopted in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW, and shall be deposited in the health professions account established in accordance with

RCW 43.70.320. [1997 c 274 § 7; 1995 c 267 § 8; 1993 c 492 § 448.]

Additional notes found at www.leg.wa.gov

43.72.860 Managed care pilot projects. (1) The department of labor and industries, in consultation with the workers' compensation advisory committee, may conduct pilot projects to purchase medical services for injured workers through managed care arrangements. The projects shall assess the effects of managed care on the cost and quality of, and employer and employee satisfaction with, medical services provided to injured workers.

(2) The pilot projects may be limited to specific employers. The implementation of a pilot project shall be conditioned upon a participating employer and a majority of its employees, or, if the employees are represented for collective bargaining purposes, the exclusive bargaining representative, voluntarily agreeing to the terms of the pilot. Unless the project is terminated by the department, both the employer and employees are bound by the project agreements for the duration of the project.

(3) Solely for the purpose and duration of a pilot project, the specific requirements of Title 51 RCW that are identified by the department as otherwise prohibiting implementation of the pilot project shall not apply to the participating employers and employees to the extent necessary for conducting the project. Managed care arrangements for the pilot projects may include the designation of doctors responsible for the care delivered to injured workers participating in the projects.

(4) The projects shall conclude no later than January 1, 1997. [1998 c 245 § 79; 1995 c 81 § 2; 1993 c 492 § 486.]

43.72.902 Public health services account. The public health services account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended only for maintaining and improving the health of Washington residents through the public health system. For purposes of this section, the public health system shall consist of the state board of health, the state department of health, and local health departments and districts. During the 2001-2003 biennium, moneys in the fund may also be used for costs associated with hepatitis C testing and treatment in correctional facilities. [2001 2nd sp.s. c 7 § 916; 2000 2nd sp.s. c 1 § 913; 1995 c 43 § 12; 1993 c 492 § 470.]

Severability—Effective date—2001 2nd sp.s. c 7: See notes following RCW 43.320.110.

Severability—Effective date—2000 2nd sp.s. c 1: See notes following RCW 41.05.143.

Additional notes found at www.leg.wa.gov

43.72.904 Health system capacity account. The health system capacity account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended for the following purposes: Health data systems; health systems and public health research; health system regulation; health system planning, development, and administration; and improving the

supply and geographic distribution of primary health service providers. [1993 c 492 § 471.]

43.72.910 Short title—1993 c 492. This act may be known and cited as the Washington health services act of 1993. [1993 c 492 § 487.]

43.72.911 Severability—1993 c 492. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 492 § 490.]

43.72.912 Savings—1993 c 492. The enactment of this act does not have the effect of terminating, or in any way modifying, any obligation or any liability, civil or criminal, which was already in existence on the effective date of this act. [1993 c 492 § 491.]

43.72.913 Captions not law—1993 c 492. Captions used in this act do not constitute any part of the law. [1993 c 492 § 492.]

43.72.914 Reservation of legislative power—1993 c 492. The legislature reserves the right to amend or repeal all or any part of this act at any time and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this act or any acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this act at any time. [1993 c 492 § 494.]

43.72.915 Effective dates—1993 c 492. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993, except for:

(1) Sections 234 through 243, 245 through 254, and 257 of this act, which shall take effect January 1, 1996, or January 1, 1998, if funding is not provided as set forth in section 17(4) of this act; and

(2) Sections 301 through 303 of this act, which shall take effect January 1, 1994. [1995 c 43 § 15; 1993 sp.s. c 25 § 603; 1993 c 492 § 495.]

Additional notes found at www.leg.wa.gov

43.72.916 Effective date—1993 c 494. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993. [1993 c 494 § 8.]

Chapter 43.75 RCW

STATE BUILDING AUTHORITY— INDEBTEDNESS—REFUNDING—BOND ISSUE

Sections

43.75.200 General obligation bonds—Refunding—Amount—Authority of state finance committee to issue.

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43.75.205 General obligation bonds—Form, terms, covenants, etc.—Sale—Redemption.

43.75.215 General obligation bonds—Redemption—Enforcement.

43.75.225 Rescission of leases and agreements authorized.

43.75.230 Legislature may provide additional means for paying bonds.

43.75.235 Bonds legal investment for state and other public body funds.

43.75.900 Severability—1973 c 9.

43.75.910 Effective date—1973 c 9.

43.75.200 General obligation bonds—Refunding—Amount—Authority of state finance committee to issue. The state finance committee shall issue general obligation bonds of the state in the amount of seventy-two million one hundred sixty-seven thousand, six hundred fifty dollars, or so much thereof as may be required to refund, at or prior to maturity, all indebtedness, including any premium payable with respect thereto and all interest thereon, incurred by the Washington state building authority and to pay all costs incidental thereto and to the issuance of such bonds. Such refunding bonds shall not constitute an indebtedness of the state of Washington within the meaning of the debt limitation contained in section 1 of Article VIII of the Washington state Constitution, as amended by a vote of the people pursuant to HJR 52, 1971 regular session. [1973 c 9 § 1; 1971 ex.s. c 154 § 1.]

43.75.205 General obligation bonds—Form, terms, covenants, etc.—Sale—Redemption. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds herein authorized shall be sold for less than the par value thereof. Such bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds. Such bonds shall be payable at such places as the committee may provide.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due.

The proceeds from the sale of bonds authorized by this chapter and any interest earned on the interim investment of such proceeds, shall be used exclusively for the purposes specified in this chapter. [1973 c 9 § 2.]

43.75.215 General obligation bonds—Redemption—Enforcement. The state finance committee shall on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet retirement and interest requirements of such bonds, and on July 1st of each year the state treasurer shall deposit from any general state revenues such amount in the state building authority bond redemption fund hereby created in the state treasury. The owner and holder of each of the bonds or the trustee for any of the bondholders may by a mandamus or other appro-

private proceeding require the transfer and payment of funds as directed by this section. [1973 c 9 § 3.]

43.75.225 Rescission of leases and agreements authorized. The Washington state building authority and the state institutions of higher learning and other state agencies are hereby authorized to rescind leases and other agreements entered into prior to February 21, 1973, pursuant to chapter 43.75 RCW as such time as all indebtedness incurred by the authority has been paid. [1973 c 9 § 5.]

43.75.230 Legislature may provide additional means for paying bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized by this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1973 c 9 § 6.]

43.75.235 Bonds legal investment for state and other public body funds. The bonds authorized by this chapter shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1973 c 9 § 7.]

43.75.900 Severability—1973 c 9. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 c 9 § 9.]

43.75.910 Effective date—1973 c 9. This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and, except as otherwise specifically provided, shall take effect immediately. [1973 c 9 § 10.]

Chapter 43.78 RCW

PUBLIC PRINTER—PUBLIC PRINTING

Sections

43.78.010	Appointment of public printer.
43.78.020	Bond.
43.78.030	Duties—Exceptions.
43.78.040	Requisitions.
43.78.050	Itemized statement of charges.
43.78.070	Use of state plant—Conditions—Public printer's salary.
43.78.080	Printing specifications.
43.78.090	Reprinting.
43.78.100	Stock to be furnished.
43.78.105	Printing for institutions of higher education—Interlocal agreements.
43.78.110	Securing printing from private sources—Definitions.
43.78.130	Public printing for state agencies and municipal corporations—Exceptions to instate requirements.
43.78.140	Public printing for state agencies and municipal corporations—Allowance of claims.
43.78.150	Public printing for state agencies and municipal corporations—Contracts for out-of-state work.
43.78.160	Public printing for state agencies and municipal corporations—Quality and workmanship requirements.
43.78.170	Recycled copy and printing paper requirement.

43.78.010 Appointment of public printer. There shall be a public printer appointed by the governor with the advice

and consent of the senate, who shall hold office at the pleasure of the governor and until his or her successor is appointed and qualified. [2009 c 549 § 5146; 1981 c 338 § 6; 1965 c 8 § 43.78.010. Prior: 1905 c 168 § 1; RRS § 10323.]

43.78.020 Bond. Before entering upon the duties of his or her office, the public printer shall execute to the state a bond in the sum of ten thousand dollars conditioned for the faithful and punctual performance of all duties and trusts of his or her office. [2009 c 549 § 5147; 1965 c 8 § 43.78.020. Prior: 1933 c 97 § 4; 1905 c 168 § 2; RRS § 10324.]

43.78.030 Duties—Exceptions. The public printer shall print and bind the session laws, the journals of the two houses of the legislature, all bills, resolutions, documents, and other printing and binding of either the senate or house, as the same may be ordered by the legislature; and such forms, blanks, record books, and printing and binding of every description as may be ordered by all state officers, boards, commissions, and institutions, and the supreme court, and the court of appeals and officers thereof, as the same may be ordered on requisition, from time to time, by the proper authorities. This section shall not apply to the printing of the supreme court and the court of appeals reports, to the printing of bond certificates or bond offering disclosure documents, to the printing of educational publications of the state historical societies, or to any printing done or contracted for by institutions of higher education: PROVIDED, That institutions of higher education, in consultation with the public printer, develop vendor selection procedures comparable to those used by the public printer for contracted printing jobs. Where any institution or institution of higher learning of the state is or may become equipped with facilities for doing such work, it may do any printing: (1) For itself, or (2) for any other state institution when such printing is done as part of a course of study relative to the profession of printer. Any printing and binding of whatever description as may be needed by any institution or agency of the state department of social and health services not at Olympia, or the supreme court or the court of appeals or any officer thereof, the estimated cost of which shall not exceed one thousand dollars, may be done by any private printing company in the general vicinity within the state of Washington so ordering, if in the judgment of the officer of the agency so ordering, the saving in time and processing justifies the award to such local private printing concern.

Beginning on July 1, 1989, and on July 1 of each succeeding odd-numbered year, the dollar limit specified in this section shall be adjusted as follows: The office of financial management shall calculate such limit by adjusting the previous biennium's limit by an appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest fifty dollars.

During the 2009-2011 fiscal biennium, this section does not apply to pilot printing projects authorized by the office of financial management to allow state agencies and institutions to directly acquire printing services. [2010 1st sp.s. c 37 § 927; 1994 c 82 § 1; 1993 c 379 § 104; 1988 c 102 § 1; 1987 c 72 § 1; 1982 c 164 § 2; 1971 c 81 § 114; 1965 c 8 § 43.78.030.]

Prior: 1959 c 88 § 1; 1917 c 129 § 1; 1915 c 27 § 2; 1905 c 168 § 3; RRS § 10325.]

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Promotional printing for

apple commission, exemption: RCW 15.24.085.

beef commission, exemption: RCW 16.67.170.

dairy products commission, exemption: RCW 15.24.085.

fruit commission, exemption: RCW 15.24.085.

honey bee commission, exemption: RCW 15.62.190.

Session laws, legislative journals, delivery to statute law committee: RCW 40.04.030.

Washington court reports commission, member: RCW 2.32.160.

43.78.040 Requisitions. All printing and binding shall be done under the general superintendence of the authorities ordering it, and when completed shall be delivered to such authorities, who shall sign receipts therefor.

Before the public printer shall execute any printing or binding for any office, board, commission, or institution, the proper officer thereof shall apply therefor by requisition. [1965 c 8 § 43.78.040. Prior: 1905 c 168 § 4; RRS § 10326.]

43.78.050 Itemized statement of charges. Upon delivering a printing or binding job and receiving a receipt therefor the public printer shall make out, and deliver to the requesting agency an itemized statement of charges. [1965 c 8 § 43.78.050. Prior: 1905 c 168 § 5, part; RRS § 10327.]

43.78.070 Use of state plant—Conditions—Public printer's salary. The public printer shall use the state printing plant upon the following conditions, to wit:

(1) He or she shall do the public printing, and charge therefor the fees as provided by law. He or she may print the Washington Reports for the publishers thereof under a contract approved in writing by the governor.

(2) The gross income of the public printer shall be deposited in an account designated "state printing plant revolving fund" in depositories approved by the state treasurer, and shall be disbursed by the public printer by check and only as follows:

First, in payment of the actual cost of labor, material, supplies, replacements, repairs, water, light, heat, telephone, rent, and all other expenses necessary in the operation of the plant: PROVIDED, That no machinery shall be purchased except on written approval of the governor;

Second, in payment of the cost of reasonable insurance upon the printing plant, payable to the state and of all fidelity bonds required by law of the public printer;

Third, in payment to the public printer of a salary which shall be fixed by the governor in accordance with the provisions of RCW 43.03.040;

Fourth, in remitting the balance to the state treasurer for the general fund: PROVIDED, That a reasonable sum to be determined by the governor, the public printer, and the director of financial management shall be retained in the fund for working capital for the public printer. [2009 c 549 § 5148; 1979 c 151 § 134; 1965 c 8 § 43.78.070. Prior: 1961 c 307 § 5; 1955 c 340 § 12; 1951 c 151 § 1; 1933 c 97 § 3; RRS § 10327-2.]

(2010 Ed.)

43.78.080 Printing specifications. All printing, ruling, binding, and other work done or supplies furnished by the state printing plant for the various state departments, commissions, institutions, boards, and officers shall be paid for on an actual cost basis as determined from a standard cost finding system to be maintained by the state printing plant. In no event shall the price charged the various state departments, commissions, institutions, boards, and officers exceed those established by the Porte Publishing Company's Franklin Printing Catalogue for similar and comparable work. All bills for printing, ruling, binding, and other work done or for supplies furnished by the state printing plant shall be certified and sworn to by the public printer.

The public printing shall be divided into the following classes:

FIRST CLASS. The bills, resolutions, and other matters that may be ordered by the legislature, or either branch thereof, in bill form, shall constitute the first class, and shall be printed in such form as the legislature shall provide.

SECOND CLASS. The second class shall consist of printing and binding of journals of the senate and house of representatives, and the annual and biennial reports of the several state officers, state commissions, boards, and institutions, with the exception of the reports of the attorney general and the governor's message to the legislature, which shall be printed and bound in the same style as heretofore. Said journals and reports shall be printed in such form as the senate and house of representatives and the various state officers, commissions, boards, and institutions shall respectively provide.

THIRD CLASS. The third class shall consist of all reports, communications, and all other documents that may be ordered printed in book form by the legislature or either branch thereof, and all reports, books, pamphlets, and other like matter printed in book form required by all state officers, boards, commissions, and institutions shall be printed in such form and style, and set in such size type, and printed on such grade of paper as may be desired by the state officer, board, commission, or institution ordering them, and which they think will best serve the purpose for which intended.

FOURTH CLASS. The fourth class shall consist of the session laws, and shall be printed and bound in such form as the statute law committee shall provide.

FIFTH CLASS. The fifth class shall consist of the printing of all stationery blanks, record books, and circulars, and all printing and binding required by the respective state officers, boards, commissions, and institutions not covered by classes one, two, three, and four. [1972 ex.s. c 1 § 1; 1969 c 6 § 7; 1965 c 8 § 43.78.080. Prior: 1955 c 16 § 1; 1943 c 124 § 1; 1935 c 130 § 1; 1919 c 37 § 1; 1917 c 129 § 3; 1905 c 168 § 6; RRS § 10329.]

43.78.090 Reprinting. Whenever required by law or by the legislature or by any state officer, board, commission, or institution the public printer shall keep the type used in printing any matter forming a part of the first, second, third, and fourth classes standing for a period not exceeding sixty days for use in reprinting such matter. [1965 c 8 § 43.78.090. Prior: 1935 c 130 § 2; 1919 c 37 § 2; 1907 c 174 § 1; RRS § 10330.]

43.78.100 Stock to be furnished. The public printer shall furnish all paper, stock, and binding materials required in all public work, and shall charge the same to the state, as it is actually used, at the actual price at which it was purchased plus five percent for waste, insurance, storage, and handling. This section does not apply to institutions of higher education. [1993 c 379 § 106; 1965 c 8 § 43.78.100. Prior: 1917 c 129 § 5; 1905 c 168 § 9; RRS § 10333.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

43.78.105 Printing for institutions of higher education—Interlocal agreements. The public printer may use the state printing plant for the purposes of printing or furnishing materials under RCW 43.78.100 if an interlocal agreement under chapter 39.34 RCW has been executed between an institution of higher education and the public printer. [1993 c 379 § 105.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

43.78.110 Securing printing from private sources—Definitions. (1) Whenever in the judgment of the public printer certain printing, ruling, binding, or supplies can be secured from private sources more economically than by doing the work or preparing the supplies in the state printing plant, the public printer may obtain such work or supplies from such private sources. The solicitation for the contract opportunity must be posted on the state's common vendor registration and bid notification system. The public printer shall develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of such services or supplies from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments.

(2) In event any work or supplies are secured on behalf of the state under this section the state printing plant shall be entitled to add up to five percent to the cost thereof to cover the handling of the orders which shall be added to the bills and charged to the respective authorities ordering the work or supplies. The five percent handling charge shall not apply to contracts with institutions of higher education.

(3) The definitions in this subsection apply throughout this section.

(a) "Common vendor registration and bid notification system" has the definition in RCW 39.29.006.

(b) "Small business" has the definition in RCW 39.29.006. [2009 c 486 § 12; 1993 c 379 § 107; 1982 c 164 § 3; 1969 c 79 § 1; 1965 c 8 § 43.78.110. Prior: 1935 c 130 § 3; RRS § 10333-1.]

Intent—2009 c 486: See note following RCW 39.29.006.

Conflict with federal requirements—2009 c 486: See note following RCW 28B.30.530.

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

43.78.130 Public printing for state agencies and municipal corporations—Exceptions to instate requirements. All printing, binding, and stationery work done for any state agency, county, city, town, port district, or school

district in this state shall be done within the state, and all proposals, requests, or invitations to submit bids, prices, or contracts thereon, and all contracts for such work, shall so stipulate: PROVIDED, That whenever it is established that any such work cannot be executed within the state, or that the lowest charge for which it can be procured within the state, exceeds the charge usually and customarily made to private individuals and corporations for work of similar character and quality, or that all bids for the work or any part thereof are excessive and not reasonably competitive, the officers of any such public corporation may have the work done outside the state. [1999 c 365 § 1; 1965 c 8 § 43.78.130. Prior: 1919 c 80 § 1; RRS § 10335.]

43.78.140 Public printing for state agencies and municipal corporations—Allowance of claims. No bill or claim for any such work shall be allowed by any officer of a state agency or public corporation or be paid out of its funds, unless it appears that the work was executed within the state or that the execution thereof within the state could not have been procured, or procured at reasonable and competitive rates, and no action shall be maintained against such corporation or its officers upon any contract for such work unless it is alleged and proved that the work was done within the state or that the bids received therefor were unreasonable or not truly competitive. [1999 c 365 § 2; 1965 c 8 § 43.78.140. Prior: 1919 c 80 § 2; RRS § 10336.]

43.78.150 Public printing for state agencies and municipal corporations—Contracts for out-of-state work. All contracts for such work to be done outside the state shall require that it be executed under conditions of employment which shall substantially conform to the laws of this state respecting hours of labor, the minimum wage scale, and the rules and regulations of the department of labor and industries regarding conditions of employment, hours of labor, and minimum wages, and shall be favorably comparable to the labor standards and practices of the lowest competent bidder within the state, and the violation of any such provision of any contract shall be ground for cancellation thereof. [1994 c 164 § 12; 1973 1st ex.s. c 154 § 86; 1965 c 8 § 43.78.150. Prior: 1953 c 287 § 1; 1919 c 80 § 3; RRS § 10337.]

Additional notes found at www.leg.wa.gov

43.78.160 Public printing for state agencies and municipal corporations—Quality and workmanship requirements. Nothing in RCW 43.78.130, 43.78.140 and 43.78.150 shall be construed as requiring any public official to accept any such work of inferior quality or workmanship. [1965 c 8 § 43.78.160. Prior: 1919 c 80 § 4; RRS § 10338.]

43.78.170 Recycled copy and printing paper requirement. The public printer shall use one hundred percent recycled copy and printing paper for all jobs printed on white copy and printing paper. [2009 c 356 § 5; 1996 c 198 § 3; 1991 c 297 § 10.]

Additional notes found at www.leg.wa.gov

Chapter 43.79 RCW

STATE FUNDS

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Wildlife account: Chapter 77.12 RCW.

43.79.010 General fund, how constituted. All moneys paid into the state treasury, except moneys received from taxes levied for specific purposes, and the several permanent funds of the state and the moneys derived therefrom, shall be paid into the general fund of the state. [2007 c 215 § 5; 1965 c 8 § 43.79.010. Prior: 1907 c 8 § 1; RRS § 5509.]

Finding—Intent—Contingent effective date—2007 c 215: See notes following RCW 39.42.070.

43.79.015 Accounts in general fund designated as accounts in state treasury—Credit of earnings to general fund. On and after July 1, 1985, all accounts heretofore or hereafter created in the state general fund shall be designated and treated as accounts in the state treasury. Unless otherwise designated by statute, all earnings on balances of such accounts shall be credited to the general fund. [1985 c 57 § 89.]

Additional notes found at www.leg.wa.gov

43.79.018 Obsolete funds and accounts—List provided to the office of financial management and legislative

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committees. By October 31st of each odd-numbered year, the state treasurer shall provide to the office of financial management and the appropriate fiscal committees of the legislature a list of any funds or accounts in the state treasury or in the custody of the state treasurer that he or she believes to be obsolete. The list must include the standard or process the treasurer used to determine whether an account is believed to be obsolete. [2010 c 222 § 6.]

Intent—2010 c 222: See note following RCW 43.08.150.

43.79.019 Locally held accounts—Review—Requested legislation to hold accounts in state treasury or custody of state treasurer. By June 1, 2010, the office of financial management shall provide the state treasurer with a list of all funds or accounts held locally by any state agency. By October 31, 2010, the state treasurer, working with the office of financial management, shall review all locally held accounts, other than those held by institutions of higher education, and determine whether it would be financially advantageous to the state for those accounts to instead be held in the state treasury or in the custody of the state treasurer. When the treasurer deems it financially advantageous for local accounts to be held in the custody of the state treasurer or in the state treasury, he or she is encouraged to propose executive request legislation to effect those changes. [2010 c 222 § 7.]

Intent—2010 c 222: See note following RCW 43.08.150.

43.79.020 License fees to general fund. Except as otherwise provided by law, all moneys received as fees for the issuance of licenses upon examination, and the renewal thereof, and paid into the state treasury, shall be credited to the general fund; and all expenses incurred in connection with the examination of applicants for licenses, and the issuance and renewal of licenses upon examination shall be paid by warrants drawn against the general fund. [1965 c 8 § 43.79.020. Prior: 1921 c 81 § 1; RRS § 5511.]

43.79.060 State university permanent fund. There shall be in the state treasury a permanent fund known as the "state university permanent fund," into which shall be paid all moneys derived from the sale of lands granted, held, or devoted to state university purposes. [2007 c 215 § 6; 1965 c 8 § 43.79.060. Prior: 1907 c 168 § 1; RRS § 5518.]

Finding—Intent—Contingent effective date—2007 c 215: See notes following RCW 39.42.070.

43.79.071 University of Washington fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the University of Washington fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the University of Washington fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.071. Prior: 1955 c 332 § 1.]

43.79.072 University of Washington fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the University of Washington fund

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shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.072. Prior: 1955 c 332 § 2.]

43.79.073 University of Washington fund—Abolished. From and after the first day of May, 1955, the University of Washington fund is abolished. [1965 c 8 § 43.79.073. Prior: 1955 c 332 § 3.]

43.79.074 University of Washington fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the University of Washington fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he or she is hereby directed to pay such warrants when presented from the general fund. [2009 c 549 § 5149; 1965 c 8 § 43.79.074. Prior: 1955 c 332 § 4.]

43.79.075 University of Washington fund—Other revenue for support of university. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the University of Washington fund, shall be used for any purpose except the support of the University of Washington. [1965 c 8 § 43.79.075. Prior: 1955 c 332 § 5.]

43.79.080 University building fund. There shall be in the state treasury a fund known and designated as the "University of Washington building account". [1985 c 57 § 36; 1965 c 8 § 43.79.080. Prior: 1915 c 66 § 1; RRS § 5535.]

Additional notes found at www.leg.wa.gov

43.79.100 Scientific school grant to Washington State University. The one hundred thousand acres of land granted by the United States government to the state for a scientific school in section 17 of the enabling act, are assigned to the support of Washington State University. [1965 c 8 § 43.79.100. Prior: 1917 c 11 § 1; RRS § 5525.]

43.79.110 Scientific permanent fund. There shall be in the state treasury a permanent fund known as the "scientific permanent fund," into which shall be paid all moneys derived from the sale of lands set apart by the enabling act or otherwise for a scientific school. The income derived from investments pursuant to RCW 43.84.080 and 43.33A.140 shall be credited to the Washington State University building account less the applicable allocations to the state treasurer's service fund pursuant to RCW 43.08.190 or to the state investment board expense account pursuant to RCW 43.33A.160. [2007 c 215 § 7; 1991 sp.s. c 13 § 96; 1965 c 8 § 43.79.110. Prior: 1901 c 81 § 4; RRS § 5526.]

Finding—Intent—Contingent effective date—2007 c 215: See notes following RCW 39.42.070.

Additional notes found at www.leg.wa.gov

43.79.120 Agricultural college grant to Washington State University. The ninety thousand acres of land granted by the United States government to the state for an agricultural college in section 16 of the enabling act are assigned to the support of Washington State University. [1965 c 8 § 43.79.120.]

43.79.130 Agricultural permanent fund. There shall be in the state treasury a permanent fund known as the "agricultural permanent fund," into which shall be paid all moneys derived from the sale of lands set apart by the enabling act or otherwise for an agricultural college. The income derived from investments pursuant to RCW 43.84.080 and 43.33A.140 shall be credited to the Washington State University building account less the applicable allocations to the state treasurer's service fund pursuant to RCW 43.08.190 or to the state investment board expense account pursuant to RCW 43.33A.160. [2007 c 215 § 8; 1991 sp.s. c 13 § 94; 1965 c 8 § 43.79.130.]

Finding—Intent—Contingent effective date—2007 c 215: See notes following RCW 39.42.070.

Additional notes found at www.leg.wa.gov

43.79.140 Washington State University—Moneys paid into general fund for support of. There shall be paid into the state general fund for the support of Washington State University the following moneys:

(1)—All moneys collected from the lease or rental of lands set apart by the enabling act or otherwise for the agricultural college and school of science;

(2)—All interest or income arising from the proceeds of the sale of any of such lands;

(3)—All moneys received or collected as interest on deferred payments on contracts for the sale of such lands. [1965 c 8 § 43.79.140. Prior: 1905 c 43 § 2; RRS § 5521.]

43.79.150 Normal school grant to former state colleges of education and The Evergreen State College. The one hundred thousand acres of land granted by the United States government to the state for state normal schools in section 17 of the enabling act are assigned to the support of the regional universities, which were formerly the state colleges of education and to The Evergreen State College. [1993 c 411 § 3; 1977 ex.s. c 169 § 104; 1965 c 8 § 43.79.150.]

Finding—1993 c 411: See note following RCW 28B.35.751.

Additional notes found at www.leg.wa.gov

43.79.160 Normal school permanent fund. There shall be in the state treasury a permanent fund known as the "normal school permanent fund," into which shall be paid all moneys derived from the sale of lands set apart by the enabling act or otherwise for state normal schools. [2007 c 215 § 9; 1965 c 8 § 43.79.160.]

Finding—Intent—Contingent effective date—2007 c 215: See notes following RCW 39.42.070.

43.79.180 Former state colleges of education—Moneys paid into general fund for support of. There shall be paid into the state general fund for the use and support of the regional universities (formerly state colleges of education) the following moneys:

(1)—All moneys collected from the lease or rental of lands set apart by the enabling act or otherwise for the state normal schools;

(2)—All interest or income arising from the proceeds of the sale of such lands;

(3)—All moneys received or collected as interest on deferred payments on contracts for the sale of such lands. [1977 ex.s. c 169 § 105; 1965 c 8 § 43.79.180. Prior: 1905 c 43 § 4; RRS § 5523.]

Additional notes found at www.leg.wa.gov

43.79.201 C.E.P. & R.I. account—Moneys transferred to charitable, educational, penal and reformatory institutions account—Exception. (1) The charitable, educational, penal and reformatory institutions account is hereby created, in the state treasury, into which account there shall be deposited all moneys arising from the sale, lease or transfer of the land granted by the United States government to the state for charitable, educational, penal and reformatory institutions by section 17 of the enabling act, or otherwise set apart for such institutions, except all moneys arising from the sale, lease, or transfer of that certain one hundred thousand acres of such land assigned for the support of the University of Washington by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893.

(2) If feasible, not less than one-half of all income to the charitable, educational, penal, and reformatory institutions account shall be appropriated for the purpose of providing housing, including repair and renovation of state institutions, for persons with mental illness or developmental disabilities, or youth who are blind, deaf, or otherwise disabled. If moneys are appropriated for community-based housing, the moneys shall be appropriated to the *department of community, trade, and economic development for the housing assistance program under chapter 43.185 RCW. During the 2009-2011 fiscal biennium, the legislature may transfer from the charitable, educational, penal and reformatory institutions account to the state general fund such amounts as reflect excess fund balance of the fund [account]. [2009 c 564 § 935; 1995 c 399 § 77; 1991 sp.s. c 13 § 39; 1991 c 204 § 3; 1985 c 57 § 37; 1965 ex.s. c 135 § 2; 1965 c 8 § 43.79.201. Prior: 1961 c 170 § 1.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Effective date—2009 c 564: See note following RCW 2.68.020.

Income potential: RCW 79.02.410.

Inventory of land: RCW 79.02.400.

Additional notes found at www.leg.wa.gov

43.79.202 C.E.P. & R.I. fund—Abolished—Appropriations to be paid from and warrants drawn on account in general fund. On and after March 20, 1961, the C.E.P. & R.I. fund is abolished; all appropriations made by the thirty-seventh legislature from such abolished fund shall be paid from the charitable, educational, penal and reformatory institutions account in the general fund and all warrants drawn on the C.E.P. & R.I. fund prior to March 20, 1961 and not therefore presented for payment shall be paid from the charitable, educational, penal and reformatory institutions account in the general fund. [1965 c 8 § 43.79.202. Prior: 1961 c 170 § 2.]

43.79.210 Federal cooperative extension fund. There shall be in the state treasury a fund known as the federal cooperative agricultural extension fund, and all moneys paid

into the state treasury for, or to the credit of, the Smith-Lever and Capper-Ketcham funds shall be placed in the federal cooperative agricultural extension fund. [1965 c 8 § 43.79.210. Prior: 1935 c 63 § 1; RRS § 5536-4.]

43.79.260 Governor designated state's agent. The governor is designated the agent of the state to accept and receive all funds from federal and other sources not otherwise provided for by law and to deposit them in the state treasury to the credit of the appropriate fund or account. [1973 c 144 § 1; 1965 c 8 § 43.79.260. Prior: 1945 c 243 § 3; Rem. Supp. 1945 § 5517-12.]

43.79.270 Unanticipated receipts—Duty of department heads. (1) Whenever any money, from the federal government, or from other sources, which was not anticipated in the budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of any department, agency, board, or commission through which such expenditure shall be made is to submit to the governor a statement which may be in the form of a request for an allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended: PROVIDED, That no expenditure shall be made in excess of the actual amount received, and no money shall be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated fund or account in excess of appropriations provided by law which is based on the receipt of unanticipated revenues shall be submitted to the joint legislative audit and review committee and also to the standing committees on ways and means of the house and senate if the legislature is in session at the same time as it is transmitted to the governor.

(2) Notwithstanding subsection (1) of this section, whenever money from any source that was not anticipated in the transportation budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of a department, agency, board, or commission through which the expenditure must be made shall submit to the governor a statement, which may be in the form of a request for an allotment amendment, setting forth the facts constituting the need for the expenditure and the estimated amount to be expended. However, no expenditure may be made in excess of the actual amount received, and no money may be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated transportation fund or account in excess of appropriations provided by law that is based on the receipt of unanticipated revenues must be submitted, at a minimum, to the standing committees on transportation of the house and senate at the same time as it is transmitted to the governor. [2005 c 319 § 105; 1998 c 177 § 1; 1996 c 288 § 37; 1973 c 144 § 2; 1965 c 8 § 43.79.270. Prior: 1945 c 243 § 4; Rem. Supp. 1945 § 5517-13.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

43.79.280 Unanticipated receipts—Duty of governor on approval. (1) If the governor approves such estimate in whole or part, he or she shall endorse on each copy of the statement his or her approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval and a statement of the amount approved for expenditure shall be transmitted simultaneously to the joint legislative audit and review committee and also to the standing committee on ways and means of the house and senate of all executive approvals of proposals to expend money in excess of appropriations provided by law.

(2) If the governor approves an estimate with transportation funding implications, in whole or part, he or she shall endorse on each copy of the statement his or her approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval of a proposal to expend transportation money in excess of appropriations provided by law and a statement of the amount approved for expenditure must be transmitted simultaneously to the standing committees on transportation of the house and senate. [2009 c 549 § 5150; 2005 c 319 § 106; 1998 c 177 § 2; 1996 c 288 § 38; 1973 c 144 § 3; 1965 c 8 § 43.79.280. Prior: 1945 c 243 § 5; Rem. Supp. 1945 § 5517-14.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

43.79.282 Compliance with RCW 43.79.260 through 43.79.280. No state department, agency, board, or commission shall expend money in excess of appropriations provided by law based on the receipt of unanticipated revenues without complying with the provisions of RCW 43.79.260 through 43.79.280. [1973 c 144 § 4.]

43.79.300 Central College fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the Central College fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the Central College fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.300. Prior: 1955 c 333 § 1.]

43.79.301 Central College fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the Central College fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.301. Prior: 1955 c 333 § 2.]

43.79.302 Central College fund—Abolished. From and after the first day of May, 1955, the Central College fund is abolished. [1965 c 8 § 43.79.302. Prior: 1955 c 333 § 3.]

43.79.303 Central College fund—Warrants to be paid from general fund. From and after the first day of

May, 1955, all warrants drawn on the Central College fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he or she is hereby directed to pay such warrants when presented from the general fund. [2009 c 549 § 5151; 1965 c 8 § 43.79.303. Prior: 1955 c 333 § 4.]

43.79.304 Central College fund—Other revenue for support of Central Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Central College fund, shall be used for any purpose except the support of the Central Washington University (formerly Central Washington State College). [1977 ex.s. c 169 § 106; 1965 c 8 § 43.79.304. Prior: 1955 c 333 § 5.]

Additional notes found at www.leg.wa.gov

43.79.310 Eastern College fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the Eastern College fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the Eastern College fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.310. Prior: 1955 c 334 § 1.]

43.79.311 Eastern College fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the Eastern College fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.311. Prior: 1955 c 334 § 2.]

43.79.312 Eastern College fund—Abolished. From and after the first day of May, 1955, the Eastern College fund is abolished. [1965 c 8 § 43.79.312. Prior: 1955 c 334 § 3.]

43.79.313 Eastern College fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the Eastern College fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he or she is hereby directed to pay such warrants when presented from the general fund. [2009 c 549 § 5152; 1965 c 8 § 43.79.313. Prior: 1955 c 334 § 4.]

43.79.314 Eastern College fund—Other revenue for support of Eastern Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Eastern College fund, shall be used for any purpose except the support of the Eastern Washington University (formerly Eastern Washington State College). [1977 ex.s. c 169 § 107; 1965 c 8 § 43.79.314. Prior: 1955 c 334 § 5.]

Additional notes found at www.leg.wa.gov

43.79.320 Western College fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the Western College fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the Western College fund, shall be

and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.320. Prior: 1955 c 335 § 1.]

43.79.321 Western College fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the Western College fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.321. Prior: 1955 c 335 § 2.]

43.79.322 Western College fund—Abolished. From and after the first day of May, 1955, the Western College fund is abolished. [1965 c 8 § 43.79.322. Prior: 1955 c 335 § 3.]

43.79.323 Western College fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the Western College fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he or she is hereby directed to pay such warrants when presented from the general fund. [2009 c 549 § 5153; 1965 c 8 § 43.79.323. Prior: 1955 c 335 § 4.]

43.79.324 Western College fund—Other revenue for support of Western Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Western College fund, shall be used for any purpose except the support of the Western Washington University (formerly Western Washington State College). [1977 ex.s. c 169 § 108; 1965 c 8 § 43.79.324. Prior: 1955 c 335 § 5.]

Additional notes found at www.leg.wa.gov

43.79.330 Miscellaneous state funds—Moneys transferred to accounts in the state treasury. All moneys to the credit of the following state funds on the first day of August, 1955, and all moneys thereafter paid to the state treasurer for or to the credit of such funds, are hereby transferred to the following accounts in the state treasury, the creation of which is hereby authorized:

- (1) Capitol building construction fund moneys, to the capitol building construction account;
- (2) Cemetery account moneys, to the cemetery account;
- (3) Feed and fertilizer fund moneys, to the feed and fertilizer account;
- (4) Forest development fund moneys, to the forest development account;
- (5) Harbor improvement fund moneys, to the harbor improvement account;
- (6) Millersylvania Park current fund moneys, to the Millersylvania Park current account;
- (7) Real estate commission fund moneys, to the real estate commission account;
- (8) Reclamation revolving fund moneys, to the reclamation revolving account;
- (9) University of Washington building fund moneys, to the University of Washington building account; and
- (10) State College of Washington building fund moneys, to the Washington State University building account. [2008

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c 128 § 18; 1991 sp.s. c 13 § 3; 1985 c 57 § 38; 1981 c 242 § 3; 1980 c 32 § 3; 1979 ex.s. c 67 § 3; 1965 c 8 § 43.79.330. Prior: 1959 c 273 § 6; 1957 c 115 § 6; 1955 c 370 § 1.]

Effective date—2008 c 128 §§ 17-20: See note following RCW 88.16.061.

Additional notes found at www.leg.wa.gov

43.79.331 Miscellaneous state funds—Abolished. From and after the first day of May, 1955, all funds from which moneys are transferred to general fund accounts pursuant to RCW 43.79.330, are abolished. [1965 c 8 § 43.79.331. Prior: 1955 c § 370 § 2.]

43.79.332 Miscellaneous state funds—Appropriations of 34th legislature to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from any of the funds abolished by RCW 43.79.331, shall be paid from the general fund from the account to which the moneys of the abolished fund have been transferred by RCW 43.79.330. [1965 c 8 § 43.79.332. Prior: 1955 c 370 § 3.]

43.79.333 Miscellaneous state funds—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on any fund abolished by RCW 43.79.331 and not theretofore presented for payment, shall be paid from the general fund from the account to which the moneys of the abolished fund are directed by RCW 43.79.330 to be transferred. [1965 c 8 § 43.79.333. Prior: 1955 c 370 § 4.]

43.79.334 Miscellaneous state funds—Expenditures—Revenue from other than general fund. Expenditures from any account described in RCW 43.79.330 shall be limited to the moneys credited to the account. No revenue from any source other than the general fund, which, except for the provisions of RCW 43.79.330 through 43.79.334, would have been paid into any fund other than the general fund, shall be used for any purpose except those purposes for which such moneys were authorized prior to the enactment hereof. [1965 c 8 § 43.79.334. Prior: 1955 c 370 § 5.]

43.79.335 Miscellaneous state funds—Washington State University building account. Upon and after June 30, 1961 the account in the state treasury known as the "State College of Washington Building Account" shall be known and referred to as the "Washington State University Building Account." This section shall not be construed as effecting any change in such fund other than the name thereof and as otherwise provided by law. [1985 c 57 § 39; 1965 c 8 § 43.79.335. Prior: 1961 ex.s. c 11 § 3.]

Additional notes found at www.leg.wa.gov

43.79.336 Puget Sound pilotage account redesignated as pilotage account. See RCW 88.16.061.

43.79.340 General obligation bond retirement fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the general obligation bond retirement fund on the first day of May, 1955, and all moneys

thereafter paid into the state treasury for or to the credit of the general obligation bond retirement fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.340. Prior: 1955 c 330 § 1.]

43.79.341 General obligation bond retirement fund—Appropriations of 34th legislature to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the general obligation bond retirement fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.341. Prior: 1955 c 330 § 2.]

43.79.342 General obligation bond retirement fund—Abolished. From and after the first day of May, 1955, the general obligation bond retirement fund is abolished. [1965 c 8 § 43.79.342. Prior: 1955 c 330 § 3.]

43.79.343 General obligation bond retirement fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the general obligation bond retirement fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he or she is hereby directed to pay such warrants when presented from the general fund. [2009 c 549 § 5154; 1965 c 8 § 43.79.343. Prior: 1955 c 330 § 4.]

43.79.350 Suspense account. There is established in the state treasury a special account to be known as the suspense account. All moneys which heretofore have been deposited with the state treasurer in the state treasurer's suspense fund, and moneys hereafter received which are contingent on some future action, or which cover overpayments and are to be refunded to the sender in part or whole, and any other moneys of which the final disposition is not known, shall be transmitted to the state treasurer and deposited in the suspense account. [1985 c 57 § 40; 1981 2nd ex.s. c 4 § 6; 1965 c 8 § 43.79.350. Prior: 1955 c 226 § 1.]

Additional notes found at www.leg.wa.gov

43.79.370 Suspense account—Disbursements—Vouchers—Warrants. Disbursement from the suspense account (not to exceed receipts), shall be by warrant issued against the account by the state treasurer, upon a properly authenticated voucher presented by the state department or office which deposited the moneys in the account. [1981 2nd ex.s. c 4 § 7; 1965 c 8 § 43.79.370. Prior: 1955 c 226 § 3.]

Additional notes found at www.leg.wa.gov

43.79.381 Penitentiary revolving account abolished. From and after the first day of August, 1957, the penitentiary revolving account is abolished. [1965 c 8 § 43.79.381. Prior: 1957 c 115 § 2.]

43.79.390 United States vocational education account—Moneys transferred to general fund. All moneys in the state treasury to the credit of the United States vocational education account in the general fund on August 1, 1957, and all moneys thereafter paid into the state treasury

for or to said account, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.390. Prior: 1957 c 226 § 1.]

43.79.391 United States vocational education account—Appropriations to be paid from general fund. From and after the first day of July, 1957, all appropriations made by the thirty-fifth legislature from the United States vocational education account shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.391. Prior: 1957 c 226 § 2.]

43.79.392 United States vocational education account—Abolished. From and after the first day of August, 1957, the United States vocational education account in the general fund is abolished. [1965 c 8 § 43.79.392. Prior: 1957 c 226 § 3.]

43.79.393 United States vocational education account—Warrants to be paid from general fund. From and after the first day of August, 1957, all warrants drawn on the United States vocational education account in the general fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he or she is hereby directed to pay such warrants when presented from the general fund. [2009 c 549 § 5155; 1965 c 8 § 43.79.393. Prior: 1957 c 226 § 4.]

43.79.400 State payroll revolving account, agency payroll revolving fund—Created—Utilization. See RCW 42.16.011.

43.79.405 Parks and parkways account abolished—Funds transferred to general fund. The state parks and parkways account created under section 43.79.330(15), chapter 8, Laws of 1965, is hereby abolished and all funds remaining therein at August 1, 1969, transferred to the state general fund. [1969 c 99 § 4.]

Additional notes found at www.leg.wa.gov

43.79.410 Legal services revolving fund—Created—Purpose—Uses. See RCW 43.10.150 through 43.10.200.

43.79.420 Miscellaneous state funds—Moneys transferred to basic state general fund. All moneys to the credit of the following state funds or accounts on the first day of July, 1973, are hereby transferred to the basic state general fund:

- (1) Mass transit trust moneys;
- (2) Probation services moneys;
- (3) Columbia river gorge commission moneys;
- (4) Washington state song proceeds moneys;
- (5) Juvenile correction institution building construction fund moneys. [1973 1st ex.s. c 59 § 3.]

Additional notes found at www.leg.wa.gov

43.79.421 Miscellaneous state funds—Abolished. From and after the first day of July, 1973, all funds from which moneys are transferred to the basic state general fund

pursuant to subsections (1), (2), (4), and (5) of RCW 43.79.420 are abolished. [1973 1st ex.s. c 59 § 4.]

Additional notes found at www.leg.wa.gov

43.79.422 Miscellaneous state funds—Warrants to be paid from basic state general fund. From and after the first day of July, 1973, all warrants drawn on any fund abolished by RCW 43.79.421 and not theretofore presented for payment, shall be paid from the basic state general fund. [1973 1st ex.s. c 59 § 5.]

Additional notes found at www.leg.wa.gov

43.79.423 Miscellaneous state funds or accounts—Moneys transferred to state general fund. All moneys to the credit of the following state funds or accounts as of September 8, 1975 are transferred to the state general fund on that date:

(1) The public school building construction account of the general fund created under RCW 43.79.330; and

(2) The general administration construction fund in the general fund created under *RCW 43.82.090. [1975 1st ex.s. c 91 § 1.]

*Reviser's note: RCW 43.82.090 was repealed by 1994 c 219 § 20.

43.79.425 Current state school fund—Abolished—Moneys transferred. On and after June 12, 1980, the current state school fund is abolished and the state treasurer shall transfer any moneys in such account on such June 12, 1980, or any moneys thereafter received for such account, to the common school construction fund as referred to in RCW 28A.515.320. [1990 c 33 § 581; 1980 c 6 § 6.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

43.79.430 Moneys from Inland Power & Light company to be deposited in general fund. All monies received from the Inland Power & Light company, its successors and assigns, in virtue of an agreement made and entered into between said company and the State of Washington on August 31, 1932, relating to a fish hatchery on Lewis river, shall be deposited in the general fund. [1980 c 32 § 1; 1933 c 123 § 1.]

Additional notes found at www.leg.wa.gov

43.79.435 Investment reserve account abolished—Deposit of moneys. The investment reserve account is hereby abolished. All moneys in the investment reserve account on *the effective date of this act shall be deposited in the general fund. [1981 c 242 § 4.]

*Reviser's note: For "the effective date of this act," see note following RCW 43.79.330.

Additional notes found at www.leg.wa.gov

43.79.440 Loan principal and interest fund. In order to alleviate temporary cash flow deficiencies in the general fund, it has been and will continue to be necessary to borrow funds through issuance of certificates of indebtedness and to pay interest costs on outstanding certificates of indebtedness and to retire the principal thereof. In order to account for the

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interest cost of the loans and to pay the principal thereof, there is hereby created in the state treasury the loan principal and interest fund. All principal and interest payments required on certificates of indebtedness will be withdrawn from any general state revenues in the treasury and deposited in the loan principal and interest fund at the time or times required by the terms thereof and such loan principal and interest shall be paid from the loan principal and interest fund according to the terms and schedules established for such certificates. [1983 c 189 § 8.]

Additional notes found at www.leg.wa.gov

43.79.441 Transfer of moneys from certain school bond and state building construction accounts and funds to general fund—Payment of warrants. After July 24, 1983, all moneys to the credit of any fund or account described in the sections being repealed by sections 1 and 4, chapter 189, Laws of 1983 and all moneys thereafter paid to the state treasurer for or to the credit of such fund or account shall be transferred to the general fund. After July 24, 1983, any warrant drawn on any fund or account described in the sections being repealed by sections 1 and 4, chapter 189, Laws of 1983 and not presented for payment shall be paid from the general fund, and the state treasurer shall pay such warrants when presented from the general fund. [1983 c 189 § 5.]

Additional notes found at www.leg.wa.gov

43.79.442 Transfer of moneys from certain highway construction accounts and funds to general fund—Payment of warrants. After July 24, 1983, all moneys to the credit of any fund or account described in the sections being repealed by section 6, chapter 189, Laws of 1983 and all moneys thereafter paid to the state treasurer for or to the credit of such fund or account shall be transferred to the motor vehicle fund. After July 24, 1983, any warrant drawn on any fund or account described in the sections being repealed by section 6, chapter 189, Laws of 1983 and not presented for payment shall be paid from the motor vehicle fund, and the state treasurer shall pay such warrants when presented from the motor vehicle fund. [1983 c 189 § 7.]

Additional notes found at www.leg.wa.gov

43.79.445 Death investigations account—Disbursal. There is established an account in the state treasury referred to as the "death investigations account" which shall exist for the purpose of receiving, holding, investing, and disbursing funds appropriated or provided in RCW 70.58.107 and any moneys appropriated or otherwise provided thereafter.

Moneys in the death investigations account shall be disbursed by the state treasurer once every year on December 31 and at any other time determined by the treasurer. The treasurer shall make disbursements to: The state toxicology laboratory, counties for the cost of autopsies, the state patrol for providing partial funding for the state dental identification system, the criminal justice training commission for training county coroners, medical examiners and their staff, and the state forensic investigations council. Funds from the death investigations account may be appropriated during the 1997-99 biennium for the purposes of statewide child mortality

reviews administered by the department of health. [2005 c 166 § 3; 1997 c 454 § 901; 1995 c 398 § 9; 1991 sp.s. c 13 § 21; 1991 c 176 § 4; 1986 c 31 § 2; 1985 c 57 § 41; 1983 1st ex.s. c 16 § 18.]

Additional notes found at www.leg.wa.gov

43.79.455 Capitol purchase and development account. The capitol purchase and development account is hereby created in the state treasury. [1987 c 350 § 2.]

Additional notes found at www.leg.wa.gov

43.79.460 Savings incentive account—Report. (1) The savings incentive account is created in the custody of the state treasurer. The account shall consist of all moneys appropriated to the account by the legislature. The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures from the account.

(2) Within the savings incentive account, the state treasurer may create subaccounts to be credited with incentive savings attributable to individual state agencies, as determined by the office of financial management in consultation with the legislative fiscal committees. Moneys deposited in the subaccounts may be expended only on the authorization of the agency's executive head or designee and only for the purpose of one-time expenditures to improve the quality, efficiency, and effectiveness of services to customers of the state, such as one-time expenditures for employee training, employee incentives, technology improvements, new work processes, or performance measurement. Funds may not be expended from the account to establish new programs or services, expand existing programs or services, or incur ongoing costs that would require future expenditures.

(3) For purposes of this section, "incentive savings" means state general fund appropriations that are unspent as of June 30th of a fiscal year, excluding any amounts included in across-the-board reductions under RCW 43.88.110 and excluding unspent appropriations for:

(a) Caseload and enrollment in entitlement programs, except to the extent that an agency has clearly demonstrated that efficiencies have been achieved in the administration of the entitlement program. "Entitlement program," as used in this section, includes programs for which specific sums of money are appropriated for pass-through to third parties or other entities;

(b) Enrollments in state institutions of higher education;

(c) A specific amount contained in a condition or limitation to an appropriation in the biennial appropriations act, if the agency did not achieve the specific purpose or objective of the condition or limitation;

(d) Debt service on state obligations; and

(e) State retirement system obligations.

(4) The office of financial management, after consulting with the legislative fiscal committees, shall report the amount of savings incentives achieved.

(5) For fiscal year 2009, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2008. For fiscal year 2010, the legislature may transfer

from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2009. [2010 1st sp.s. c 37 § 928; 2009 c 518 § 21; 2009 c 4 § 902; 1998 c 302 § 1; 1997 c 261 § 1.]

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Effective date—2009 c 4: See note following RCW 28A.505.220.

Additional notes found at www.leg.wa.gov

43.79.465 Education savings account. The education savings account is created in the state treasury. The account shall consist of all moneys appropriated to the account by the legislature.

(1) Ten percent of legislative appropriations to the education savings account shall be distributed as follows: (a) Fifty percent to the distinguished professorship trust fund under RCW 28B.76.565; (b) seventeen percent to the graduate fellowship trust fund under RCW 28B.76.610; and (c) thirty-three percent to the college faculty awards trust fund under RCW 28B.50.837.

(2) The remaining moneys in the education savings account may be appropriated solely for (a) common school construction projects that are eligible for funding from the common school construction account, (b) technology improvements in the common schools, (c) during the 2001-03 fiscal biennium, technology improvements in public higher education institutions, (d) during the 2007-2009 fiscal biennium, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the excess fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2008, and (e) for fiscal year 2010, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent general fund appropriations for fiscal year 2009. [2010 1st sp.s. c 37 § 929; 2009 c 4 § 903; 2004 c 275 § 64; 2001 2nd sp.s. c 7 § 917; 1998 c 302 § 2; 1997 c 261 § 2. Formerly RCW 28A.305.235.]

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Effective date—2009 c 4: See note following RCW 28A.505.220.

Part headings not law—2004 c 275: See note following RCW 28B.76.030.

Severability—Effective date—2001 2nd sp.s. c 7: See notes following RCW 43.320.110.

Additional notes found at www.leg.wa.gov

43.79.470 State patrol nonappropriated airplane revolving account. The state patrol nonappropriated airplane revolving account is created in the custody of the state treasurer. All receipts from aircraft user fees paid by other agencies and private users as reimbursement for the use of the patrol's aircraft that are primarily for purposes other than highway patrol must be deposited into the account. Expenditures from the account may be used only for expenses related to these aircraft. Only the chief of the Washington state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2003 c 360 § 1501.]

Severability—2003 c 360: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2003 c 360 § 1502.]

Effective date—2003 c 360: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 19, 2003]." [2003 c 360 § 1503.]

43.79.480 Tobacco settlement account—Transfers to life sciences discovery fund—Tobacco prevention and control account. (1) Moneys received by the state of Washington in accordance with the settlement of the state's legal action against tobacco product manufacturers, exclusive of costs and attorneys' fees, shall be deposited in the tobacco settlement account created in this section except as these moneys are sold or assigned under chapter 43.340 RCW.

(2) The tobacco settlement account is created in the state treasury. Moneys in the tobacco settlement account may only be transferred to the state general fund, and to the tobacco prevention and control account for purposes set forth in this section. The legislature shall transfer amounts received as strategic contribution payments as defined in RCW 43.350.010 to the life sciences discovery fund created in RCW 43.350.070. During the 2009-2011 fiscal biennium, the legislature may transfer less than the entire strategic contribution payments.

(3) The tobacco prevention and control account is created in the state treasury. The source of revenue for this account is moneys transferred to the account from the tobacco settlement account, investment earnings, donations to the account, and other revenues as directed by law. Expenditures from the account are subject to appropriation. During the 2009-2011 fiscal biennium, the legislature may transfer from the tobacco prevention and control account to the state general fund such amounts as represent the excess fund balance of the account. [2009 c 564 § 937; 2009 c 479 § 30; 2005 c 424 § 12; 2002 c 365 § 15; 1999 c 309 § 927.]

Reviser's note: This section was amended by 2009 c 479 § 30 and by 2009 c 564 § 937, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2009 c 564: See note following RCW 2.68.020.

Effective date—2009 c 479: See note following RCW 2.56.030.

Captions not law—Liberal construction—Severability—Effective dates—2005 c 424: See RCW 43.350.900 through 43.350.903.

Captions not law—Severability—Effective date—2002 c 365: See RCW 43.340.900 through 43.340.902.

Additional notes found at www.leg.wa.gov

43.79.485 Reading achievement account. (1) The reading achievement account is created in the custody of the state treasurer. The purposes of the account are to establish a depository for state and other funds made available for reading achievement, and to ensure that unspent amounts appropriated for reading achievement continue to be available for that purpose in future biennia.

(2) The director of early learning shall deposit in the account all appropriations to the department and nonstate moneys received by the department for reading achievement, including reading foundations and implementation of research-based reading models.

(2010 Ed.)

Moneys deposited in the account do not lapse at the close of the fiscal period for which they were appropriated. Both during and after the fiscal period in which moneys were deposited in the account, the director may expend moneys in the account only for the purposes for which they were appropriated, and the expenditures are subject to any other conditions or limitations placed on the appropriations.

(3) Expenditures from the account may be used only for reading achievement, including reading foundations, implementation of research-based reading models, and grants to school districts. During the 2007-2009 fiscal biennium, the legislature may transfer from the reading achievement account to the state general fund such amounts as reflect the excess fund balance of the account.

(4) Only the director of early learning or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2009 c 4 § 904; 2006 c 120 § 1.]

Effective date—2009 c 4: See note following RCW 28A.505.220.

43.79.490 Budget stabilization account. The budget stabilization account shall be established and maintained in the state treasury. Moneys in the fund may be spent only after appropriation. [2007 c 484 § 1.]

Effective date—2007 c 484 § 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 15, 2007]." [2007 c 484 § 9.]

43.79.495 Budget stabilization account—Governance. (1) The budget stabilization account is governed by the provisions in Article VII, section 12 and this section.

(2) By June 30th of each fiscal year, the state treasurer shall transfer an amount equal to one percent of the general state revenues for that fiscal year to the budget stabilization account.

(3) The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment moneys in the budget stabilization account. All investment and operating costs associated with the investment of money shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the account. All investments made by the state investment board shall be made with the exercise of that degree of judgment and care pursuant to RCW 43.33A.140 and the investment policies established by the state investment board. As deemed appropriate by the state investment board, moneys in the account may be commingled for investment with other funds subject to investment by the board.

(4) For the purposes of Article VII, section 12, this section, and RCW 82.33.050, the state employment growth forecast shall be based on the total nonfarm payroll employment data series. [2007 c 484 § 2.]

Contingent effective date—2007 c 484 §§ 2-8: "Sections 2 through 8 of this act take effect July 1, 2008, if the proposed amendment to Article VII of the state Constitution (Senate Joint Resolution No. 8206) is validly submitted to and is approved and ratified by the voters at a general election held in November 2007. If the proposed amendment is not approved and ratified, sections 2 through 8 of this act are void in their entirety." [2007 c 484 § 10.]

[Title 43 RCW—page 407]

Engrossed Substitute Senate Joint Resolution No. 8206 was approved by the voters at the November 6, 2007 general election.

43.79.500 Uniformed service shared leave pool account. The uniformed service shared leave pool account is created in the custody of the state treasurer. All receipts from leave donated under the uniformed service shared leave pool under RCW 41.04.685 and any moneys appropriated or otherwise provided must be deposited into the account. Expenditures from the account may be used only for providing shared leave to employees under the uniformed service shared leave pool. Only the adjutant general or his or her designee may authorize expenditures from the account. The account is not subject to allotment procedures under chapter 43.88 RCW, and no appropriation is required for expenditures. [2007 c 25 § 3.]

Severability—Effective date—2007 c 25: See notes following RCW 41.04.685.

43.79.505 Judicial stabilization trust account. The judicial stabilization trust account is created within the state treasury, subject to appropriation. All receipts from the surcharges authorized by sections 1 through 4, chapter 572, Laws of 2009 shall be deposited in this account. Moneys in the account may be spent only after appropriation.

Expenditures from the account may be used only for the support of judicial branch agencies. [2009 c 572 § 5.]

Effective date—2009 c 572: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2009." [2009 c 572 § 6.]

43.79.515 State efficiency and restructuring account. The legislature recognizes that efforts to restructure state operations to achieve greater efficiency are often impeded by the lack of a financing tool to support the transition and phase-down of state operations. The state efficiency and restructuring account is established in the state treasury to finance efforts to restructure state operations and achieve budget savings. Moneys from the account may be expended only after appropriation. As directed by the legislature, the state treasurer must transfer funds from specified accounts into the state efficiency and restructuring account to support appropriations from that account. The state treasurer must maintain a record of such transfers and must calculate repayment obligations to any accounts providing surplus funds for a term of eight years at an interest rate that is five-tenths of a [one] percent higher than the interest rate that the account would have earned without the transfer. The state treasurer must submit a report of all such repayment obligations to the office of financial management by September 1st of each year. The governor's budget request under RCW 43.88.060 must include sufficient funds to meet the biennial repayment obligation. [2010 1st sp.s. c 37 § 946.]

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

[Title 43 RCW—page 408]

Chapter 43.79A RCW TREASURER'S TRUST FUND

Sections

- 43.79A.010 Purpose.
- 43.79A.020 Treasurer's trust fund—Created—Nontreasury trust funds to be placed in—Exceptions.
- 43.79A.030 Segregation—Withdrawals.
- 43.79A.040 Management—Income—Investment income account—Distribution.

Investment accounting: RCW 43.33A.180.

43.79A.010 Purpose. This chapter shall apply to all trust funds which are in the official custody of the state treasurer but are not required by law to be maintained in the state treasury. The purpose of this chapter is to establish a system for the centralized management, protection and control of such funds, hereinafter referred to as nontreasury trust funds, and to assure their investment in such a manner as to realize the maximum possible return consistent with safe and prudent fiscal management. [1973 1st ex.s. c 15 § 1.]

43.79A.020 Treasurer's trust fund—Created—Nontreasury trust funds to be placed in—Exceptions. There is created a trust fund outside the state treasury to be known as the "treasurer's trust fund." All nontreasury trust funds which are in the custody of the state treasurer on April 10, 1973, shall be placed in the treasurer's trust fund and be subject to the terms of this chapter. Funds of the state department of transportation shall be placed in the treasurer's trust fund only if mutually agreed to by the state treasurer and the department. In order to assure an orderly transition to a centralized management system, the state treasurer may place each of such trust funds in the treasurer's trust fund at such times as he or she deems advisable. Except for department of transportation trust funds, all such funds shall be incorporated in the treasurer's trust fund by June 30, 1975. Other funds in the custody of state officials or state agencies may, upon their request, be established as accounts in the treasurer's trust fund with the discretionary concurrence of the state treasurer. All income received from the treasurer's trust fund investments shall be deposited in the investment income account pursuant to RCW 43.79A.040. [2009 c 549 § 5156; 1991 sp.s. c 13 § 81; 1984 c 7 § 47; 1973 1st ex.s. c 15 § 2.]

Additional notes found at www.leg.wa.gov

43.79A.030 Segregation—Withdrawals. The state treasurer shall be responsible for maintaining segregated accounts of moneys of each fund which is deposited in the treasurer's trust fund. Except as provided by law, all money deposited in the treasurer's trust fund shall be held in trust by the state treasurer and may be withdrawn only upon the order of the depositing agency or its disbursing officer. [1973 1st ex.s. c 15 § 3.]

43.79A.040 Management—Income—Investment income account—Distribution. (Effective until October 1, 2010.) (1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and

may be commingled with moneys in the state treasury for cash management and cash balance purposes.

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

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

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

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the accessible communities account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account.

(2010 Ed.)

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

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

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [2010 1st sp.s. c 13 § 4; 2010 1st sp.s. c 9 § 6; 2010 c 222 § 4; 2010 c 215 § 7; 2009 c 87 § 4. Prior: 2008 c 239 § 9; 2008 c 208 § 9; 2008 c 128 § 20; 2008 c 122 § 24; prior: 2007 c 523 § 5; 2007 c 357 § 21; 2007 c 214 § 14; prior: 2006 c 311 § 21; 2006 c 120 § 2; prior: 2005 c 424 § 18; 2005 c 402 § 8; 2005 c 215 § 10; 2005 c 16 § 2; prior: 2004 c 246 § 8; 2004 c 58 § 10; prior: 2003 c 403 § 9; 2003 c 313 § 10; 2003 c 191 § 7; 2003 c 148 § 15; 2003 c 92 § 8; 2003 c 19 § 12; prior: 2002 c 322 § 5; 2002 c 204 § 7; 2002 c 61 § 6; prior: 2001 c 201 § 4; 2001 c 184 § 4; 2000 c 79 § 45; prior: 1999 c 384 § 8; 1999 c 182 § 2; 1998 c 268 § 1; prior: 1997 c 368 § 8; 1997 c 289 § 13; 1997 c 220 § 221 (Referendum Bill No. 48, approved June 17, 1997); 1997 c 140 § 6; 1997 c 94 § 3; 1996 c 253 § 409; prior: 1995 c 394 § 2; 1995 c 365 § 1; prior: 1993 sp.s. c 8 § 2; 1993 c 500 § 5; 1991 sp.s. c 13 § 82; 1973 1st ex.s. c 15 § 4.]

Reviser's note: This section was amended by 2010 c 215 § 7, 2010 c 222 § 4, 2010 1st sp.s. c 9 § 6, and by 2010 1st sp.s. 13 § 4, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 9: See note following RCW 43.105.805.

Intent—2010 c 222: See note following RCW 43.08.150.

Findings—2010 c 215: See note following RCW 50.40.071.

Effective date—2009 c 87 § 4: "Section 4 of this act takes effect August 1, 2009." [2009 c 87 § 5.]

Effective date—2008 c 239: See RCW 19.305.900.

Findings—Intent—2008 c 208: See RCW 28B.121.005.

Effective date—2008 c 128 §§ 17-20: See note following RCW 88.16.061.

Effective date—2008 c 122 §§ 23 and 24: See note following RCW 47.56.167.

Contingency—2007 c 523: See note following RCW 43.07.128.

Findings—2006 c 311: See note following RCW 36.120.020.

Captions not law—Liberal construction—Severability—Effective dates—2005 c 424: See RCW 43.350.900 through 43.350.903.

SEED act—Findings—Purpose—Short title—2005 c 402: See RCW 43.31.450 and 43.31.485.

Effective date—2004 c 246: See note following RCW 67.16.270.

Intent—2003 c 403: See RCW 70.210.010.

Findings—Severability—2003 c 313: See notes following RCW 79.15.500.

Severability—Effective date—2003 c 92: See RCW 41.26.905 and 41.26.906.

Finding—Intent—Short title—Captions not law—2003 c 19: See RCW 28B.133.005, 28B.133.900, and 28B.133.901.

Effective date—2002 c 322: See note following RCW 15.17.240.

Effective date—2002 c 204: See RCW 28B.119.900.

Effective date—Severability—2000 c 79: See notes following RCW 48.04.010.

Intent—Captions not law—1999 c 384: See notes following RCW 43.70.731.

Findings—Intent—Rules adoption—Severability—Effective date—1997 c 368: See notes following RCW 82.08.810.

Referendum—Other legislation limited—Legislators' personal intent not indicated—Reimbursements for election—Voters' pamphlet, election requirements—1997 c 220: See RCW 36.102.800 through 36.102.803.

Intent—1997 c 140: See note following RCW 47.12.330.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 28B.109.010.

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Additional notes found at www.leg.wa.gov

43.79A.040 Management—Income—Investment income account—Distribution. (Effective October 1, 2010.) (1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

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

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

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

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the accessible communities account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the Washington interna-

tional exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account.

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

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

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [2010 1st sp.s. c 19 § 22; 2010 1st sp.s. c 13 § 4; 2010 1st sp.s. c 9 § 6; 2010 c 222 § 4; 2010 c 215 § 7; 2009 c 87 § 4. Prior: 2008 c 239 § 9; 2008 c 208 § 9; 2008 c 128 § 20; 2008 c 122 § 24; prior: 2007 c 523 § 5; 2007 c 357 § 21; 2007 c 214 § 14; prior: 2006 c 311 § 21; 2006 c 120 § 2; prior: 2005 c 424 § 18; 2005 c 402 § 8; 2005 c 215 § 10; 2005 c 16 § 2; prior: 2004 c 246 § 8; 2004 c 58 § 10; prior: 2003 c 403 § 9; 2003 c 313 § 10; 2003 c 191 § 7; 2003 c 148 § 15; 2003 c 92 § 8; 2003 c 19 § 12; prior: 2002 c 322 § 5; 2002 c 204 § 7; 2002 c 61 § 6; prior: 2001 c 201 § 4; 2001 c 184 § 4; 2000 c 79 § 45; prior: 1999 c 384 § 8; 1999 c 182 § 2; 1998 c 268 § 1; prior: 1997 c 368 § 8; 1997 c 289 § 13; 1997 c 220 § 221 (Referendum Bill No. 48, approved June 17, 1997); 1997 c

140 § 6; 1997 c 94 § 3; 1996 c 253 § 409; prior: 1995 c 394 § 2; 1995 c 365 § 1; prior: 1993 sp.s. c 8 § 2; 1993 c 500 § 5; 1991 sp.s. c 13 § 82; 1973 1st ex.s. c 15 § 4.]

Reviser's note: This section was amended by 2010 c 215 § 7, 2010 c 222 § 4, 2010 1st sp.s. c 9 § 6, 2010 1st sp.s. c 13 § 4, and by 2010 1st sp.s. c 19 § 22, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective dates—2010 1st sp.s. c 19: See note following RCW 82.14B.010.

Effective date—2010 1st sp.s. c 9: See note following RCW 43.105.805.

Intent—2010 c 222: See note following RCW 43.08.150.

Findings—2010 c 215: See note following RCW 50.40.071.

Effective date—2009 c 87 § 4: "Section 4 of this act takes effect August 1, 2009." [2009 c 87 § 5.]

Effective date—2008 c 239: See RCW 19.305.900.

Findings—Intent—2008 c 208: See RCW 28B.121.005.

Effective date—2008 c 128 §§ 17-20: See note following RCW 88.16.061.

Effective date—2008 c 122 §§ 23 and 24: See note following RCW 47.56.167.

Contingency—2007 c 523: See note following RCW 43.07.128.

Findings—2006 c 311: See note following RCW 36.120.020.

Captions not law—Liberal construction—Severability—Effective dates—2005 c 424: See RCW 43.350.900 through 43.350.903.

SEED act—Findings—Purpose—Short title—2005 c 402: See RCW 43.31.450 and 43.31.485.

Effective date—2004 c 246: See note following RCW 67.16.270.

Intent—2003 c 403: See RCW 70.210.010.

Findings—Severability—2003 c 313: See notes following RCW 79.15.500.

Severability—Effective date—2003 c 92: See RCW 41.26.905 and 41.26.906.

Finding—Intent—Short title—Captions not law—2003 c 19: See RCW 28B.133.005, 28B.133.900, and 28B.133.901.

Effective date—2002 c 322: See note following RCW 15.17.240.

Effective date—2002 c 204: See RCW 28B.119.900.

Effective date—Severability—2000 c 79: See notes following RCW 48.04.010.

Intent—Captions not law—1999 c 384: See notes following RCW 43.70.731.

Findings—Intent—Rules adoption—Severability—Effective date—1997 c 368: See notes following RCW 82.08.810.

Referendum—Other legislation limited—Legislators' personal intent not indicated—Reimbursements for election—Voters' pamphlet, election requirements—1997 c 220: See RCW 36.102.800 through 36.102.803.

Intent—1997 c 140: See note following RCW 47.12.330.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 28B.109.010.

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Additional notes found at www.leg.wa.gov

**Chapter 43.80 RCW
FISCAL AGENCIES**

Sections

- 43.80.100 Definitions.
- 43.80.110 Appointment of fiscal agencies—Location—Places for payment of bonds.
- 43.80.120 Designation of fiscal agencies—Qualifications—Duration of designation—Compensation.

(2010 Ed.)

- 43.80.125 Appointment of fiscal agencies in connection with registered bonds—Contracting of services.
- 43.80.130 Receipts—Payment procedure—Cremation—Certificate of destruction.
- 43.80.140 Notice of establishment of fiscal agencies—Publication—Bonds and coupons paid at fiscal agencies.
- 43.80.150 Treasurers not responsible for funds remitted.
- 43.80.160 Return of funds remitted to redeem bonds and coupons which remain unredeemed.
- 43.80.900 Effective date—1969 ex.s. c 80.

Highway bonds, registration: Chapter 47.10 RCW.

Registration of bonds with, fee: RCW 39.44.130.

State treasurer, fiscal agent of the state: RCW 43.08.090.

Trust companies, power to act as fiscal agent for public bodies: RCW 30.08.150.

43.80.100 Definitions. The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Fiscal agencies" means those banks or trust companies as designated in RCW 43.80.110 and 43.80.120.

(2) "Subdivision" means governmental agencies, counties, cities and towns, metropolitan municipal corporations, port districts, school districts, townships, public colleges and universities, public community colleges, municipal corporations, quasi municipal corporations, and all other such governmental agencies authorized to borrow and issue tenders of indebtedness therefor. Subdivision does not mean housing authorities and public utility districts.

(3) "Cremation" means the destruction of canceled bonds or coupons by any approved method, including but not limited to, cremation facilities, incineration facilities, shredding facilities, or dissolving in acid facilities. [1984 c 7 § 48; 1969 ex.s. c 80 § 1.]

Additional notes found at www.leg.wa.gov

43.80.110 Appointment of fiscal agencies—Location—Places for payment of bonds. Fiscal agencies shall be appointed for the payment of bonds and any coupons issued by this state or by any subdivision thereof. The appointed fiscal agencies may be located in any major city of the country. No bonds hereafter issued by this state or by any affected subdivision thereof, shall be by their terms made payable at a specific place other than: (1) The office of the designated fiscal agencies; (2) offices of the state or local treasurers or fiscal offices of any affected subdivision; or (3) the offices of trustees if provided for in the indenture, as provided for by the terms of the bonds. As used in this chapter, bonds do not include short-term obligations. Fiscal agencies may be authorized to register bonds in accordance with RCW 39.46.030.

Bonds and any coupons of subdivisions may be paid at one or more of the state's fiscal agents and/or at the office of the state treasurer or offices of local treasurers as provided for in the terms of the bonds. [1983 c 167 § 117; 1982 c 216 § 1; 1969 ex.s. c 80 § 2.]

Issuance of short-term obligations by municipal corporations: Chapter 39.50 RCW.

Additional notes found at www.leg.wa.gov

43.80.120 Designation of fiscal agencies—Qualifications—Duration of designation—Compensation. The state finance committee shall designate responsible banks or

trust companies as fiscal agencies, each having a paid-up capital and surplus of not less than five million dollars. The state finance committee shall designate fiscal agencies by any method deemed appropriate to the best interests of this state and its subdivisions.

The state finance committee shall make duplicate certificates of such designations, cause them to be attested under the seal of the state, and file one copy of each certification in the office of the secretary of state and transmit the other to the bank or trust company designated.

The banks or trust companies so designated shall continue to be such fiscal agencies for the term of four years from and after the filing of the certificate of its designation, and thereafter until the designation of other banks or trust companies as such fiscal agencies.

Until successors have been appointed, the banks or trust companies named shall act as the fiscal agencies of the state of Washington in accordance with such terms as shall be agreed upon between the state finance committee and the fiscal agencies so designated. The manner and amount of compensation of the fiscal agents shall be matters specifically left for the state finance committee to determine.

If no such banks or trust companies are willing to accept appointment as fiscal agencies, or if the state finance committee considers unsatisfactory the terms under which such banks or trust companies are willing so to act, the bonds and bond interest coupons normally payable at the fiscal agency, shall thereupon become payable at the state treasury or at the office of the treasurer or fiscal officer of the subdivision concerned, as the case may be. [1969 ex.s. c 80 § 3.]

43.80.125 Appointment of fiscal agencies in connection with registered bonds—Contracting of services. (1) The fiscal agencies designated pursuant to RCW 43.80.110 and 43.80.120 may be appointed by the state treasurer or a local treasurer to act as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the issuance by the state or local government of registered bonds or other obligations pursuant to a system of registration as provided by RCW 39.46.030 and may establish and maintain on behalf of the state or local government a central depository system for the transfer or pledge of bonds or other obligations. The term "local government" shall be as defined in RCW 39.46.020.

(2) Whenever in the judgment of the fiscal agencies, certain services as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the establishment and maintenance of a central depository system for the transfer or pledge of registered public obligations, or in connection with the issuance by any public entity of registered public obligations pursuant to a system of registration as provided in chapter 39.46 RCW, can be secured from private sources more economically than by carrying out such duties themselves, they may contract out all or any of such services to such private entities as such fiscal agencies deem capable of carrying out such duties in a responsible manner. [1995 c 38 § 10; 1994 c 301 § 14; 1985 c 84 § 3; 1983 c 167 § 11.]

Additional notes found at www.leg.wa.gov

43.80.130 Receipts—Payment procedure—Cremation—Certificate of destruction. The fiscal agencies, on the receipt of any moneys transmitted to them by or for this state, or for any affected subdivision, for the purpose of paying therewith any of its bonds or coupons by their terms made payable at the situs of the state of Washington fiscal agencies, shall transmit forthwith to the sender of such moneys a proper receipt therefor; pay such bonds or coupons upon presentation thereof for payment at the office of the fiscal agencies at or after the maturity thereof, in the order of their presentation insofar as the moneys received for that purpose suffice therefor; and cancel all such bonds and coupons upon payment thereof, and thereupon forthwith return the same to the proper officers of this state or affected subdivisions which issued them; and, concerning the same, report to the state and/or affected subdivision within thirty days following a maturity date the amount of bonds and coupons presented and paid to that date: PROVIDED, That nothing herein shall prevent the state or any of the subdivisions thereof from designating its fiscal agencies, or the trustee of any revenue bond issue, or both, also as its agencies for cremation and to provide by agreement therewith, that after one year any general or revenue obligation bonds or interest coupons that have been canceled or paid, may be destroyed as directed by the proper officers of the state or other subdivisions hereinbefore mentioned: PROVIDED FURTHER, That a certificate of destruction giving full descriptive reference to the instruments destroyed shall be made by the person or persons authorized to perform such destruction and one copy of the certificate shall be filed with the treasurer of the state or local subdivisions as applicable. Whenever said treasurer has redeemed any of the bonds or coupons referred to in this section through his or her local office, or whenever such redemption has been performed by the trustee of any revenue bond issue, and the canceled instruments or certificates of transmittal thereafter have been forwarded to said treasurer for recording, such canceled instruments may be forwarded to the fiscal agents designated as agents for cremation for destruction pursuant to any agreements therefor, or said treasurer may, notwithstanding any provision of state statute to the contrary, destroy such canceled instruments in the presence of the public officers or boards or their authorized representatives, which by law perform the auditing functions within the state or such political subdivisions as hereinbefore specified: PROVIDED, That he or she and the said auditing officers or boards shall execute a certificate of destruction, giving full descriptive reference to the instruments destroyed, which certificates shall be filed with those of the agencies for cremation herein designated. No certificate required by this section shall be destroyed until all of the bonds and coupons of the issue or series described thereon shall have matured and been paid or canceled. [2009 c 549 § 5157; 1969 ex.s. c 80 § 4.]

43.80.140 Notice of establishment of fiscal agencies—Publication—Bonds and coupons paid at fiscal agencies. The state finance committee shall, immediately after the establishment of fiscal agencies, publish a notice thereof, once a week for two consecutive weeks, in some financial newspaper of general circulation in cities designated as headquarters of the fiscal agents. All bonds and coupons of this

state or of any affected subdivision thereafter issued shall be paid at the designated fiscal agencies or at such other place as allowed by law and provided for in the bonds. [1969 ex.s. c 80 § 5.]

43.80.150 Treasurers not responsible for funds remitted. Neither the state treasurer nor the treasurer or other fiscal officer of any subdivision thereof shall be held responsible for funds remitted to the fiscal agencies. [1969 ex.s. c 80 § 6.]

43.80.160 Return of funds remitted to redeem bonds and coupons which remain unredeemed. Upon the written request of the state or local treasurer, after a period of one year after the last legal payment date on matured bonds of the state of Washington and of its subdivisions, the funds remitted to fiscal agencies to redeem coupons and bonds which are subsequently unredeemed by the holders of the bonds and coupons, shall herewith be returned to the state treasurer or the local treasurer as the case may be. The state or local treasurer shall remain obligated for the final redemption of the unredeemed bonds or coupons. [1969 ex.s. c 80 § 7.]

43.80.900 Effective date—1969 ex.s. c 80. This act shall take effect on April 1, 1971, or at such time that the present fiscal agent agreement, contracted through April 1, 1971, is abrogated. [1969 ex.s. c 80 § 8.]

Chapter 43.81 RCW

STATE-OWNED LIVING FACILITIES

Sections

- 43.81.010 Legislative declaration.
- 43.81.020 Availability of state-owned or leased living facilities.
- 43.81.030 Rent—Custodial housekeeping—Damages.
- 43.81.040 Maintenance in safe, healthful condition.

43.81.010 Legislative declaration. The legislature recognizes that significant benefits accrue to the state and that certain types of state operations are more efficient when personnel services are available on an extended basis. Such operations include certain types of facilities managed by agencies such as the departments of natural resources, corrections, fish and wildlife, social and health services, transportation, and veterans affairs, and the parks and recreation commission.

The means of assuring that such personnel are available on an extended basis is through the establishment of on-site state-owned or leased living facilities. The legislature also recognizes the restrictions and hardship placed upon those personnel who are required to reside in such state-owned or leased living facilities in order to provide extended personnel services.

The legislature further recognizes that there are instances where it is to the benefit of the state to have state-owned or leased living facilities occupied even though such occupancy is not required by the agency as a condition of employment. [1994 c 264 § 27; 1988 c 36 § 19; 1985 c 463 § 1.]

43.81.020 Availability of state-owned or leased living facilities. (1) Whenever an agency requires that an employee

reside in state-owned or leased living facilities as a condition of employment, such living facilities shall be made available to the employee under the conditions set forth in RCW 43.81.030 and 43.81.040.

(2) Whenever an agency determines that (a) a living facility owned or leased by the agency is not occupied by employees under subsection (1) of this section and (b) it would be to the agency’s benefit to have the facility occupied by an employee of the agency whose duties involve extended personnel services associated with the work site upon which the living facility is located or at work site near to where the living facility is located, the agency may make the facility available to such employee.

(3) Whenever an agency determines that (a) a living facility owned or leased by the agency is not occupied by employees under subsection (1) of this section and (b) the facility has been made available to employees under subsection (2) of this section and that no such employees have opted to reside in the facility, the agency may make the facility available for occupancy to other interested parties. [1985 c 463 § 2.]

43.81.030 Rent—Custodial housekeeping—Damages. (1) No rent may be charged to persons living in facilities provided under RCW 43.81.020(1). Such employees shall pay the costs of utilities associated with the living facility.

(2) Any person occupying state-owned or leased living facilities shall do so with the understanding that he or she assumes custodial housekeeping responsibility as directed by the agency. Such responsibility shall not include maintenance, repairs, or improvements to the facilities. An occupant of a state-owned or leased facility is liable for damages to the facility in excess of normal wear and tear. [1989 c 11 § 16; 1985 c 463 § 3.]

Additional notes found at www.leg.wa.gov

43.81.040 Maintenance in safe, healthful condition. The state shall maintain living facilities occupied under RCW 43.81.020 in a safe, healthful condition. [1985 c 463 § 4.]

Chapter 43.82 RCW

STATE AGENCY HOUSING

Sections

- 43.82.010 Acquisition, lease, and disposal of real estate for state agencies—Long-range planning—Use of lease as collateral or security—Colocation and consolidation—Studies—Delegation of functions—Exemptions.
- 43.82.020 Approval by capitol committee when real estate located in Thurston county.
- 43.82.030 Acquisition of property and rights declared public use—Eminent domain.
- 43.82.035 Predesign process for requests to lease, purchase, or build facilities for state programs—Approval of plans for major leased facilities.
- 43.82.045 Approval of leases—Privately owned buildings being planned or under construction.
- 43.82.055 Long-term facility needs—Six-year facility plan.
- 43.82.110 Lease of space—Surplus space.
- 43.82.120 General administration services account—Rental income.
- 43.82.125 Authorized uses for general administration services account.
- 43.82.130 Powers and duties of director.
- 43.82.140 Insurance on buildings.
- 43.82.150 Inventory of state-owned or leased facilities—Report.

Agricultural commodity commissions exempt: RCW 15.04.200.

43.82.010 Acquisition, lease, and disposal of real estate for state agencies—Long-range planning—Use of lease as collateral or security—Colocation and consolidation—Studies—Delegation of functions—Exemptions.

(1) The director of general administration, on behalf of the agency involved and after consultation with the office of financial management, shall purchase, lease, lease purchase, rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. This section does not transfer financial liability for the acquired property to the department of general administration.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section. Facilities acquired or held pursuant to this chapter, and any improvements thereon, shall conform to standards adopted by the director and approved by the office of financial management governing facility efficiency unless a specific exemption from such standards is provided by the director of general administration. The director of general administration shall report to the office of financial management and the appropriate committees of the legislature annually on any exemptions granted pursuant to this subsection.

(3) The director of general administration may fix the terms and conditions of each lease entered into under this chapter, except that no lease shall extend greater than twenty years in duration. The director of general administration may enter into a long-term lease greater than ten years in duration upon a determination by the director of the office of financial management that the long-term lease provides a more favorable rate than would otherwise be available, it appears to a substantial certainty that the facility is necessary for use by the state for the full length of the lease term, and the facility meets the standards adopted pursuant to subsection (2) of this section. The director of general administration may enter into a long-term lease greater than ten years in duration if an analysis shows that the life-cycle cost of leasing the facility is less than the life-cycle cost of purchasing or constructing a facility in lieu of leasing the facility.

(4) Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a public offering. Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a private placement without the prior written approval of the state treasurer. However, this limitation shall not prevent a lessor from assigning or encumbering its interest in a lease as security for the repayment of a promissory note provided that the transaction would otherwise be an exempt transaction under RCW 21.20.320. The state treasurer shall adopt rules

that establish the criteria under which any such approval may be granted. In establishing such criteria the state treasurer shall give primary consideration to the protection of the state's credit rating and the integrity of the state's debt management program. If it appears to the state treasurer that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection, then he or she may recommend that the governor cause such lease to be terminated. The department of general administration shall promptly notify the state treasurer whenever it may appear to the department that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection.

(5) It is the policy of the state to encourage the colocation and consolidation of state services into single or adjacent facilities, whenever appropriate, to improve public service delivery, minimize duplication of facilities, increase efficiency of operations, and promote sound growth management planning.

(6) The director of general administration shall provide coordinated long-range planning services to identify and evaluate opportunities for colocating and consolidating state facilities. Upon the renewal of any lease, the inception of a new lease, or the purchase of a facility, the director of general administration shall determine whether an opportunity exists for colocating the agency or agencies in a single facility with other agencies located in the same geographic area. If a colocation opportunity exists, the director of general administration shall consult with the affected state agencies and the office of financial management to evaluate the impact colocation would have on the cost and delivery of agency programs, including whether program delivery would be enhanced due to the centralization of services. The director of general administration, in consultation with the office of financial management, shall develop procedures for implementing colocation and consolidation of state facilities.

(7) The director of general administration is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal agencies. The director of general administration shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of the average annual rental, to meet unforeseen expenses incident to management of the real estate.

(8) If the director of general administration determines that it is necessary or advisable to undertake any work, construction, alteration, repair, or improvement on any real estate acquired pursuant to subsection (1) or (7) of this section, the director shall cause plans and specifications thereof and an estimate of the cost of such work to be made and filed in his or her office and the state agency benefiting thereby is hereby authorized to pay for such work out of any available funds: PROVIDED, That the cost of executing such work shall not exceed the sum of twenty-five thousand dollars. Work, construction, alteration, repair, or improvement in excess of twenty-five thousand dollars, other than that done by the

owner of the property if other than the state, shall be performed in accordance with the public works law of this state.

(9) In order to obtain maximum utilization of space, the director of general administration shall make space utilization studies, and shall establish standards for use of space by state agencies. Such studies shall include the identification of opportunities for colocation and consolidation of state agency office and support facilities.

(10) The director of general administration may construct new buildings on, or improve existing facilities, and furnish and equip, all real estate under his or her management. Prior to the construction of new buildings or major improvements to existing facilities or acquisition of facilities using a lease purchase contract, the director of general administration shall conduct an evaluation of the facility design and budget using life-cycle cost analysis, value-engineering, and other techniques to maximize the long-term effectiveness and efficiency of the facility or improvement.

(11) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director of general administration or the director's designee, and recorded with the county auditor of the county in which the property is located.

(12) The director of general administration may delegate any or all of the functions specified in this section to any agency upon such terms and conditions as the director deems advisable. By January 1st of each year, beginning January 1, 2008, the department shall submit an annual report to the office of financial management and the appropriate committees of the legislature on all delegated leases.

(13) This section does not apply to the acquisition of real estate by:

(a) The state college and universities for research or experimental purposes;

(b) The state liquor control board for liquor stores and warehouses; and

(c) The department of natural resources, the department of fish and wildlife, the department of transportation, and the state parks and recreation commission for purposes other than the leasing of offices, warehouses, and real estate for similar purposes.

(14) Notwithstanding any provision in this chapter to the contrary, the department of general administration may negotiate ground leases for public lands on which property is to be acquired under a financing contract pursuant to chapter 39.94 RCW under terms approved by the state finance committee.

(15) The department of general administration shall report annually to the office of financial management and the appropriate fiscal committees of the legislature on facility leases executed for all state agencies for the preceding year, lease terms, and annual lease costs. The report must include leases executed under RCW 43.82.045 and subsection (12) of this section. [2007 c 506 § 8; 2004 c 277 § 906; 1997 c 117 § 1. Prior: 1994 c 264 § 28; 1994 c 219 § 7; 1990 c 47 § 1; 1988 c 36 § 20; 1982 c 41 § 1; 1969 c 121 § 1; 1967 c 229 § 1; 1965 c 8 § 43.82.010; prior: 1961 c 184 § 1; 1959 c 255 § 1.]

Findings—Intent—2007 c 506: See note following RCW 43.82.035.

Severability—Effective dates—2004 c 277: See notes following RCW 89.08.550.

(2010 Ed.)

Finding—1994 c 219: See note following RCW 43.88.030.

Departments to share occupancy costs—Capital projects surcharge: RCW 43.01.090.

East capitol site, acquisition and development: RCW 79.24.500 through 79.24.530.

Public works: Chapter 39.04 RCW.

Use of general administration services account in acquiring real estate: RCW 43.19.500.

Additional notes found at www.leg.wa.gov

43.82.020 Approval by capitol committee when real estate located in Thurston county. The acquisition of real estate, and use thereof, shall be subject to the approval of the state capitol committee when the real estate is located in Thurston county. [1965 c 8 § 43.82.020. Prior: 1961 c 184 § 2; 1959 c 255 § 2.]

43.82.030 Acquisition of property and rights declared public use—Eminent domain. The acquisition of any real property or any rights or interests therein for the purpose of this chapter is hereby declared to be for a public use. In furtherance of the purposes of this chapter, the right of eminent domain may be exercised as provided for in chapter 8.04 RCW. [1965 c 8 § 43.82.030. Prior: 1959 c 255 § 3.]

43.82.035 Predesign process for requests to lease, purchase, or build facilities for state programs—Approval of plans for major leased facilities. (1) The office of financial management shall design and implement a modified predesign process for any space request to lease, purchase, or build facilities that involve (a) the housing of new state programs, (b) a major expansion of existing state programs, or (c) the relocation of state agency programs. This includes the consolidation of multiple state agency tenants into one facility. The office of financial management shall define facilities that meet the criteria described in (a) and (b) of this subsection.

(2) State agencies shall submit modified predesigns to the office of financial management and the legislature. Modified predesigns must include a problem statement, an analysis of alternatives to address programmatic and space requirements, proposed locations, and a financial assessment. For proposed projects of twenty thousand gross square feet or less, the agency may provide a cost-benefit analysis, rather than a life-cycle cost analysis, as determined by the office of financial management.

(3) Projects that meet the capital requirements for predesign on major facility projects with an estimated project cost of five million dollars or more pursuant to chapter 43.88 RCW shall not be required to prepare a modified predesign.

(4) The office of financial management shall require state agencies to identify plans for major leased facilities as part of the ten-year capital budget plan. State agencies shall not enter into new or renewed leases of more than one million dollars per year unless such leases have been approved by the office of financial management except when the need for the lease is due to an unanticipated emergency. The regular termination date on an existing lease does not constitute an emergency. The department of general administration shall notify the office of financial management and the appropriate legislative fiscal committees if an emergency situation arises.

(5) For project proposals in which there are estimates of operational savings, the office of financial management shall require the agency or agencies involved to provide details including but not limited to fund sources and timelines. [2007 c 506 § 4.]

Findings—Intent—2007 c 506: "The legislature finds that the capital stock of facilities owned and leased by state agencies represents a significant financial investment by the citizens of the state of Washington. Capital construction projects funded in the state's capital budget require diligent analysis and approval by the governor and the legislature. In some cases, long-term leases obligate state agencies to a larger financial commitment than some capital construction projects without a comparable level of diligence. State facility analysis and portfolio management can be strengthened through greater oversight and support from the office of financial management and the legislature and with input from stakeholders.

The legislature finds that the state lacks specific policies and standards on conducting life-cycle cost analysis to determine the cost-effectiveness of owning or leasing state facilities and lacks clear guidance on when and how to use it. Further, there is limited oversight and review of the results of life-cycle cost analyses in the capital project review process. Unless decision makers are provided a thorough economic analysis, they cannot identify the most cost-effective alternative or identify opportunities for improving the cost-effectiveness of state facility alternatives.

The legislature finds that the statewide accounting system limits the ability of the office of financial management and the legislature to analyze agency expenditures that include only leases for land, buildings, and structures. Additionally, other statewide data systems that track state-owned and leased facility information are limited, onerous, and inflexible.

Therefore, it is the intent of the legislature to strengthen the office of financial management's oversight role in state facility analysis and decision making. Further, it is the intent of the legislature to support the office of financial management's and the department of general administration's need for technical expertise and data systems to conduct thorough analysis, long-term planning, and state facility portfolio management by providing adequate resources in the capital and operating budgets." [2007 c 506 § 1.]

43.82.045 Approval of leases—Privately owned buildings being planned or under construction. State agencies are prohibited from entering into lease agreements for privately owned buildings that are in the planning stage of development or under construction unless there is prior written approval by the director of the office of financial management. Approval of such leases shall not be delegated. Lease agreements described in this section must comply with RCW 43.82.035. [2007 c 506 § 5.]

Findings—Intent—2007 c 506: See note following RCW 43.82.035.

43.82.055 Long-term facility needs—Six-year facility plan. The office of financial management shall:

(1) Work with the department of general administration and all other state agencies to determine the long-term facility needs of state government; and

(2) Develop and submit a six-year facility plan to the legislature by January 1st of every odd-numbered year, beginning January 1, 2009, that includes state agency space requirements and other pertinent data necessary for cost-effective facility planning. The department of general administration shall assist with this effort as required by the office of financial management. [2007 c 506 § 6.]

Findings—Intent—2007 c 506: See note following RCW 43.82.035.

43.82.110 Lease of space—Surplus space. All office or other space made available through the provisions of this chapter shall be leased by the director to such state or federal agencies, for such rental, and on such terms and conditions as he or she deems advisable: PROVIDED, HOWEVER, If

space becomes surplus, the director is authorized to lease office or other space in any project to any person, corporation or body politic, for such period as the director shall determine said space is surplus, and upon such other terms and conditions as he or she may prescribe. [1994 c 219 § 13; 1969 c 121 § 2; 1965 c 8 § 43.82.110. Prior: 1961 c 184 § 4; 1959 c 255 § 11.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.82.120 General administration services account—Rental income. All rental income collected by the department of general administration from rental of state buildings shall be deposited in the general administration services account. [1998 c 105 § 14; 1994 c 219 § 14; 1965 c 8 § 43.82.120. Prior: 1961 c 184 § 5; 1959 c 255 § 12.]

Finding—1994 c 219: See note following RCW 43.88.030.

Additional notes found at www.leg.wa.gov

43.82.125 Authorized uses for general administration services account. The general administration services account shall be used to pay all costs incurred by the department in the operation of real estate managed under the terms of this chapter. Moneys received into the general administration services account shall be used to pay rent to the owner of the space for occupancy of which the charges have been made and to pay utility and operational costs of the space utilized by the occupying agency: PROVIDED, That moneys received into the account for occupancy of space owned by the state where utilities and other operational costs are covered by appropriation to the department of general administration shall be immediately transmitted to the general fund. [1998 c 105 § 15; 1965 c 8 § 43.82.125. Prior: 1961 c 184 § 6.]

Additional notes found at www.leg.wa.gov

43.82.130 Powers and duties of director. The director of the department of general administration is authorized to do all acts and things necessary or convenient to carry out the powers and duties expressly provided in this chapter. [1965 c 8 § 43.82.130. Prior: 1959 c 255 § 13.]

43.82.140 Insurance on buildings. The director may, in his or her discretion, obtain fire or other hazard insurance on any building under his or her management. [2009 c 549 § 5158; 1965 c 8 § 43.82.140. Prior: 1961 c 184 § 7.]

43.82.150 Inventory of state-owned or leased facilities—Report. (1) The office of financial management shall develop and maintain an inventory system to account for all owned or leased facilities utilized by state government. At a minimum, the inventory system must include the facility owner, location, type, condition, and size of each facility. In addition, for owned facilities, the inventory system must include the date and cost of original construction and the cost of any major remodeling or renovation. The inventory must be updated by June 30th of each year. The office of financial management shall publish a report summarizing information contained in the inventory system for each agency by October 1st of each year, beginning in 2010 and shall submit this report to the appropriate fiscal committees of the legislature.

(2) All agencies, departments, boards, commissions, and institutions of the state of Washington shall provide to the office of financial management a complete inventory of owned and leased facilities by September 1, 2010. The inventory must be updated and submitted to the office of financial management by September 1st of each subsequent year. The inventories required under this subsection must be submitted in a standard format prescribed by the office of financial management.

(3) The office of financial management shall report to the legislature by September 1, 2008, on recommended improvements to the inventory system, redevelopment costs, and an implementation schedule for the redevelopment of the inventory system. The report shall also make recommendations on other improvements that will improve accountability and assist in the evaluation of budget requests and facility management by the governor and the legislature.

(4) For the purposes of this section, "facilities" means buildings and other structures with walls and a roof. "Facilities" does not mean roads, bridges, parking areas, utility systems, and other similar improvements to real property. [2007 c 506 § 7; 1997 c 96 § 2; 1993 c 325 § 1.]

Findings—Intent—2007 c 506: See note following RCW 43.82.035.

Findings—Purpose—1997 c 96: "The legislature finds that the capital stock of facilities owned by state agencies represents a significant financial investment by the citizens of the state of Washington, and that providing agencies with the tools and incentives needed to adequately maintain state facilities is critically important to realizing the full value of this investment. The legislature also finds that ongoing reporting of facility inventory, condition, and maintenance information by agencies will improve accountability and assist in the evaluation of budget requests and facility management by the legislature and governor. The purpose of this act is to ensure that recent enhancements to facility and maintenance reporting systems implemented by the office of financial management, and a new program created by the department of general administration to provide maintenance information and technical assistance to state and local agencies, are sustained into the future." [1997 c 96 § 1.]

**Chapter 43.83 RCW
CAPITAL IMPROVEMENTS**

Sections

1959-1961 BOND ISSUE

- 43.83.010 Limited obligation bonds—Authorized—Issuance, sale, form, payment, etc.—Continuation of tax levy.
- 43.83.020 Limited obligation bonds—Proceeds to be deposited in state building construction account—Use.
- 43.83.030 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy.
- 43.83.040 Limited obligation bonds—Legislature may provide additional means of raising revenue.
- 43.83.050 Limited obligation bonds—Bonds are negotiable, legal investment and security.

1961-1963 BOND ISSUE

- 43.83.060 Limited obligation bonds—Authorized—Issuance, sale, form, payment, etc.—Continuation of tax levy.
- 43.83.062 Limited obligation bonds—Proceeds to be deposited in state building construction account—Use.
- 43.83.064 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy.
- 43.83.066 Limited obligation bonds—Legislature may provide additional means of raising revenue.
- 43.83.068 Limited obligation bonds—Bonds are negotiable, legal investment and security.

(2010 Ed.)

1965-1967 BOND ISSUE

- 43.83.070 General obligation bonds—Authorized—Issuance, sale, form, payment, etc.
- 43.83.074 General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy.
- 43.83.076 General obligation bonds—Legislature may provide additional means of raising revenue.
- 43.83.078 General obligation bonds—Legal investment for state and local funds.
- 43.83.082 General obligation bonds—Capital improvement and capital project defined.
- 43.83.084 General obligation bonds—Referral to electorate.

1967-1969 BOND ISSUE

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- 43.83.140 General obligation bonds—General obligation of state.
- 43.83.142 General obligation bonds—Charges against state agencies to reimburse state general fund.
- 43.83.144 General obligation bonds—Legislature may provide additional means for payment.
- 43.83.146 General obligation bonds—Legal investment for state and other public bodies.
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- 43.83.150 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.83.152 Form, terms, conditions, etc., of bonds.
- 43.83.154 Bond anticipation notes—Deposit of proceeds of bonds and notes in state building construction account and state general obligation bond retirement fund.
- 43.83.156 Administration of proceeds.
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- 43.83.166 Legislature may provide additional means for payment of bonds.

- 43.83.168 Bonds legal investment for public funds.
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- 43.83.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required.
43.83.174 Deposit of proceeds in state building construction account—Use.
43.83.176 Administration of proceeds.
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43.83.182 Bonds legal investment for public funds.
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43.83.186 Deposit of proceeds in state building construction account—Use.
43.83.188 Administration of proceeds.
43.83.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
43.83.192 Legislature may provide additional means for payment of bonds.
43.83.194 Bonds legal investment for public funds.
43.83.196 Severability—1983 1st ex.s. c 54.
- 1984 BOND ISSUE
- 43.83.198 General obligation bonds—Authorized—Issuance—Price—Appropriation required.
43.83.200 Deposit of proceeds in state building construction account—Use.
43.83.202 Administration of proceeds.
43.83.204 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
43.83.206 Legislature may provide additional means for payment of bonds.
43.83.208 Bonds legal investment for public funds.
43.83.210 Severability—1984 c 271.

Indian cultural and educational facility bond issue: Chapter 37.14 RCW.

Washington State University Tree Fruit Research Center office-laboratory facility, financing: RCW 28B.30.600 through 28B.30.619.

1959-1961 BOND ISSUE

43.83.010 Limited obligation bonds—Authorized—Issuance, sale, form, payment, etc.—Continuation of tax levy. For the purpose of furnishing funds to finance projects in the 1959-1961 capital budget, as adopted by the legislature, there shall be issued and sold limited obligation bonds of the state of Washington in the sum of ten million eighty-nine thousand dollars to be paid and discharged not more than twenty years after date of issuance. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds; and the sale, issuance, and redemption thereof. None of the bonds herein authorized shall be sold for less than the par value thereof. Such bonds shall state distinctly that they shall not be a general obligation of the state of Washington, but shall be payable in the manner and from the proceeds of retail sales taxes as in RCW 43.83.010 through 43.83.050 provided. As a part of the contract of sale of the aforesaid bonds, the state undertakes to continue to levy the taxes referred to herein and to fix and maintain said taxes in such amounts as will provide sufficient funds to pay

said bonds and interest thereon until all such obligations have been paid in full.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide. [1965 c 8 § 43.83.010. Prior: 1959 ex.s. c 9 § 1.]

43.83.020 Limited obligation bonds—Proceeds to be deposited in state building construction account—Use.

(1) The proceeds from the sale of the bonds authorized herein shall be deposited in the state building construction account which is hereby established in the state treasury and shall be used exclusively for the purposes of carrying out the provisions of the capital appropriation acts, and for payment of the expense incurred in the printing, issuance, and sale of such bonds.

(2) During the 2003-2005 biennium, the legislature may transfer moneys from the state building construction account to the conservation assistance revolving account such amounts as reflect the excess fund balance of the account. [2004 c 276 § 907; 1991 sp.s. c 13 § 46; 1987 1st ex.s. c 3 § 9; 1985 c 57 § 43; 1965 c 8 § 43.83.020. Prior: 1959 ex.s. c 9 § 2.]

Severability—Effective date—2004 c 276: See notes following RCW 43.330.167.

Additional notes found at www.leg.wa.gov

43.83.030 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy.

Retirement of the bonds and interest authorized by RCW 43.83.010 through 43.83.050 shall be from the state building construction bond redemption fund created by chapter 298, Laws of 1957. The state finance committee shall on or before June 30th of each year certify to the state treasurer the amount needed in the ensuing twelve months to meet interest payments on and retirement of bonds authorized by RCW 43.83.010 through 43.83.050. The state treasurer shall thereupon deposit such amount in the state building construction bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections, and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, subject to and inferior only to the charges thereon created by chapters 229 and 230, Laws of 1949, and chapter 298, Laws of 1957. Said bond redemption fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of the bonds herein authorized, the state undertakes to continue to levy and collect a tax on retail sales equal to that portion thereof allocated to said fund as provided in RCW 43.83.010 through 43.83.050, and to place the proceeds thereof in the state building construction bond redemption fund and to make said fund available to meet said payments when due until all bonds and the interest

thereon authorized under RCW 43.83.010 through 43.83.050 shall have been paid. [1975 1st ex.s. c 278 § 26; 1965 c 8 § 43.83.030. Prior: 1959 ex.s. c 9 § 3.]

Reviser's note: Chapter 298, Laws of 1957 and chapter 230, Laws of 1949 referred to herein were codified in chapter 72.99 RCW. The sections in chapter 72.99 RCW were repealed by 1983 c 189 § 4 and by 1979 c 67 § 18. Chapter 229, Laws of 1949 was codified in chapter 28A.47 RCW, which has been recodified as chapter 28A.525 RCW.

Additional notes found at www.leg.wa.gov

43.83.040 Limited obligation bonds—Legislature may provide additional means of raising revenue. The legislature may provide additional means for raising funds for the payment of the interest and principal of the bonds authorized by RCW 43.83.010 through 43.83.050 and RCW 43.83.010 through 43.83.050 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of the general credit of the state of Washington. [1965 c 8 § 43.83.040. Prior: 1959 ex.s. c 9 § 4.]

43.83.050 Limited obligation bonds—Bonds are negotiable, legal investment and security. The bonds herein authorized shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county, and municipal deposits. [1965 c 8 § 43.83.050. Prior: 1959 ex.s. c 9 § 5.]

1961-1963 BOND ISSUE

43.83.060 Limited obligation bonds—Authorized—Issuance, sale, form, payment, etc.—Continuation of tax levy. For the purpose of furnishing funds to finance projects in the 1961-1963 capital budget, as adopted by the legislature, there shall be issued and sold limited obligation bonds of the state of Washington in the sum of twenty-seven million five hundred fifty-six thousand dollars to be paid and discharged not more than twenty years after date of issuance. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds; and the sale, issuance, and redemption thereof. None of the bonds herein authorized shall be sold for less than the par value thereof. Such bonds shall state distinctly that they shall not be a general obligation of the state of Washington, but shall be payable in the manner and from the proceeds of retail sales taxes as in RCW 43.83.060 through 43.83.068 provided. As a part of the contract of sale of the aforesaid bonds, the state undertakes to continue to levy the taxes referred to herein and to fix and maintain said taxes in such amounts as will provide sufficient funds to pay said bonds and interest thereon until all such obligations have been paid in full.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine

and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto: PROVIDED, That any bonds issued under authority of RCW 43.83.060 through 43.83.068 for the purpose of financing the construction of the correctional institution authorized by chapter 214, Laws of 1959, shall be so identified and shall be subject to call prior to the maturity date thereof. Such bonds shall be payable at such places as the state finance committee may provide. The state finance committee shall, in making its invitation or call for bids on the sale or issuance of such bonds, other than those governed by the proviso in this section, secure bids on the condition that the bonds may be called prior to maturity and it shall also secure bids on the condition that they shall not be subject to prior call. [1965 c 8 § 43.83.060. Prior: 1961 ex.s. c 23 § 1.]

43.83.062 Limited obligation bonds—Proceeds to be deposited in state building construction account—Use. The proceeds from the sale of the bonds authorized herein shall be deposited in the state building construction account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of the capital appropriation act of 1961, and for payment of the expense incurred in the printing, issuance, and sale of such bonds. [1965 c 8 § 43.83.062. Prior: 1961 ex.s. c 23 § 2.]

43.83.064 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy. Retirement of the bonds and interest authorized by RCW 43.83.060 through 43.83.068 shall be from the state building construction bond redemption fund created by chapter 298, Laws of 1957. The state finance committee shall on or before June thirtieth of each year certify to the state treasurer the amount needed in the ensuing twelve months to meet interest payments on and retirement of bonds authorized by RCW 43.83.060 through 43.83.068. The state treasurer shall thereupon deposit such amount in the state building construction bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections, and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, subject to and inferior only to amounts previously pledged for the payment of interest on and retirement of bonds heretofore issued. Said bond redemption fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of the bonds herein authorized, the state undertakes to continue to levy and collect a tax on retail sales equal to that portion thereof allocated to said fund as provided in RCW 43.83.060 through 43.83.068, and to place the proceeds thereof in the state building construction bond redemption fund and to make said fund available to meet said payments when due until all bonds and the interest thereon authorized under RCW 43.83.060 through 43.83.068 shall have been paid. [1975 1st ex.s. c 278 § 27; 1965 c 8 § 43.83.064. Prior: 1961 ex.s. c 23 § 3.]

Additional notes found at www.leg.wa.gov

43.83.066 Limited obligation bonds—Legislature may provide additional means of raising revenue. The legislature may provide additional means for raising funds for the payment of the interest and principal of the bonds authorized by RCW 43.83.060 through 43.83.068 and RCW 43.83.060 through 43.83.068 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of the general credit of the state of Washington. [1965 c 8 § 43.83.066. Prior: 1961 ex.s. c 23 § 4.]

43.83.068 Limited obligation bonds—Bonds are negotiable, legal investment and security. The bonds herein authorized shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county, and municipal deposits. [1965 c 8 § 43.83.068. Prior: 1961 ex.s. c 23 § 5.]

1965-1967 BOND ISSUE

43.83.070 General obligation bonds—Authorized—Issuance, sale, form, payment, etc. For the purpose of providing needed capital improvements for the institutions of higher education, the department of institutions, the department of natural resources and other state agencies, the state finance committee is hereby authorized to issue, at any time prior to January 1, 1970, general obligation bonds of the state of Washington in the sum of forty million five hundred seventy-five thousand dollars, or so much thereof as shall be required to finance the capital projects set forth in *RCW 43.83.080, to be paid and discharged within twenty years of the date of issuance.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof: PROVIDED, That none of the bonds herein authorized shall be sold for less than the par value thereof, nor shall they bear interest at a rate in excess of six percent per annum.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1965 ex.s. c 172 § 1.]

*Reviser's note: RCW 43.83.080 was repealed by 1979 ex.s. c 67 § 18.

43.83.074 General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy. The state building and higher education bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 43.83.070 through 43.83.084. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond

retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in said state building and higher education bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1975 1st ex.s. c 278 § 28; 1965 ex.s. c 172 § 3.]

Additional notes found at www.leg.wa.gov

43.83.076 General obligation bonds—Legislature may provide additional means of raising revenue. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and RCW 43.83.070 through 43.83.084 shall not be deemed to provide an exclusive method for such payment. [1965 ex.s. c 172 § 4.]

43.83.078 General obligation bonds—Legal investment for state and local funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1965 ex.s. c 172 § 5.]

43.83.082 General obligation bonds—Capital improvement and capital project defined. The words "capital improvement" or "capital project" used herein shall mean acquisition of sites, easements, rights-of-way or improvements thereon or appurtenances thereto, construction and initial equipment, reconstruction, demolition or major alteration of new or presently owned capital assets. [1965 ex.s. c 172 § 7.]

43.83.084 General obligation bonds—Referral to electorate. RCW 43.83.070 through 43.83.084 shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1966, in accordance with the provisions of section 3, Article VIII of the state Constitution; and in accordance with the provisions of section 1, Article II of the state Constitution as amended, and the laws adopted to facilitate the operation thereof. [1965 ex.s. c 172 § 8.]

1967-1969 BOND ISSUE

43.83.090 General obligation bonds—Authorized—Issuance, sale, form, payment, etc. For the purpose of providing needed capital improvements for the department of general administration, the institutions of higher education and the department of institutions, the state finance committee is authorized to issue, at any time prior to January 1, 1972, general obligation bonds of the state of Washington in the

sum of sixty-three million fifty-nine thousand dollars or so much thereof as shall be required to finance the capital projects set forth in *RCW 43.83.100, to be paid and discharged within twenty years of the date of issuance.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof: PROVIDED, That none of the bonds herein authorized shall be sold for less than the par value thereof, nor shall they bear interest at a rate in excess of six percent per annum.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1967 ex.s. c 148 § 1.]

*Reviser's note: RCW 43.83.100 was repealed by 1979 ex.s. c 67 § 18.

43.83.094 General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy. The state building and higher education bond redemption fund is created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 43.83.090 through 43.83.104. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state building and higher education bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections; and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof which has been heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1975 1st ex.s. c 278 § 29; 1967 ex.s. c 148 § 3.]

Additional notes found at www.leg.wa.gov

43.83.096 General obligation bonds—Legislature may provide additional means of raising revenue. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and RCW 43.83.090 through 43.83.104 shall not be deemed to provide an exclusive method for such payment. [1967 ex.s. c 148 § 4.]

43.83.098 General obligation bonds—Legal investment for state and local funds. The bonds herein authorized shall be a legal investment for all state funds or for

funds under state control and all funds of municipal corporations. [1967 ex.s. c 148 § 5.]

43.83.102 General obligation bonds—Capital improvement and capital project defined. The words "capital improvement" or "capital project" used herein shall mean acquisition of sites, easements, rights-of-way or improvements thereon or appurtenances thereto, construction and initial equipment, reconstruction, demolition or major alteration of new or presently owned capital assets. [1967 ex.s. c 148 § 7.]

43.83.104 General obligation bonds—Referral to electorate. RCW 43.83.090 through 43.83.104 shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1968, in accordance with the provisions of section 3, Article VIII of the state Constitution; and in accordance with the provisions of section 1, Article II of the state Constitution as amended, and the laws adopted to facilitate the operation thereof. [1967 ex.s. c 148 § 8.]

Reviser's note: RCW 43.83.090 through 43.83.104 was adopted and ratified by the people at the November 5, 1968, general election (Referendum Bill No. 19). Governor's proclamation declaring approval of measure is dated December 5, 1968. State Constitution Art. 2 § 1(d) provides: "... Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved ..."

1973 BOND ISSUE

43.83.110 General obligation bonds—Authorized—Issuance—Payment. For the purpose of acquiring land, funding and providing the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment, and facilities, of capitol office buildings, parking facilities, governor's mansion, and such other buildings and facilities as are determined to be necessary to provide space for the legislature by way of offices, committee rooms, hearing rooms, and work rooms, and to provide executive office and housing for the governor, and to provide executive office space for other elective officials and such other state agencies as may be necessary, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty-seven million dollars, or so much thereof as may be required, to finance the projects defined in RCW 43.83.110 through 43.83.126 and all costs incidental thereto. Such bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1973 1st ex.s. c 217 § 1.]

43.83.112 General obligation bonds—Powers and duties of state finance committee. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and notes, if any. Such bonds shall be payable at such places as the committee may provide. [1973 1st ex.s. c 217 § 2.]

43.83.114 General obligation bonds—Anticipation notes—Proceeds. At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds authorized by RCW 43.83.110 through 43.83.126 shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83.110 through 43.83.126 and for the payment of expenses incurred in the issuance and sale of the bonds. [1973 1st ex.s. c 217 § 3.]

43.83.116 General obligation bonds—Administration of proceeds from sale. The principal proceeds from the sale of the bonds or notes deposited in the state building construction account of the general fund shall be administered by the state department of general administration. [1973 1st ex.s. c 217 § 4.]

43.83.118 General obligation bonds—Payment from bond redemption fund—Procedure—General obligation of state. The state building bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds authorized by RCW 43.83.110 through 43.83.126. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in the state building bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. Bonds issued under the provisions of RCW 43.83.110 through 43.83.126 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1973 1st ex.s. c 217 § 5.]

43.83.120 General obligation bonds—Charges against state agencies to reimburse state general fund. In

addition to any other charges authorized by law and to assist in reimbursing the state general fund for expenditures from the general state revenues in paying the principal and interest on the bonds and notes herein authorized, the director of general administration shall assess a charge against each state board, commission, agency, office, department, activity, or other occupant or user for payment of a proportion of costs for each square foot of floor space assigned to or occupied by it. Payment of the amount so billed to the entity for such occupancy shall be made annually and in advance at the beginning of each fiscal year. The director of general administration shall cause the same to be deposited in the state treasury to the credit of the general fund. [1973 1st ex.s. c 217 § 6.]

43.83.122 General obligation bonds—Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized herein, and RCW 43.83.110 through 43.83.126 shall not be deemed to provide an exclusive method for such payment. [1973 1st ex.s. c 217 § 7.]

43.83.124 General obligation bonds—Legal investment for state and other public bodies. The bonds herein authorized shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1973 1st ex.s. c 217 § 8.]

43.83.126 Severability—1973 1st ex.s. c 217. If any provision of this 1973 act, or its application to any person or circumstance is held invalid the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 217 § 9.]

1975 BOND ISSUE

43.83.130 General obligation bonds—Authorized—Issuance—Payment. For the purpose of providing funds for the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, and fixed equipment of capitol campus facilities and such other buildings and facilities as are determined to be necessary to provide space for the legislature by way of offices, committee rooms, hearing rooms, and work rooms and such other state agencies as may be necessary, as provided in the capital appropriations act, chapter . . ., Laws of 1975 [chapter 276, Laws of 1975 1st ex. sess.], for such purposes, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the aggregate principal amount of six million four hundred thousand dollars or so much thereof as may be required to finance said projects, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington. [1975 1st ex.s. c 249 § 1.]

43.83.132 General obligation bonds—Powers and duties of state finance committee. The issuance, sale and retirement of said bonds as authorized in RCW 43.83.130 shall be under the supervision and control of the state finance

committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of such bonds and the conditions of sale and issuance thereof. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and notes, if any. Such bonds shall be payable at such places as the committee may provide. [1975 1st ex.s. c 249 § 2.]

43.83.134 General obligation bonds—Anticipation notes—Proceeds. At the time the state finance committee determines to issue such bonds as authorized in RCW 43.83.130 through 43.83.148 or a portion thereof, pending the issuance of such bonds, it may issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 43.83.130 through 43.83.148 shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83.130 through 43.83.148 and for the payment of expenses incurred in the issuance and sale of such bonds and notes: PROVIDED, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the bond redemption fund created in RCW 43.83.138. [1975 1st ex.s. c 249 § 3.]

43.83.136 General obligation bonds—Administration of proceeds from sale. The principal proceeds from the sale of the bonds or notes authorized in RCW 43.83.130 through 43.83.148 and deposited in the state building construction account of the general fund shall be administered by the state department of general administration, subject to legislative appropriation. [1975 1st ex.s. c 249 § 4.]

43.83.138 General obligation bonds—Payment from bond redemption fund—Procedure. The state building bond redemption fund, 1975, is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds and notes authorized by RCW 43.83.130 through 43.83.148. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in such state building bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. [1975 1st ex.s. c 249 § 5.]

43.83.140 General obligation bonds—General obligation of state. Bonds issued under the provisions of RCW 43.83.130 through 43.83.148 shall state that they are a gen-

eral obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds, by a mandamus or other appropriate proceeding, may require the transfer and payment of funds as directed herein. [1975 1st ex.s. c 249 § 6.]

43.83.142 General obligation bonds—Charges against state agencies to reimburse state general fund. In addition to any other charges authorized by law and to assist in reimbursing the state general fund for expenditures from the general state revenues in paying the principal and interest on the bonds and notes authorized in RCW 43.83.130 through 43.83.148, the director of general administration may assess a charge against each state board, commission, agency, office, department, activity, or other occupant or user of any facility or other building as authorized in RCW 43.83.130 for payment of a proportion of costs for each square foot of floor space assigned to or occupied by it. Payment of the amount so billed to the entity for such occupancy shall be made annually and in advance at the beginning of each fiscal year. The director of general administration shall cause the same to be deposited in the state treasury to the credit of the general fund. [1975 1st ex.s. c 249 § 7.]

43.83.144 General obligation bonds—Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of an interest on the bonds authorized in RCW 43.83.130 through 43.83.148, and RCW 43.83.130 through 43.83.148 shall not be deemed to provide an exclusive method for such payment. [1975 1st ex.s. c 249 § 8.]

43.83.146 General obligation bonds—Legal investment for state and other public bodies. The bonds authorized in RCW 43.83.130 through 43.83.148 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1975 1st ex.s. c 249 § 9.]

43.83.148 Severability—1975 1st ex.s. c 249. If any provision of this 1975 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 249 § 10.]

1979 BOND ISSUE

43.83.150 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of acquiring land and providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment facilities of office buildings, parking facilities, and such other buildings,

facilities, and utilities as are determined to be necessary to provide space including offices, committee rooms, hearing rooms, work rooms, and industrial-related space for the legislature, for other elective officials, and such other state agencies as may be necessary, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twelve million five hundred thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83.150 through 43.83.170 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance. [1985 ex.s. c 4 § 15; 1979 ex.s. c 230 § 1.]

Additional notes found at www.leg.wa.gov

43.83.152 Form, terms, conditions, etc., of bonds.

The issuance, sale, and retirement of the bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance, and redemption. None of the bonds authorized in RCW 43.83.150 through 43.83.170 shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of the bonds and notes, if any. The bonds shall be payable at such places as the committee may provide. [1979 ex.s. c 230 § 2.]

43.83.154 Bond anticipation notes—Deposit of proceeds of bonds and notes in state building construction account and state general obligation bond retirement fund. At the time the state finance committee determines to issue the bonds, or a portion thereof, it may, pending the issuance of the bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 43.83.150 through 43.83.170 shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83.150 through 43.83.170 and for the payment of expenses incurred in the issuance and sale of the bonds: PROVIDED, That such portion of the proceeds of the sale of the bonds as may be required for the payment of the principal of and interest on the anticipation notes as have been issued, shall be deposited in the state general obligation bond retirement fund created by RCW 43.83.160. [1979 ex.s. c 230 § 3.]

43.83.156 Administration of proceeds. The principal proceeds from the sale of the bonds or notes deposited in the state building construction account of the general fund shall be administered by the state department of general administration, subject to legislative appropriation. [1979 ex.s. c 230 § 4.]

43.83.158 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds and notes authorized by RCW 43.83.150 through 43.83.170. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. Bonds issued under RCW 43.83.150 through 43.83.170 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1979 ex.s. c 230 § 5.]

43.83.160 State general obligation bond retirement fund created—Trust fund for retirement of state general obligation bonds—Use of designated bond retirement accounts. The state general obligation bond retirement fund is hereby created in the state treasury. This fund shall be used for the payment of principal of, redemption premium, if any, and interest on general obligation bonds of the state that are required to be paid either directly or indirectly from any general state revenues and that are issued pursuant to statutory authority which statute designates the general obligation bond retirement fund for this purpose. This fund shall be deemed a trust fund for this purpose.

If bond retirement accounts are created in the state treasury by chapter 456, Laws of 1997 and become effective prior to the issuance of any of the bonds that would otherwise be subject to payment from the state general obligation bond retirement fund under this section, the bond retirement accounts designated by the statutes authorizing the bond issuance shall be used for the purposes of this chapter in lieu of the state general obligation bond retirement fund. [1997 c 456 § 29; 1979 ex.s. c 230 § 6.]

Additional notes found at www.leg.wa.gov

43.83.162 Separate accounting records required for each issue of bonds. Separate accounting records shall be maintained by the state treasurer of the debt service requirements of each issue of bonds payable from the state general obligation bond retirement fund, as certified by the state finance committee, and of the payments made out of the general obligation bond retirement fund to meet principal, interest requirements, and redemption premium, if any. [1979 ex.s. c 230 § 7.]

43.83.164 Payment on certain bonds from state general obligation bond retirement fund prohibited. No bonds issued pursuant to Article VIII, section 1(f) of the Constitution of the state of Washington shall be made payable from the state general obligation bond retirement fund. [1979 ex.s. c 230 § 8.]

43.83.166 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.83.150 through 43.83.170, and RCW 43.83.150 through 43.83.170 shall not be deemed to provide an exclusive method for the payment. [1979 ex.s. c 230 § 9.]

43.83.168 Bonds legal investment for public funds. The bonds authorized in RCW 43.83.150 through 43.83.170 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1979 ex.s. c 230 § 10.]

43.83.170 Severability—1979 ex.s. c 230. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 230 § 11.]

1981 BOND ISSUE

43.83.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required. For the purpose of acquiring land and providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment facilities of office buildings, parking facilities, and such other buildings, facilities, and utilities as are determined to be necessary to provide space including offices, committee rooms, hearing rooms, work rooms, and industrial-related space for the legislature, for other elective officials, and such other state agencies as may be necessary, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twelve million one hundred thirty thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83.172 through 43.83.182 may be offered for sale without prior legislative appropriation. [1982 1st ex.s. c 48 § 19; 1981 c 235 § 1.]

Additional notes found at www.leg.wa.gov

43.83.174 Deposit of proceeds in state building construction account—Use. The proceeds from the sale of bonds authorized by RCW 43.83.172 through 43.83.182 shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83.172 through 43.83.182 and for the payment of expenses incurred in the issuance and sale of the bonds. [1981 c 235 § 2.]

(2010 Ed.)

43.83.176 Administration of proceeds. The principal proceeds from the sale of the bonds deposited in the state building construction account of the general fund shall be administered by the state department of general administration, subject to legislative appropriation. [1981 c 235 § 3.]

43.83.178 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized by RCW 43.83.172 through 43.83.182.

The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.83.172 through 43.83.182 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1981 c 235 § 4.]

43.83.180 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.83.172 through 43.83.182, and RCW 43.83.172 through 43.83.182 shall not be deemed to provide an exclusive method for the payment. [1981 c 235 § 5.]

43.83.182 Bonds legal investment for public funds. The bonds authorized in RCW 43.83.172 through 43.83.180 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1981 c 235 § 6.]

1983 BOND ISSUE

43.83.184 General obligation bonds—Authorized—Issuance—Appropriation required. For the purpose of acquiring land and providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment facilities of office buildings, parking facilities, and such other buildings, facilities, and utilities as are determined to be necessary to provide space including offices, committee rooms, hearing rooms, work rooms, and industrial-related space for the legislature, for other elective officials, and such other state agencies as may

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be necessary, and for the purpose of land acquisitions by the department of transportation, grants and loans by the *department of community, trade, and economic development, and facilities of the department of corrections and other state agencies, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of sixty-four million two hundred seventy thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized in this section may be offered for sale without prior legislative appropriation. [1995 c 399 § 78; 1985 c 466 § 54; 1983 1st ex.s. c 54 § 1.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.83.186 Deposit of proceeds in state building construction account—Use. The proceeds from the sale of the bonds authorized in RCW 43.83.184 shall be deposited in the state building construction account in the general fund and shall be used exclusively for the purposes specified in RCW 43.83.184 and for the payment of expenses incurred in the issuance and sale of the bonds. [1983 1st ex.s. c 54 § 2.]

43.83.188 Administration of proceeds. The proceeds from the sale of the bonds deposited under RCW 43.83.186 in the state building construction account of the general fund shall be administered by the department of general administration, subject to legislative appropriation. [1983 1st ex.s. c 54 § 3.]

43.83.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.83.184.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.83.184 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1983 1st ex.s. c 54 § 4.]

43.83.192 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.83.184, and RCW 43.83.190 shall not be deemed to provide an exclusive method for the payment. [1983 1st ex.s. c 54 § 5.]

43.83.194 Bonds legal investment for public funds. The bonds authorized in RCW 43.83.184 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1983 1st ex.s. c 54 § 6.]

43.83.196 Severability—1983 1st ex.s. c 54. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 54 § 10.]

1984 BOND ISSUE

43.83.198 General obligation bonds—Authorized—Issuance—Price—Appropriation required. For the purpose of providing needed capital improvements consisting of the planning, design, construction, renovation, equipping, and repair of buildings and facilities and the acquisition of a marine vessel and marine equipment for the department of corrections, the state finance committee is authorized to issue from time to time general obligation bonds of the state of Washington in the sum of twelve million eight hundred twenty thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1984 c 271 § 1.]

43.83.200 Deposit of proceeds in state building construction account—Use. The proceeds from the sale of the bonds authorized in RCW 43.83.198 shall be deposited in the state building construction account in the general fund and shall be used exclusively for the purposes specified in RCW 43.83.198 and for the payment of expenses incurred in the issuance and sale of the bonds. [1984 c 271 § 2.]

43.83.202 Administration of proceeds. The proceeds from the sale of the bonds deposited under RCW 43.83.200 in the state building construction account of the general fund shall be administered by the department of general administration, subject to legislative appropriation. [1984 c 271 § 3.]

43.83.204 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.83.198.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.83.198 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1984 c 271 § 4.]

State general obligation bond retirement fund: RCW 43.83.160.

43.83.206 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of, redemption premium, if any, and interest on the bonds authorized in RCW 43.83.198, and RCW 43.83.204 shall not be deemed to provide an exclusive method for the payment. [1984 c 271 § 5.]

43.83.208 Bonds legal investment for public funds. The bonds authorized in RCW 43.83.198 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1984 c 271 § 6.]

43.83.210 Severability—1984 c 271. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 271 § 7.]

Chapter 43.83A RCW

WASTE DISPOSAL FACILITIES BOND ISSUE

Sections

- 43.83A.010 Declaration.
- 43.83A.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.83A.030 Proceeds to be deposited in state and local improvements revolving account.
- 43.83A.040 Administration of proceeds—Use of funds—Integration of disposal systems.
- 43.83A.050 Definitions.
- 43.83A.060 Referral to electorate.
- 43.83A.070 Form, terms, conditions, etc., of bonds.
- 43.83A.080 Anticipation notes—Pledge and promise—Seal.
- 43.83A.090 Retirement of bonds from waste disposal facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders—Debt-limit general fund bond retirement account.
- 43.83A.100 Legislature may provide additional means for payment of bonds.
- 43.83A.110 Bonds legal investment for public funds.
- 43.83A.900 Appropriation.

Waste disposal facilities—1980 bond issue: Chapter 43.99F RCW.

(2010 Ed.)

43.83A.010 Declaration. The long-range development goals for the state of Washington must include the protection of the resources and environment of the state and the health and safety of its people by providing adequate facilities and systems for the collection, treatment, control, or disposal of solid or liquid waste materials. [1980 c 21 § 1; 1972 ex.s. c 127 § 1.]

43.83A.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.

For the purpose of providing funds for the planning, acquisition, construction, and improvement of public waste disposal facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred ninety-five million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. As used in this section the phrase "public waste disposal facilities" shall not include the acquisition of equipment used to collect, carry, and transport garbage. These bonds shall be paid and discharged within twenty years of the date of issuance or within thirty years should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1990 1st ex.s. c 15 § 7. Prior: 1989 1st ex.s. c 14 § 10; 1989 c 136 § 2; 1977 ex.s. c 242 § 1; 1972 ex.s. c 127 § 2.]

Intent—1989 c 136: "It is the intent of this act to allow the sale of state general obligation bonds to underwriters at a discount so that they may be sold to the public at face value, thereby resulting in lower interest costs to the state. Increases in bond authorizations under this act represent this discount and will have no effect on the amount of money available for the projects to be financed by the bonds." [1989 c 136 § 1.]

Additional notes found at www.leg.wa.gov

43.83A.030 Proceeds to be deposited in state and local improvements revolving account. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account hereby created in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 43; 1985 c 57 § 44; 1972 ex.s. c 127 § 3.]

Additional notes found at www.leg.wa.gov

43.83A.040 Administration of proceeds—Use of funds—Integration of disposal systems. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account of the general fund under the terms of this chapter shall be administered by the state department of ecology subject to legislative appropriation. The department may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for which said bonds are issued by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local or other funds are made available on a matching basis for improvements within the purposes of this chapter.

The department may not use or permit the use of any funds derived from the sale of bonds authorized by this chapter for the support of a solid waste recycling activity or service in a locale if the department determines that the activity or service is reasonably available to persons within that locale from private enterprise.

Integration of the management and operation of systems for solid waste disposal with systems of liquid waste disposal holds promise of improved waste disposal efficiency and greater environmental protection and restoration. To encourage the planning for and development of such integration, the legislature may provide for special grant incentives to public bodies which plan for or operate integrated waste disposal management systems. [1979 c 68 § 2; 1972 ex.s. c 127 § 4.]

43.83A.050 Definitions. As used in this chapter, the term "waste disposal facilities" shall mean any facilities or systems owned or operated by a public body for the collection, storage, treatment, disposal, recycling, control, or recovery of liquid wastes or solid wastes, including, but not limited to, sanitary sewage, storm water, residential, industrial, and commercial wastes, material segregated into recyclables and nonrecyclables, and any combination of such wastes; and all equipment, utilities, structures, real property, and interests in and improvements on real property, necessary for or incidental to such purpose.

As used in this chapter, the term "public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1980 c 21 § 2; 1979 c 68 § 1; 1972 ex.s. c 127 § 5.]

43.83A.060 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1972 ex.s. c 127 § 6.]

Reviser's note: Chapter 43.83A RCW was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 26). Governor's proclamation declaring approval of measure is dated December 7, 1972.

State Constitution Art. 2 § 1(d) provides ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved . . ."

43.83A.070 Form, terms, conditions, etc., of bonds. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. [1989 c 136 § 3; 1972 ex.s. c 127 § 7.]

Intent—1989 c 136: See note following RCW 43.83A.020.

43.83A.080 Anticipation notes—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1972 ex.s. c 127 § 8.]

43.83A.090 Retirement of bonds from waste disposal facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders—Debt-limit general fund bond retirement account. The waste disposal facilities bond redemption fund is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the waste disposal facilities bond redemption fund from moneys transmitted to the state treasurer by the state department of revenue and certified by the department to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein.

If a debt-limit general fund bond retirement account is created in the state treasury by chapter 456, Laws of 1997 and becomes effective prior to the issuance of any of the bonds authorized by this chapter, the debt-limit general fund bond retirement account shall be used for the purposes of this chapter in lieu of the waste disposal facilities bond redemption fund. [1997 c 456 § 12; 1972 ex.s. c 127 § 9.]

Additional notes found at www.leg.wa.gov

43.83A.100 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 127 § 10.]

43.83A.110 Bonds legal investment for public funds. The bonds herein authorized shall be a legal investment for all state funds, or for funds under state control, and for all funds of any other public body. [1972 ex.s. c 127 § 11.]

43.83A.900 Appropriation. There is appropriated to the state department of ecology, from the state and local improvements revolving account out of the proceeds of sale of the bonds or notes authorized herein, for the period from the effective date of this act through June 30, 1973, the sum of ten million dollars for use by said department for grants to public bodies as state matching funds for the purpose of aiding in the planning, acquisition, construction, and improvement of waste disposal facilities. [1972 ex.s. c 127 § 12.]

Chapter 43.83B RCW

WATER SUPPLY FACILITIES

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(2010 Ed.)

43.83B.005 Transfer of duties to the department of health. The powers and duties of the department of social and health services under this chapter shall be performed by the department of health. [1989 1st ex.s. c 9 § 240.]

Additional notes found at www.leg.wa.gov

43.83B.010 Declaration. The long-range development goals for the state of Washington must include the provision of those supportive public services necessary for the development and expansion of industry, commerce, and employment including the furnishing of an adequate supply of water for domestic, industrial, and agricultural purposes. [1972 ex.s. c 128 § 1.]

43.83B.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of water supply facilities within the state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seventy-five million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within twenty years of the date of issuance or within thirty years should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1977 ex.s. c 242 § 2; 1972 ex.s. c 128 § 2.]

Additional notes found at www.leg.wa.gov

43.83B.030 Proceeds to be deposited in state and local improvements revolving account. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account hereby created in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 53; 1985 c 57 § 45; 1972 ex.s. c 128 § 3.]

Additional notes found at www.leg.wa.gov

43.83B.040 Administration of proceeds—Use of funds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account of the general fund under the terms of this chapter shall be administered by the state department of ecology subject to legislative appropriation. The department may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for which said bonds are issued by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter. [1972 ex.s. c 128 § 4.]

43.83B.050 Definitions. As used in this chapter, the term "water supply facilities" shall mean municipal, industrial, and agricultural water supply and distribution systems including, but not limited to, all equipment, utilities, struc-

tures, real property, and interests in and improvements on real property, necessary for or incidental to the acquisition, construction, installation, or use of any municipal, industrial, or agricultural water supply or distribution system.

As used in this chapter, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof, a board of joint control, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1996 c 320 § 20; 1975 c 18 § 1; 1972 ex.s. c 128 § 5.]

43.83B.060 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1972 ex.s. c 128 § 6.]

Reviser's note: RCW 43.83B.010 through 43.83B.110 was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 27). Governor's proclamation declaring approval of measure is dated December 7, 1972.

State Constitution Art. 2 § 1(d) provides ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved . . ."

43.83B.070 Form, terms, conditions, etc., of bonds. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1972 ex.s. c 128 § 7.]

43.83B.080 Anticipation notes—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1972 ex.s. c 128 § 8.]

43.83B.090 Retirement of bonds from water supply facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders. The water supply facilities bond redemption fund is created in the state treasury.

This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the water supply facilities bond redemption fund from moneys transmitted to the state treasurer by the state department of revenue and certified by the department to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1972 ex.s. c 128 § 9.]

43.83B.100 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 128 § 10.]

43.83B.110 Bonds legal investment for public funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1972 ex.s. c 128 § 11.]

AGRICULTURAL WATER SUPPLY FACILITIES

43.83B.200 Deposit of proceeds from repayment of loans, interest, gifts, grants, etc., in state and local improvements revolving account—Water supply facilities—Use. The proceeds from repayment of any loans made for agricultural water supply facilities and the interest earned from such loans, any gifts, grants, or other funds provided to the state for agricultural water supply facilities, and any interest earned on the interim investment of such funds or proceeds shall be deposited in the state and local improvements revolving account—water supply facilities and shall be used exclusively for agricultural water supply facilities. [1975 1st ex.s. c 295 § 1.]

43.83B.210 Loans or grants from department of ecology—Authorized—Limitations. The department of ecology is authorized to make loans or grants or combinations thereof from funds under RCW 43.83B.010 through 43.83B.110 to eligible public bodies as defined in RCW 43.83B.050 for rehabilitation or betterment of agricultural water supply facilities, and/or construction of agricultural water supply facilities required to develop new irrigated lands. The department of ecology may make such loans or grants or combinations thereof as matching funds in any case where federal, local, or other funds have been made available on a matching basis. A loan or combination loan and grant shall not exceed fifty percent of the approved eligible project cost for any single proposed project. Any grant or grant por-

tion of a combination loan and grant from funds under RCW 43.83B.010 through 43.83B.110 for any single proposed project shall not exceed fifteen percent of the eligible project costs: PROVIDED, That the fifteen percent limitation established herein shall not be applicable to project commitments which the director or deputy director of the state department of ecology made to the bureau of reclamation of the United States department of interior for providing state funding at thirty-five percent of project costs during the period between August 1, 1974, and June 30, 1975. [1989 c 171 § 7; 1988 c 46 § 1; 1987 c 343 § 4; 1977 ex.s. c 1 § 11; 1975-'76 2nd ex.s. c 36 § 1; 1975 1st ex.s. c 295 § 3.]

Additional notes found at www.leg.wa.gov

43.83B.220 Contractual agreements. In addition to the powers granted by RCW 43.83B.210, the director of the department of ecology or his or her designee is authorized to make contractual agreements in accordance with provisions of this chapter on behalf of the state of Washington. Contractual agreements shall include provisions to secure such loans, and shall assure the proper and timely payment of said loans or loan portions of combination loans and grants. [2009 c 549 § 5159; 1989 c 11 § 17; 1975 1st ex.s. c 295 § 5.]

Additional notes found at www.leg.wa.gov

43.83B.230 Provision for recreation, fish and wildlife enhancement and other public benefits. In the course of considering applications under this chapter, the department of ecology shall make known to other state agencies possibilities which may arise to provide public benefits such as recreation or fish and wildlife enhancement in connection with proposed projects. Such agencies, including the department of ecology, are authorized to participate in said projects provided agency funds are made available to pay the full cost of their participation. [1975 1st ex.s. c 295 § 14.]

EMERGENCY WATER WITHDRAWAL AND FACILITIES

43.83B.300 Legislative findings—General obligation bonds authorized—Issuance, terms—Appropriation required. The legislature finds that the fundamentals of water resource policy in this state must be reviewed by the legislature to ensure that the water resources of the state are protected and fully utilized for the greatest benefit to the people of the state of Washington. The legislature further finds that it is necessary to provide the department of ecology with emergency powers to authorize withdrawals of public surface and groundwaters, including dead storage within reservoirs, on a temporary basis, and construction of facilities in relation thereto, in order to alleviate emergency water supply conditions arising from the drought forecast for the state of Washington during 1977 and during 1987 through 1989.

The legislature further finds that there is a continuing water supply shortage in many areas of the state and that there is an urgent need to assure the survival of irrigated crops and of the state's fisheries.

The legislature further finds that in addition to water storage facilities or other augmentation programs, improved efficiency of water use could provide an important new sup-

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ply of water in many parts of the state with which to meet future water needs and that improved efficiency of water use should receive greater emphasis in the management of the state's water resources.

In order to study the fundamentals of water resource policy of the state and to provide needed moneys for the planning, acquisition, construction, and improvement of water supply facilities and for other appropriate measures to assure the survival of irrigated crops and/or the state's fisheries to alleviate emergency water supply conditions arising from droughts occurring from time to time in the state of Washington, and to carry out a comprehensive water use efficiency study for the state of Washington, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eighteen million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this section and RCW 43.83B.360 through 43.83B.375 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1988 c 47 § 1; 1988 c 46 § 2; 1988 c 45 § 1; 1987 c 343 § 1; 1979 ex.s. c 263 § 1; 1977 ex.s. c 1 § 1.]

Reviser's note: This section was amended by 1988 c 45 § 1, 1988 c 46 § 2, and by 1988 c 47 § 1, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

43.83B.336 Civil penalties. See RCW 90.03.600.

43.83B.345 Rates of charges for water—Payment into bond redemption fund—Grants and loans—Contracts. (1) The department of ecology shall, by rule, establish rates of charges for all waters delivered from such facilities as constructed by the department with funds provided in RCW 43.83B.385 (2) or (3). Where the department provides water to public or municipal corporations or other governmental bodies having authority to distribute water, the payment for the water may be made pursuant to contract over a period not exceeding twenty-five years from the date of delivery. In all other cases, the department shall obtain payment for waters prior to its delivery to a purchaser. All payments received shall be deposited into the state emergency water projects bond redemption fund of 1977.

(2) Public bodies, eligible to obtain funds through grants or loans or combinations thereof under the provisions of *RCW 43.83B.300 through 43.83B.345 and 43.83B.210 as now or hereafter amended, are authorized to enter into contracts with the department of ecology for the purpose of repaying loans authorized by RCW 43.83B.380 and 43.83B.385 and for the purpose of purchasing water under this section.

(3) The department of ecology is authorized to enter into appropriate contracts to ensure effective delivery of water and the operation and maintenance of facilities constructed pursuant to *RCW 43.83B.300 through 43.83B.385, 43.83B.901, and 43.83B.210. [1977 ex.s. c 1 § 10.]

***Reviser's note:** RCW 43.83B.305 through 43.83B.330 and 43.83B.340 through 43.83B.344 were repealed by 1989 c 171 § 12.

43.83B.350 Loans or grants from department of ecology—Authorized—Limitations. See RCW 43.83B.210.

43.83B.355 Form, sale, conditions, etc., of bonds—"Water supply facilities for water withdrawal and distribution" defined. The state finance committee is authorized to prescribe the form of the bonds authorized in RCW 43.83B.300, the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds.

As used in RCW 43.83B.300, and 43.83B.355 through 43.83B.375, the term "water supply facilities for water withdrawal and distribution" shall mean municipal, industrial, and agricultural water supply and distribution systems including, but not limited to, all equipment, utilities, structures, real property, and interest in and improvements on real property necessary for or incidental to the acquisition, construction, installation, improvement, or use of any water supply or distribution system furnishing water for agricultural, municipal or industrial purposes. [1977 ex.s. c 1 § 12.]

43.83B.360 State emergency water projects revolving account—Proceeds from sale of bonds. The proceeds from the sale of bonds authorized by RCW 43.83B.300, and 43.83B.355 through 43.83B.375 shall be deposited in the state emergency water projects revolving account, hereby created in the state treasury, and shall be used exclusively for the purposes specified in RCW 43.83B.300, and 43.83B.355 through 43.83B.375 and for the payment of expenses incurred in the issuance and sale of such bonds. During the 2009-2011 fiscal biennium, the legislature may transfer from the state emergency water projects revolving account to the state general fund such amounts as reflect the excess fund balance of the account. [2009 c 564 § 938; 1991 sp.s. c 13 § 33; 1985 c 57 § 46; 1977 ex.s. c 1 § 13.]

Effective date—2009 c 564: See note following RCW 2.68.020.

Additional notes found at www.leg.wa.gov

43.83B.365 Administration of proceeds from sale of bonds. The principal proceeds from the sale of the bonds authorized in RCW 43.83B.300, and 43.83B.355 through 43.83B.375 shall be administered by the director of the department of ecology. [1977 ex.s. c 1 § 14.]

43.83B.370 Retirement of bonds and notes from emergency water projects bond redemption fund—Remedies of bond holders. The state emergency water projects bond redemption fund of 1977, hereby created in the state treasury, shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.83B.300, and 43.83B.355 through 43.83B.375. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the

amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 emergency water projects bond redemption fund an amount equal to the amount certified by the state finance committee to be due on such payment date.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein. [1977 ex.s. c 1 § 15.]

43.83B.375 Bonds legal investment for public funds. The bonds authorized by RCW 43.83B.300, and 43.83B.355 through 43.83B.375 shall be a legal investment for all state funds under state control and all funds of municipal corporations. [1977 ex.s. c 1 § 16.]

43.83B.380 Appropriations to department of health—Authorized projects—Conditions. There is hereby appropriated to the department of health the sum of nine million seven hundred thirty-seven thousand dollars, or so much thereof as may be necessary, for the biennium ending June 30, 1977, from the general fund—state and local improvements revolving account—water supply facilities for the purposes authorized in *RCW 43.83B.300 through 43.83B.345 and 43.83B.210 as now or hereafter amended relating to the emergency water conditions arising from the drought forecast for the summer and fall of 1977 affecting municipal and industrial water supply distribution facilities. Prior to the expenditure of funds for projects approved by the department, the department shall file a listing of the approved projects with the senate ways and means committee and the house appropriations committee.

(2) There is hereby appropriated to the department of health the sum of five million three hundred twenty-seven thousand dollars, or so much thereof as may be necessary, for the biennium ending June 30, 1977, from the general fund—state and local improvements revolving account—water supply facilities to be expended for municipal and industrial water supply and distribution facility projects for which applications are in progress on March 25, 1977 and have arisen from the drought forecast for the summer and fall of 1977. Prior to the expenditure of funds for projects approved by the department, the department shall file a listing of the approved projects with the senate ways and means committee and the house appropriations committee.

The municipal and industrial water supply and distribution facilities receiving funds from the appropriations contained in this section shall comply with the eligible costs criteria, health and design standards, and contract performance requirements of the municipal and industrial funding program under chapter 43.83B RCW. All projects shall be evaluated by applying the said chapter's evaluation and prioritization criteria to insure that only projects related to water shortage problems receive funding. The projects funded shall be limited to those projects providing interties with adjacent utilities, an expanded source of supply, conservation projects which will conserve or maximize efficiency of the existing

supply, or a new source of supply. No obligation to provide a grant for a project authorized under this section shall be incurred after June 30, 1977. [1991 c 3 § 300; 1977 ex.s. c 1 § 17.]

***Reviser's note:** RCW 43.83B.305 through 43.83B.330 and 43.83B.340 through 43.83B.344 were repealed by 1989 c 171 § 12.

43.83B.385 Appropriations to department of ecology—Authorized projects—Findings. (1) There is hereby appropriated to the department of ecology for the biennium ending June 30, 1977, from the state emergency water projects revolving account in the general fund, the sum of seven million dollars, or so much thereof as may be necessary, which shall be expended for the financing of the following agricultural water supply and distribution projects from surface water sources: Kennewick Irrigation District; Kittitas Reclamation District; Stemilt Irrigation District; Wenatchee Heights Reclamation District; and the Wenatchee Reclamation District.

(2) There is hereby appropriated to the department of ecology for the biennium ending June 30, 1977, from the state emergency water projects revolving account in the general fund, the sum of five million dollars, or so much thereof as may be necessary, which shall be expended for the financing and construction of agricultural water supply and distribution projects from groundwater sources primarily in the Moxee-Ahtanum and Park Creek aquifer areas.

(3) There is hereby appropriated to the department of ecology for the biennium ending June 30, 1977, from the state emergency water supply revolving account in the general fund the sum of six million dollars, or so much thereof as may be necessary, which shall be expended for water withdrawal projects relating to ground and surface waters as provided for in subsections (1) and (2) of this section and for the financing and construction of agricultural water supply and distribution projects from ground and surface water sources which may become required by public bodies other than those identified in this section as a result of the drought forecast for the summer and fall of 1977.

The department may expend funds from the appropriations contained in subsections (1), (2), and (3) of this section to make loans or combinations of loans and grants to public bodies as defined in RCW 43.83B.050. The grant portion of a combination loan and grant to a public body for any project shall not exceed fifteen percent of the total amount received by such project under this section.

The department may expend funds from the appropriations contained in subsections (1), (2), and (3) of this section to make loans or combinations of loans and grants to public bodies as defined in RCW 43.83B.050 to satisfy the matching requirements of RCW 43.83B.210 as now or hereafter amended.

Prior to the funding of any agriculture projects not specifically set forth in this section the department must make a formal finding that: An emergency water shortage condition exists; the project proposed for funding will alleviate the water shortage; the public body recipient of any funds has reasonable capability to repay the loan involved; and the water from the project will be used for a beneficial purpose as a substitute for water not available due to drought conditions. [1977 ex.s. c 1 § 18.]

(2010 Ed.)

43.83B.400 Drought conditions—Defined—Intent. It is the intent of the legislature to provide emergency powers to the department of ecology to enable it to take actions, in a timely and expeditious manner, that are designed to alleviate hardships and reduce burdens on various water users and uses arising from drought conditions. As used in this chapter, "drought condition" means that the water supply for a geographical area or for a significant portion of a geographical area is below seventy-five percent of normal and the water shortage is likely to create undue hardships for various water uses and users. [1989 c 171 § 1.]

Additional notes found at www.leg.wa.gov

43.83B.405 Drought conditions—Withdrawals and diversions—Orders, procedure. (1) Whenever it appears to the department of ecology that a drought condition either exists or is forecast to occur within the state or portions thereof, the department of ecology is authorized to issue orders, pursuant to rules previously adopted, to implement the powers as set forth in RCW 43.83B.410 through 43.83B.420. The department shall, immediately upon the issuance of an order under this section, cause said order to be published in newspapers of general circulation in the areas of the state to which the order relates. Prior to the issuance of an order, the department shall (a) consult with and obtain the views of the federal and state government entities identified in the drought contingency plan periodically revised by the department pursuant to RCW 43.83B.410(4), and (b) obtain the written approval of the governor. Orders issued under this section shall be deemed orders for the purposes of chapter 34.05 RCW.

(2) Any order issued under subsection (1) of this section shall contain a termination date for the order. The termination date shall be not later than one calendar year from the date the order is issued. Although the department may, with the written approval of the governor, change the termination date by amending the order, no such amendment or series of amendments may have the effect of extending its termination to a date which is later than two calendar years after the issuance of the order.

(3) The provisions of subsection (2) of this section do not preclude the issuance of more than one order under subsection (1) of this section for different areas of the state or sequentially for the same area as the need arises for such an order or orders. [1989 c 171 § 2.]

Additional notes found at www.leg.wa.gov

43.83B.410 Drought conditions—Withdrawals and diversions—Orders, authority granted. Upon the issuance of an order under RCW 43.83B.405, the department of ecology is empowered to:

(1)(a) Authorize emergency withdrawal of public surface and ground waters, including dead storage within reservoirs, on a temporary basis and authorize associated physical works which may be either temporary or permanent. The termination date for the authority to make such an emergency withdrawal may not be later than the termination date of the order issued under RCW 43.83B.405 under which the power to authorize the withdrawal is established. The department of ecology may issue such withdrawal authorization when, after

investigation and after providing appropriate federal, state, and local governmental bodies an opportunity to comment, the following are found:

(i) The waters proposed for withdrawal are to be used for a beneficial use involving a previously established activity or purpose;

(ii) The previously established activity or purpose was furnished water through rights applicable to the use of a public body of water that cannot be exercised due to the lack of water arising from natural drought conditions; and

(iii) The proposed withdrawal will not reduce flows or levels below essential minimums necessary (A) to assure the maintenance of fisheries requirements, and (B) to protect federal and state interests including, among others, power generation, navigation, and existing water rights;

(b) All withdrawal authorizations issued under this section shall contain provisions that allow for termination of withdrawals, in whole or in part, whenever withdrawals will conflict with flows and levels as provided in (a)(iii) of this subsection. Domestic and irrigation uses of public surface and ground waters shall be given priority in determining "beneficial uses." As to water withdrawal and associated works authorized under this subsection, the requirements of chapter 43.21C RCW and public bidding requirements as otherwise provided by law are waived and inapplicable. All state and local agencies with authority to issue permits or other authorizations for such works shall, to the extent possible, expedite the processing of the permits or authorizations in keeping with the emergency nature of the requests and shall provide a decision to the applicant within fifteen calendar days of the date of application. All state departments or other agencies having jurisdiction over state or other public lands, if such lands are necessary to effectuate the withdrawal authorizations issued under this subsection, shall provide short-term easements or other appropriate property interest upon the payment of the fair market value. This mandate shall not apply to any lands of the state that are reserved for a special purpose or use that cannot properly be carried out if the property interest were conveyed;

(2) Approve a temporary change in purpose, place of use, or point of diversion, consistent with existing state policy allowing transfer or lease of waters between willing parties, as provided for in RCW 90.03.380, 90.03.390, and 90.44.100. However, compliance with any requirements of (a) notice of newspaper publication of these sections or (b) the state environmental policy act, chapter 43.21C RCW, is not required when such changes are necessary to respond to drought conditions as determined by the department of ecology. An approval of a temporary change of a water right as authorized under this subsection is not admissible as evidence in either supporting or contesting the validity of water claims in *State of Washington, Department of Ecology v. Acquavella*, Yakima county superior court number 77-2-01484-5 or any similar proceeding where the existence of a water right is at issue.

(3) Employ additional persons for specified terms of time, consistent with the term of a drought condition, as are necessary to ensure the successful performance of the activities associated with implementing the emergency drought program of this chapter.

(4) Revise the drought contingency plan previously developed by the department; and

(5) Acquire needed emergency drought-related equipment. [1989 c 171 § 3.]

Additional notes found at www.leg.wa.gov

43.83B.415 Drought conditions—Loans and grants.

(1) The department of ecology is authorized to make loans, grants, or combinations of loans and grants from emergency agricultural water supply funds when necessary to provide water to alleviate emergency drought conditions in order to ensure the survival of irrigated crops and the state's fisheries. For the purposes of this section, "emergency agricultural water supply funds" means funds appropriated from the state emergency water projects revolving account created under RCW 43.83B.360. The department of ecology may make the loans, grants, or combinations of loans and grants as matching funds in any case where federal, local, or other funds have been made available on a matching basis. The department may make a loan of up to ninety percent of the total eligible project cost or combination loan and grant up to one hundred percent of the total single project cost. The grant portion for any single project shall not exceed twenty percent of the total project cost except that, for activities forecast to have fifty percent or less of normal seasonal water supply, the grant portion for any single project or entity shall not exceed forty percent of the total project cost. No single entity shall receive more than ten percent of the total emergency agricultural water supply funds available for drought relief. These funds shall not be used for nonagricultural drought relief purposes unless there are no other capital budget funds available for these purposes. In any biennium the total expenditures of emergency agricultural water supply funds for nonagricultural drought relief purposes may not exceed ten percent of the total of such funds available during that biennium.

(2)(a) Except as provided in (b) of this subsection, after June 30, 1989, emergency agricultural water supply funds, including the repayment of loans and any accrued interest, shall not be used for any purpose except during drought conditions as determined under RCW 43.83B.400 and 43.83B.405.

(b) Emergency agricultural water supply funds may be used on a one-time basis for the development of procedures to be used by state governmental entities to implement the state's drought contingency plan. [1989 c 171 § 4.]

Additional notes found at www.leg.wa.gov

43.83B.420 Rules. The department shall adopt such rules as are necessary to ensure the successful implementation of this chapter. [1989 c 171 § 5.]

Additional notes found at www.leg.wa.gov

43.83B.425 Applicability—Construction. Nothing in this chapter shall:

(1) Authorize any interference whatsoever with existing water rights;

(2) Authorize the establishment of rights to withdrawal of waters of a permanent nature or of rights with any priority;

(3) Authorize the establishment of a water right under RCW 90.03.250 or 90.44.060;

(4) Preclude any person from filing an application pursuant to RCW 90.03.250 or 90.44.060. [1989 c 171 § 6.]

Additional notes found at www.leg.wa.gov

43.83B.430 State drought preparedness account. The state drought preparedness account is created in the state treasury. All receipts from appropriated funds designated for the account and funds transferred from the state emergency water projects revolving account must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for drought preparedness. During the 2001-2003 fiscal biennium, the legislature may transfer from the state drought preparedness account to the state general fund such amounts as reflect the excess fund balance of the account. [2002 c 371 § 910; 1999 c 379 § 921.]

Severability—Effective date—2002 c 371: See notes following RCW 9.46.100.

Additional notes found at www.leg.wa.gov

43.83B.900 Severability—1975 1st ex.s. c 295. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 295 § 17.]

43.83B.901 Severability—1977 ex.s. c 1. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 1 § 19.]

Chapter 43.83C RCW

RECREATION IMPROVEMENTS BOND ISSUE

Sections

43.83C.010	Declaration.
43.83C.020	General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
43.83C.040	Administration of proceeds—Division into shares—Use of funds.
43.83C.050	Definitions.
43.83C.060	Referral to electorate.
43.83C.070	Form, terms, conditions, etc., of bonds.
43.83C.080	Anticipation notes—Pledge and promise—Seal.
43.83C.090	Retirement of bonds from recreation improvements bond redemption fund—Retail sales tax collections—Remedies of bond holders.
43.83C.100	Legislature may provide additional means for payment of bonds.
43.83C.110	Bonds legal investment for public funds.

43.83C.010 Declaration. The long-range development goals for the state of Washington must include the acquisition, preservation, and improvement of recreation areas and facilities for the use and enjoyment of present and future residents of the state and the further development of the state's tourism and recreation economic base. [1972 ex.s. c 129 § 1.]

43.83C.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, preservation, development, and improvement of recre-

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ation areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within twenty years of the date of issuance or within thirty years should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1977 ex.s. c 242 § 3; 1972 ex.s. c 129 § 2.]

Additional notes found at www.leg.wa.gov

43.83C.040 Administration of proceeds—Division into shares—Use of funds. The proceeds from the sale of the bonds deposited in the *state and local improvements revolving account of the general fund under the terms of this chapter shall be divided into three shares as follows:

(1) Thirty-five percent of such proceeds shall be administered, subject to legislative appropriation, by the recreation and conservation funding board through the outdoor recreation account and allocated to the state of Washington, or any agency or department thereof, for the acquisition, preservation, and development of recreation areas and facilities by the state. The recreation and conservation funding board may use or permit the use of any portion of such share as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter.

(2) Thirty-five percent of such proceeds shall be administered, subject to legislative appropriation, by the recreation and conservation funding board through the outdoor recreation account and allocated to public bodies for the acquisition, preservation, development, and improvement of recreational areas and facilities within the jurisdiction of such bodies. The recreation and conservation funding board may use or permit the use of any portion of such share for loans or grants to public bodies including use as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter.

(3) Thirty percent of such proceeds shall be allocated to the state parks and recreation commission, subject to legislative appropriation, for improvement of existing state parks and the acquisition and preservation of historic sites and buildings. The commission may use or permit the use of any portion of such share as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter.

In the event that the bonds authorized by this chapter are sold in more than one series the above division into shares shall apply to the total proceeds of the bonds authorized by this chapter and not to the proceeds of each separate series. [2007 c 241 § 7; 1972 ex.s. c 129 § 4.]

***Reviser's note:** The "state and local improvements revolving account" was created in RCW 43.83C.030 which was repealed by 2000 c 150 § 2, effective July 1, 2001.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

43.83C.050 Definitions. As used in this chapter, the phrase "acquisition, preservation, development, and improvement of recreation areas and facilities" shall include the acquisition, development, and improvement of real property, or any interest therein, for park and recreation purposes, including the acquisition and construction of all structures, utilities, equipment, and improvements necessary or incidental to such purposes, the acquisition and preservation of historic sites and buildings and of scenic and environmentally valuable areas of the state, and the improvement of existing park and recreation areas and facilities.

As used in this chapter, the term "public body" means any political subdivision, taxing district, or municipal corporation of the state of Washington, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1972 ex.s. c 129 § 5.]

43.83C.060 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1972 ex.s. c 129 § 6.]

Reviser's note: Chapter 43.83C RCW was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 28). Governor's proclamation declaring approval of measure is dated December 7, 1972.

State Constitution Art. 2 § 1(d) provides ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved"

43.83C.070 Form, terms, conditions, etc., of bonds. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1972 ex.s. c 129 § 7.]

43.83C.080 Anticipation notes—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1972 ex.s. c 129 § 8.]

43.83C.090 Retirement of bonds from recreation improvements bond redemption fund—Retail sales tax collections—Remedies of bond holders. The recreation improvements bond redemption fund is hereby created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the recreation improvements bond redemption fund from moneys transmitted to the state treasurer by the state department of revenue and certified by the department to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1972 ex.s. c 129 § 9.]

43.83C.100 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 129 § 10.]

43.83C.110 Bonds legal investment for public funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of any public body. [1972 ex.s. c 129 § 11.]

Chapter 43.83D RCW

SOCIAL AND HEALTH SERVICES FACILITIES 1972 BOND ISSUE

Sections

- 43.83D.010 Declaration.
- 43.83D.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.83D.030 Proceeds to be deposited in state and local improvements revolving account.
- 43.83D.040 Administration of proceeds—Comprehensive plan—Use of funds.
- 43.83D.050 Definitions.
- 43.83D.060 Referral to electorate.
- 43.83D.070 Form, terms, conditions, etc., of bonds.
- 43.83D.080 Anticipation notes—Pledge and promise—Seal.
- 43.83D.090 Retirement of bonds from social and health service facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders.
- 43.83D.100 Legislature may provide additional means for payment of bonds.
- 43.83D.110 Bonds legal investment for public funds.
- 43.83D.120 Transfers of real property and facilities to nonprofit corporations.

43.83D.010 Declaration. The physical and mental health of the people of the state directly affects the achievement of economic progress and full employment. The establishment of a system of regional and community health and social service facilities will provide the improved and conve-

nient health and social services needed for an efficient workforce and a healthy and secure people. [1972 ex.s. c 130 § 1.]

43.83D.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of health and social service facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty-five million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within twenty years of the date of issuance or within thirty years should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1977 ex.s. c 242 § 4; 1972 ex.s. c 130 § 2.]

Additional notes found at www.leg.wa.gov

43.83D.030 Proceeds to be deposited in state and local improvements revolving account. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 55; 1985 c 57 § 48; 1972 ex.s. c 130 § 3.]

Additional notes found at www.leg.wa.gov

43.83D.040 Administration of proceeds—Comprehensive plan—Use of funds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account of the general fund under the terms of this chapter shall be administered by the state department of social and health services, subject to legislative appropriation. The department shall prepare a comprehensive plan for a system of social and health service facilities for the state and may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish such plan by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter. [1972 ex.s. c 130 § 4.]

43.83D.050 Definitions. As used in this chapter, the term "social and health service facilities" shall mean real property, and interests therein, equipment, buildings, structures, mobile units, parking facilities, utilities, landscaping, and all incidental improvements and appurtenances, developed as a part of a comprehensive plan for a system of social and health service facilities for the state including, without limitation, facilities for social services, adult and juvenile correction or detention, child welfare, day care, drug abuse and alcoholism treatment, mental health, public health, developmental disabilities, and vocational rehabilitation.

As used in this chapter, the term "public body" means the state of Washington, or any agency, political subdivision,

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taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1972 ex.s. c 130 § 5.]

43.83D.060 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1972 ex.s. c 130 § 6.]

Reviser's note: Chapter 43.83D RCW was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 29). Governor's proclamation declaring approval of measure is dated December 7, 1972.

State Constitution Art. 2 § 1(d) provides ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved. . . ."

43.83D.070 Form, terms, conditions, etc., of bonds. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1972 ex.s. c 130 § 7.]

43.83D.080 Anticipation notes—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1972 ex.s. c 130 § 8.]

43.83D.090 Retirement of bonds from social and health service facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders. The social and health service facilities bond redemption fund is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements, and on July 1 of each year the state treasurer shall

deposit such amount in the social and health service facilities bond redemption fund from moneys transmitted to the state treasurer by the state department of revenue and certified by the department to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest. The owner and holder of each of the bonds or the trustee for any of the bonds may, by mandamus or other appropriate proceeding, require the transfer and payment of funds as directed herein. [1972 ex.s. c 130 § 9.]

43.83D.100 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 130 § 10.]

43.83D.110 Bonds legal investment for public funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1972 ex.s. c 130 § 11.]

43.83D.120 Transfers of real property and facilities to nonprofit corporations. (1) Public bodies, as defined in RCW 43.83D.050, may transfer without further consideration real property and facilities acquired, constructed, or otherwise improved under this chapter to nonprofit corporations organized to provide individuals with social and health services, in exchange for the promise to continually operate services benefiting the public on the site, subject to all the conditions in this section. For purposes of this section, "transfer" may include lease renewals. The nonprofit corporation shall use the real property and facilities for the purpose of providing the following programs as designated by the department of social and health services: Facilities for social services, adult and juvenile correction or detention, child welfare, day care, drug abuse and alcoholism treatment, mental health, public health, developmental disabilities, and vocational rehabilitation.

(2) The deed transferring the property in subsection (1) of this section must provide for immediate reversion back to the public body if the nonprofit corporation ceases to use the property for the purposes described in subsection (1) of this section.

(3) The nonprofit corporation is authorized to sell the property transferred to it pursuant to subsection (1) of this section only if all of the following conditions are satisfied: (a) Any such sale must be subject to prior written approval by the department of social and health services; (b) all proceeds from such a sale must be applied to the purchase price of a different property or properties of equal or greater value than the original property; (c) any new property or properties must be used for the purposes stated in subsection (1) of this section; (d) the new property or properties must be available for use within one year of sale; and (e) the nonprofit corporation must enter into an agreement with the public entity to reimburse the public entity for the value of the original property at

the time of the sale if the nonprofit corporation ceases to use the new property for the purposes described in subsection (1) of this section.

(4) If the nonprofit corporation ceases to use the property for the purposes described in subsection (1) of this section, the property and facilities revert immediately to the public body. The public body shall then determine if the property, or the reimbursed amount in the case of a reimbursement under subsection (3)(e) of this section, may be used by another program as designated by the department of social and health services. These programs have priority in obtaining the property to ensure that the purposes specified in this chapter are carried out. [2006 c 35 § 3.]

Findings—2006 c 35: See note following RCW 43.99C.070.

Chapter 43.83F RCW

CAPITOL FACILITIES REVENUE BONDS, 1969— EAST CAPITOL SITE BONDS, 1969

Sections

- 43.83F.010 Refunding bonds—Issuance—Authorization.
- 43.83F.020 Refunding bonds—Powers and duties of state finance committee.
- 43.83F.030 Refunding bonds—Administration of proceeds from sale—Exception.
- 43.83F.040 Refunding bonds—Payment from bond redemption fund—Procedure—General obligation of state.
- 43.83F.050 Refunding bonds—Legislature may provide additional means for payment.
- 43.83F.060 Refunding bonds—Legal investment for state and other public bodies.
- 43.83F.900 Severability—1974 ex.s. c 113.

43.83F.010 Refunding bonds—Issuance—Authorization. The state finance committee is authorized to issue general obligation bonds of the state in the amount of twenty-one million dollars, or so much thereof as may be required to refund, at or prior to maturity, the outstanding "State of Washington Capitol Facilities Revenue Bonds, 1969", dated October 1, 1969, and the outstanding "State of Washington East Capitol Site Bonds, 1969", dated October 1, 1969, and to pay any premium payable with respect thereto and all interest thereon, and to pay all costs incidental thereto and to the issuance of the bonds authorized by this chapter. The bonds authorized by this chapter shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1, of the state Constitution. [1974 ex.s. c 113 § 1.]

43.83F.020 Refunding bonds—Powers and duties of state finance committee. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issu-

ance of such bonds. Such bonds shall be payable at such places as the committee may provide. [1974 ex.s. c 113 § 2.]

43.83F.030 Refunding bonds—Administration of proceeds from sale—Exception. The proceeds from the sale of bonds authorized by this chapter shall be set aside for the payment of the bonds to be refunded in accordance with chapter 39.53 RCW, except that investment and reinvestment thereof shall be limited to direct obligations of the United States of America. [1974 ex.s. c 113 § 3.]

43.83F.040 Refunding bonds—Payment from bond redemption fund—Procedure—General obligation of state. The state building refunding bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds authorized by this chapter. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in the state building bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. Bonds issued under the provisions of this chapter shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1974 ex.s. c 113 § 4.]

43.83F.050 Refunding bonds—Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1974 ex.s. c 113 § 5.]

43.83F.060 Refunding bonds—Legal investment for state and other public bodies. The bonds authorized in this chapter shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1974 ex.s. c 113 § 6.]

43.83F.900 Severability—1974 ex.s. c 113. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 113 § 8.]

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Chapter 43.83H RCW

SOCIAL AND HEALTH SERVICES FACILITIES—BOND ISSUES

Sections

1975-'76 BOND ISSUE

- 43.83H.010 General obligation bonds—Authorized—Issuance, sale, terms, etc.
- 43.83H.020 "Social and health services facilities" defined.
- 43.83H.030 Proceeds of bonds.
- 43.83H.040 Administration of proceeds.
- 43.83H.050 Retirement of bonds from social and health services construction bond redemption fund—Source—Remedies of bond holders.
- 43.83H.060 Legal investment for public funds.

1977 BOND ISSUE

- 43.83H.100 General obligation bonds—Authorized—Issuance, sale, terms, etc.
- 43.83H.110 "Social and health services facilities" defined.
- 43.83H.120 Anticipation notes—Proceeds of bonds and notes.
- 43.83H.130 Administration of proceeds.
- 43.83H.140 Retirement of bonds from social and health services construction bond redemption fund of 1976—Source—Remedies of bond holders.
- 43.83H.150 Legal investment for public funds.

1979 BOND ISSUE

- 43.83H.160 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Pledge and promise.
- 43.83H.162 "Social and health services facilities" defined.
- 43.83H.164 Bond anticipation notes—Deposit of proceeds of bonds and notes in social and health services construction account and social and health services bond redemption fund of 1979.
- 43.83H.166 Administration of proceeds.
- 43.83H.168 Retirement of bonds and notes from social and health services bond redemption fund of 1979—Retirement of bonds and notes from state general obligation bond retirement fund—Remedies of bondholders.
- 43.83H.170 Bonds legal investment for public funds.

1981 BOND ISSUE

- 43.83H.172 General obligation bonds—Authorized—Issuance—Pledge and promise.
- 43.83H.174 "Social and health services facilities" defined.
- 43.83H.176 Deposit of proceeds in state social and health services construction account—Use.
- 43.83H.178 Administration of proceeds.
- 43.83H.180 Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders.
- 43.83H.182 Bonds legal investment for public funds.

1984 BOND ISSUE

- 43.83H.184 General obligation bonds—Authorized—Issuance—Price—Appropriation required.
- 43.83H.186 Deposit of proceeds in state social and health services construction account—Use.
- 43.83H.188 Administration of proceeds.
- 43.83H.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.83H.192 Legislature may provide additional means for payment of bonds.
- 43.83H.194 Bonds legal investment for public funds.

CONSTRUCTION

- 43.83H.900 Severability—1975-'76 2nd ex.s. c 125.
- 43.83H.910 Severability—1977 ex.s. c 342.
- 43.83H.912 Severability—1979 ex.s. c 252.
- 43.83H.914 Severability—1981 c 234.
- 43.83H.915 Severability—1984 c 269.

1975-'76 BOND ISSUE

43.83H.010 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the plan-

ning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty-one million four hundred thousand dollars or so much thereof as shall be required to finance social and health services facilities. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington.

The state finance committee is authorized to prescribe the form of such bonds, the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1975-'76 2nd ex.s. c 125 § 1.]

43.83H.020 "Social and health services facilities" defined. As used in this chapter, the term "social and health services facilities" shall include, without limitation, facilities for use in veterans' service programs, adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the social and health services construction account in the general fund by chapter 276, Laws of 1975 1st ex. sess., the capital appropriations act, or subsequent capital appropriations acts. [1975-'76 2nd ex.s. c 125 § 2.]

43.83H.030 Proceeds of bonds. The proceeds from the sale of bonds authorized by *this chapter shall be deposited in the state social and health services construction account hereby created in the state treasury and shall be used exclusively for the purposes specified in this chapter and for the payment of expenses incurred in the issuance and sale of such bonds. [1991 sp.s. c 13 § 56; 1985 c 57 § 49; 1975-'76 2nd ex.s. c 125 § 3.]

*Reviser's note: A literal translation of "this chapter" is RCW 43.83H.010 through 43.83H.060 and 43.83H.900.

Additional notes found at www.leg.wa.gov

43.83H.040 Administration of proceeds. The principal proceeds from the sale of the bonds authorized in this chapter and deposited in the social and health services construction account in the general fund shall be administered by the secretary of the department of social and health services. [1975-'76 2nd ex.s. c 125 § 4.]

Reviser's note: A literal translation of "this chapter" is RCW 43.83H.010 through 43.83H.060 and 43.83H.900.

43.83H.050 Retirement of bonds from social and health services construction bond redemption fund—Source—Remedies of bond holders. The state social and

health services bond redemption fund of 1976 is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds and notes authorized by this chapter or any social and health services facilities bonds and notes hereafter authorized by the legislature. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state social and health services bond redemption fund of 1976 from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein. [1975-'76 2nd ex.s. c 125 § 5.]

Reviser's note: A literal translation of "this chapter" is RCW 43.83H.010 through 43.83H.060 and 43.83H.900.

43.83H.060 Legal investment for public funds. The bonds authorized by this chapter shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975-'76 2nd ex.s. c 125 § 6.]

Reviser's note: A literal translation of "this chapter" is RCW 43.83H.010 through 43.83H.060 and 43.83H.900.

1977 BOND ISSUE

43.83H.100 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by RCW 43.83H.100 through 43.83H.150 and 43.83H.910 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The state finance committee is authorized to prescribe the form of such bonds, the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1977 ex.s. c 342 § 1.]

43.83H.110 "Social and health services facilities" defined. As used in RCW 43.83H.100 through 43.83H.150 and 43.83H.910, the term "social and health services facilities

ties", shall include, without limitation, facilities for use in adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the state social and health services construction account in the general fund by chapter 338, Laws of 1977 ex. sess., the capital appropriations act, or subsequent capital appropriations acts. [1977 ex.s. c 342 § 2.]

43.83H.120 Anticipation notes—Proceeds of bonds and notes. At the time the state finance committee determines to issue such bonds authorized in RCW 43.83H.100 or a portion thereof, it may, pending the issuance thereof, issue in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 43.83H.100 through 43.83H.150 and 43.83H.910 shall be deposited in the state social and health services construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83H.100 through 43.83H.150 and 43.83H.910 and for the payment of expenses incurred in the issuance and sale of such bonds and notes: PROVIDED, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the state social and health services bond redemption fund of 1976 in the state treasury. [1977 ex.s. c 342 § 3.]

43.83H.130 Administration of proceeds. The proceeds from the sale of the bonds authorized in RCW 43.83H.100 through 43.83H.150 and 43.83H.910 and deposited in the state social and health services construction account in the general fund shall be administered by the secretary of the department of social and health services. [1977 ex.s. c 342 § 4.]

43.83H.140 Retirement of bonds from social and health services construction bond redemption fund of 1976—Source—Remedies of bond holders. The state social and health services bond redemption fund of 1976 in the state treasury shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.83H.100 through 43.83H.150 and 43.83H.910. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1976 state social and health services bond redemption fund an amount equal to the amount certified by the state finance committee to be due on such payment date.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein. [1977 ex.s. c 342 § 5.]

(2010 Ed.)

43.83H.150 Legal investment for public funds. The bonds authorized by RCW 43.83H.100 through 43.83H.150 and 43.83H.910 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 ex.s. c 342 § 6.]

1979 BOND ISSUE

43.83H.160 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Pledge and promise. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred and two million dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83H.160 through 43.83H.170 and 43.83H.912 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The state finance committee is authorized to prescribe the form of the bonds, the time of sale of all or any portion or portions of the bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1979 ex.s. c 252 § 1.]

43.83H.162 "Social and health services facilities" defined. As used in RCW 43.83H.160 through 43.83H.170 and 43.83H.912, the term "social and health services facilities", shall include, without limitation, facilities for use in adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the state social and health services construction account in the general fund by the capital appropriations act, or subsequent capital appropriations acts. [1979 ex.s. c 252 § 2.]

43.83H.164 Bond anticipation notes—Deposit of proceeds of bonds and notes in social and health services construction account and social and health services bond redemption fund of 1979. At the time the state finance committee determines to issue the bonds authorized in RCW 43.83H.160, or a portion thereof, it may, pending the issuance thereof, issue in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 43.83H.160 through 43.83H.170 and 43.83H.912 shall be deposited in the state social and health services construction account of the general fund in the state treasury and shall be used exclusively for the purposes speci-

fied in RCW 43.83H.160 through 43.83H.170 and 43.83H.912 and for the payment of expenses incurred in the issuance and sale of the bonds and notes: PROVIDED, That such portion of the proceeds of the sale of the bonds as may be required for the payment of the principal and interest on the anticipation notes as have been issued shall be deposited in the state social and health services bond redemption fund of 1979, hereby created, in the state treasury. [1979 ex.s. c 252 § 3.]

43.83H.166 Administration of proceeds. The proceeds from the sale of the bonds authorized in RCW 43.83H.160 through 43.83H.170 and 43.83H.912 and deposited in the state social and health services construction account in the general fund shall be administered by the secretary of the department of social and health services. [1979 ex.s. c 252 § 4.]

43.83H.168 Retirement of bonds and notes from social and health services bond redemption fund of 1979—Retirement of bonds and notes from state general obligation bond retirement fund—Remedies of bondholders. The state social and health services bond redemption fund of 1979 hereby created in the state treasury shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.83H.160 through 43.83H.170 and 43.83H.912. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1979 state social and health services bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess. and becomes effective by statute prior to the issuance of any of the bonds authorized by RCW 43.83H.160 through 43.83H.170 and 43.83H.912, the state general obligation bond retirement fund shall be used for purposes of RCW 43.83H.160 through 43.83H.170 and 43.83H.912 in lieu of the state social and health services bond redemption fund of 1979, and the state social and health services bond redemption fund of 1979 shall cease to exist.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed in this section. [1979 ex.s. c 252 § 5.]

State general obligation bond retirement fund: RCW 43.83.160.

43.83H.170 Bonds legal investment for public funds. The bonds authorized by RCW 43.83H.160 through 43.83H.170 and 43.83H.912 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1979 ex.s. c 252 § 6.]

43.83H.172 General obligation bonds—Authorized—Issuance—Pledge and promise. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services and department of corrections facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred eight-seven [eighty-seven] million four hundred twenty-five thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83H.172 through 43.83H.182 may be offered for sale without prior legislative appropriation.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. [1983 1st ex.s. c 54 § 8; 1982 1st ex.s. c 23 § 3; 1981 c 234 § 1.]

Additional notes found at www.leg.wa.gov

43.83H.174 "Social and health services facilities" defined. As used in RCW 43.83H.172 through 43.83H.182, the term "social and health services facilities" shall include, without limitation, facilities for use in adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the state social and health services construction account in the general fund by the capital appropriations act, or subsequent capital appropriations acts. [1981 c 234 § 2.]

43.83H.176 Deposit of proceeds in state social and health services construction account—Use. The proceeds from the sale of bonds authorized by RCW 43.83H.172 through 43.83H.182 shall be deposited in the state social and health services construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83H.172 through 43.83H.182 and for the payment of expenses incurred in the issuance and sale of the bonds. [1981 c 234 § 3.]

43.83H.178 Administration of proceeds. The proceeds from the sale of the bonds authorized in RCW 43.83H.172 through 43.83H.182 and deposited in the state social and health services construction account in the general fund shall be administered by the secretary of social and health services. [1981 c 234 § 4.]

43.83H.180 Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the purpose of the payment of interest on and retirement of the bonds authorized to be issued by RCW 43.83H.172 through 43.83H.182.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest pay-

ment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed in this section. [1981 c 234 § 5.]

State general obligation bond retirement fund: RCW 43.83.160.

43.83H.182 Bonds legal investment for public funds.

The bonds authorized by RCW 43.83H.172 through 43.83H.180 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1981 c 234 § 6.]

1984 BOND ISSUE

43.83H.184 General obligation bonds—Authorized—Issuance—Price—Appropriation required. For the purpose of providing needed capital improvements consisting of fire safety projects and the design, construction, repair, renovating, and equipping of buildings and facilities of the department of social and health services, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of fourteen million six hundred sixty thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1984 c 269 § 1.]

43.83H.186 Deposit of proceeds in state social and health services construction account—Use. The proceeds from the sale of the bonds authorized in RCW 43.83H.184 shall be deposited in the state social and health services construction account in the general fund and shall be used exclusively for the purposes specified in RCW 43.83H.184 and for the payment of expenses incurred in the issuance and sale of the bonds. [1984 c 269 § 2.]

43.83H.188 Administration of proceeds. The proceeds from the sale of the bonds deposited under RCW 43.83H.186 in the state social and health services construction account of the general fund shall be administered by the department of social and health services, subject to legislative appropriation. [1984 c 269 § 3.]

43.83H.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.83H.184.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and

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interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.83H.184 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1984 c 269 § 4.]

State general obligation bond retirement fund: RCW 43.83.160.

43.83H.192 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.83H.184, and RCW 43.83H.190 shall not be deemed to provide an exclusive method for the payment. [1984 c 269 § 5.]

43.83H.194 Bonds legal investment for public funds. The bonds authorized in RCW 43.83H.184 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1984 c 269 § 6.]

CONSTRUCTION

43.83H.900 Severability—1975-'76 2nd ex.s. c 125. If any provision of this 1976 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 125 § 8.]

43.83H.910 Severability—1977 ex.s. c 342. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 342 § 7.]

43.83H.912 Severability—1979 ex.s. c 252. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 252 § 7.]

43.83H.914 Severability—1981 c 234. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 c 234 § 7.]

43.83H.915 Severability—1984 c 269. If any provision of this act or its application to any person or circum-

stance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 269 § 7.]

Chapter 43.831 RCW

DEPARTMENT OF FISHERIES—BOND ISSUES

Sections

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- 43.831.010 General obligation bonds—Authorized—Issuance, sale, terms, etc.
- 43.831.020 Bond anticipation notes—Proceeds of bonds and interest on notes.
- 43.831.030 Bonds and notes—Powers and duties of state finance committee.
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- 43.831.120 Bonds and notes—Powers and duties of state finance committee.
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1979 BOND ISSUE

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- 43.831.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required.
- 43.831.174 Bond anticipation notes.
- 43.831.176 Form, terms, conditions, etc., of bonds and notes—Pledge and promise.
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- 43.831.184 General obligation bonds—Authorized—Issuance—Appropriation required.
- 43.831.186 Deposit of proceeds in fisheries capital projects account—Use.
- 43.831.188 Administration of proceeds.
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- 43.831.192 Legislature may provide additional means for payment of bonds.
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CONSTRUCTION

- 43.831.900 Severability—1975-'76 2nd ex.s. c 132.
- 43.831.910 Severability—1977 ex.s. c 343.
- 43.831.912 Severability—1979 ex.s. c 224.
- 43.831.914 Severability—1981 c 231.
- 43.831.915 Severability—1983 1st ex.s. c 59.

1975-'76 BOND ISSUE

43.831.010 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of five million one hundred thirty-two thousand nine hundred dollars, or so much thereof as shall be required to finance the capital projects relating to the *department of fisheries as determined by the legislature in its capital appropriations act, chapter 133, Laws of 1975-'76 2nd ex. sess. for such purposes, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1, of the Constitution of the state of Washington. [1975-'76 2nd ex.s. c 132 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

43.831.020 Bond anticipation notes—Proceeds of bonds and interest on notes. When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 43.831.010, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued. [1975-'76 2nd ex.s. c 132 § 2.]

43.831.030 Bonds and notes—Powers and duties of state finance committee. The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes provided for in RCW 43.831.010 and 43.831.020, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1975-'76 2nd ex.s. c 132 § 3.]

43.831.040 Fisheries capital projects account created—Proceeds deposited in—Exception. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 43.831.020, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in RCW 43.831.010 through 43.831.060, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fisheries capital projects account of the general fund hereby created in the state treasury. All such proceeds shall be used exclusively for the purposes specified in RCW 43.831.010 through 43.831.060 and for the payment of the expenses incurred in

connection with the sale and issuance of such bonds and bond anticipation notes. [1975-'76 2nd ex.s. c 132 § 4.]

43.831.050 1976 fisheries bond retirement fund created. The 1976 fisheries bond retirement fund is hereby created in the state treasury for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to RCW 43.831.010 through 43.831.060.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1976 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee. [1975-'76 2nd ex.s. c 132 § 5.]

43.831.060 Legal investment for public funds. The bonds authorized in RCW 43.831.010 through 43.831.060 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975-'76 2nd ex.s. c 132 § 6.]

1977 BOND ISSUE

43.831.100 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of five million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by RCW 43.831.100 through 43.831.150 and 43.831.910 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1977 ex.s. c 343 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

43.831.110 Bond anticipation notes—Proceeds of bonds and interest on notes. When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 43.831.100, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued. [1977 ex.s. c 343 § 2.]

43.831.120 Bonds and notes—Powers and duties of state finance committee. The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes pro-

vided for in RCW 43.831.100 and 43.831.110, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1977 ex.s. c 343 § 3.]

43.831.130 Proceeds deposited in fisheries capital projects account—Exception. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 43.831.110, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in RCW 43.831.100 through 43.831.150, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fisheries capital projects account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in RCW 43.831.100 through 43.831.150 and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1977 ex.s. c 343 § 4.]

43.831.140 1977 fisheries bond retirement fund created. The 1977 fisheries bond retirement fund is hereby created in the state treasury for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to RCW 43.831.100 through 43.831.150.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee to be due on such payment date. [1977 ex.s. c 343 § 5.]

43.831.150 Legal investment for public funds. The bonds authorized in RCW 43.831.100 through 43.831.150 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 ex.s. c 343 § 6.]

1979 BOND ISSUE

43.831.160 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of five million forty-five thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.831.160 through 43.831.170 and

43.83I.912 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1987 1st ex.s. c 3 § 10; 1979 ex.s. c 224 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

Additional notes found at www.leg.wa.gov

43.83I.162 Bond anticipation notes—Payment.

When the state finance committee has determined to issue the general obligation bonds or a portion thereof as authorized in RCW 43.83I.160, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of the bonds as may be required for the payment of the principal and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued. [1979 ex.s. c 224 § 2.]

43.83I.164 Form, terms, conditions, etc., of bonds and notes—Pledge and promise. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and/or the bond anticipation notes provided for in RCW 43.83I.160 and 43.83I.162, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1979 ex.s. c 224 § 3.]

43.83I.168 Retirement of bonds from 1977 fisheries bond retirement fund. The 1977 fisheries bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and interest on the bonds authorized to be issued under RCW 43.83I.160 through 43.83I.170.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. [1979 ex.s. c 224 § 5.]

43.83I.170 Bonds legal investment for public funds.

The bonds authorized in RCW 43.83I.160 through 43.83I.168 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1979 ex.s. c 224 § 6.]

43.83I.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of six million five hundred thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83I.172 through 43.83I.182 may be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1981 c 231 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

43.83I.174 Bond anticipation notes. When the state finance committee has determined to issue the general obligation bonds or a portion thereof as authorized in RCW 43.83I.172, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes." [1981 c 231 § 2.]

43.83I.176 Form, terms, conditions, etc., of bonds and notes—Pledge and promise. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and/or the bond anticipation notes provided for in RCW 43.83I.172 and 43.83I.174, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1981 c 231 § 3.]

43.83I.178 Proceeds deposited in fisheries capital projects account—Use. The proceeds from the sale of the bonds and/or bond anticipation notes authorized in RCW 43.83I.172 through 43.83I.182, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fisheries capital projects account of the general fund in the state treasury. All of these proceeds shall be used exclusively for the purposes specified in RCW 43.83I.172 through 43.83I.182 and for the payment of the expenses incurred in connection with the sale and issuance of the bonds and bond anticipation notes. [1981 c 231 § 4.]

43.83I.180 Retirement of bonds from 1977 fisheries bond retirement fund. The 1977 fisheries bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and interest on the bonds autho-

rized to be issued under RCW 43.831.172 through 43.831.182.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. [1981 c 231 § 5.]

43.831.182 Bonds legal investment for public funds.

The bonds authorized in RCW 43.831.172 through 43.831.180 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1981 c 231 § 6.]

1983 BOND ISSUE

43.831.184 General obligation bonds—Authorized—Issuance—Appropriation required. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, refurbishing, furnishing, and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one million one hundred sixty-five thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized in this section may be offered for sale without prior legislative appropriation. [1983 1st ex.s. c 59 § 1.]

**Reviser's note:* Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

43.831.186 Deposit of proceeds in fisheries capital projects account—Use. The proceeds from the sale of the bonds authorized in RCW 43.831.184 shall be deposited in the fisheries capital projects account in the state general fund and shall be used exclusively for the purposes specified in RCW 43.831.184 and for the payment of expenses incurred in the issuance and sale of the bonds. [1983 1st ex.s. c 59 § 2.]

43.831.188 Administration of proceeds. The proceeds from the sale of the bonds deposited under RCW 43.831.186 in the fisheries capital projects account of the general fund shall be administered by the department of fish and wildlife, subject to legislative appropriation. [1994 c 264 § 29; 1983 1st ex.s. c 59 § 3.]

43.831.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.831.184.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed

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in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.831.184 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1983 1st ex.s. c 59 § 4.]

State general obligation bond retirement fund: RCW 43.83.160.

43.831.192 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.831.184, and RCW 43.831.190 shall not be deemed to provide an exclusive method for the payment. [1983 1st ex.s. c 59 § 5.]

43.831.194 Bonds legal investment for public funds. The bonds authorized in RCW 43.831.184 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1983 1st ex.s. c 59 § 6.]

CONSTRUCTION

43.831.900 Severability—1975-'76 2nd ex.s. c 132. If any provision of this 1976 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 132 § 8.]

43.831.910 Severability—1977 ex.s. c 343. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 343 § 7.]

43.831.912 Severability—1979 ex.s. c 224. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 224 § 7.]

43.831.914 Severability—1981 c 231. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 c 231 § 7.]

43.831.915 Severability—1983 1st ex.s. c 59. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 59 § 7.]

Chapter 43.84 RCW

INVESTMENTS AND INTERFUND LOANS

Sections

43.84.031	Management of permanent funds—Procedural policies—Limitation on purchase, sale or exchange prices for securities.
43.84.041	Management of permanent funds—Disposition of securities.
43.84.051	Management of permanent funds—Collection of interest, income and principal of securities—Disposition.
43.84.061	Management of permanent funds in accordance with established standards.
43.84.080	Investment of current state funds.
43.84.092	Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited.
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43.84.150	Authority of state investment board to invest, reinvest, manage investments acquired.
43.84.160	Investment counseling fees payable from earnings.
43.84.170	Investment of surplus moneys in common school fund, agricultural college fund, normal school fund, scientific school fund or university fund.
43.84.180	Public works assistance account earnings—Share to public facilities construction loan revolving account.

Community renewal bonds: RCW 35.81.110.

Federal home owner's loan corporation bonds, valid investment for public and trust funds: RCW 39.60.010.

Firefighters' pension board, investments by: RCW 41.16.040.

Highway construction bonds, investment in: Chapter 47.10 RCW.

Housing authority bonds, authorized as legal investments: RCW 35.82.220.

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Investment accounting: RCW 43.33A.180.

Judicial retirement—Investment for supplemental retirement: RCW 2.14.080.

Metropolitan municipal corporation obligations, authorized for public deposits: RCW 35.58.510.

Mutual savings banks, investments in state bonds: RCW 32.20.050.

Port district toll facility bonds and notes as legal investments: RCW 53.34.150.

Public utility district revenue obligations as legal investments: RCW 54.24.120.

School building construction bonds: Chapter 28A.525 RCW.

Schools and school districts' bonds, investment of permanent school fund in: State Constitution Art. 16 § 5.

Statewide city employees' retirement system funds: RCW 41.44.100.

United States corporation bonds, valid investment for public and trust funds: RCW 39.60.010.

43.84.031 Management of permanent funds—Procedural policies—Limitation on purchase, sale or exchange prices for securities. Subject to the limitation of authority delegated by RCW 43.84.031 through 43.84.061 and RCW 43.84.150, the state investment board shall adopt procedural policies governing the management of said permanent trust funds. [1981 c 3 § 17; 1973 1st ex.s. c 103 § 5; 1965 ex.s. c 104 § 3.]

State investment board: Chapter 43.33A RCW.

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Additional notes found at www.leg.wa.gov

43.84.041 Management of permanent funds—Disposition of securities. All securities purchased or held on behalf of said funds, shall be held and disbursed through the state treasury and shall be in the physical custody of the state treasurer, who may deposit with the fiscal agent of the state, or with a state depository, such of said securities as he or she shall consider advisable to be held in safekeeping by said agent or bank for collection of principal and interest, or of the proceeds of sale thereof. [2009 c 549 § 5160; 1965 ex.s. c 104 § 4.]

43.84.051 Management of permanent funds—Collection of interest, income and principal of securities—Disposition. It shall be the duty of the state treasurer to collect the interest, or other income on, and the principal of the securities held in his or her custody pursuant to RCW 43.84.041 as the said sums become due and payable, and to pay the same when so collected into the respective funds to which the principal and interest shall accrue, less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160. [1991 sp.s. c 13 § 93; 1965 ex.s. c 104 § 5.]

Additional notes found at www.leg.wa.gov

43.84.061 Management of permanent funds in accordance with established standards. Any investments made hereunder by the state investment board shall be made in accordance with the standards established in RCW 43.33A.140. [1998 c 14 § 3; 1965 ex.s. c 104 § 6.]

43.84.080 Investment of current state funds. Whenever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, the state treasurer may invest or reinvest such portion of such funds or balances as the state treasurer deems expedient in the following defined securities or classes of investments:

(1) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States;

(2) In state, county, municipal, or school district bonds, or in warrants of taxing districts of the state. Such bonds and warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations. The state treasurer may purchase such bonds or warrants directly from the taxing district or in the open market at such prices and upon such terms as it may determine, and may sell them at such times as it deems advisable;

(3) In motor vehicle fund warrants when authorized by agreement between the state treasurer and the department of transportation requiring repayment of invested funds from any moneys in the motor vehicle fund available for state highway construction;

(4) In federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association

notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(5) Bankers' acceptances purchased on the secondary market;

(6) Negotiable certificates of deposit of any national or state commercial or mutual savings bank or savings and loan association doing business in the United States: PROVIDED, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board;

(7) Commercial paper: PROVIDED, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board. [1982 c 148 § 1; 1981 c 3 § 18; 1979 ex.s. c 154 § 1; 1975 1st ex.s. c 4 § 1; 1971 c 16 § 1; 1967 c 211 § 1; 1965 c 8 § 43.84.080. Prior: 1961 c 281 § 11; 1955 c 197 § 1; 1935 c 91 § 1; RRS § 5508-1.]

Motor vehicle fund warrants for state highway acquisition: RCW 47.12.180 through 47.12.240.

Additional notes found at www.leg.wa.gov

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited. (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's

and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multiagency permitting team account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the

state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

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

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [2010 1st sp.s. c 30 § 20; 2010 1st sp.s. c 9 § 7; 2010 c 248 § 6; 2010 c 222 § 5; 2010 c 162 § 6; 2010 c 145 § 11. Prior: 2009 c 479 § 31; 2009 c 472 § 5; 2009 c 451 § 8; (2009 c 451 § 7 expired July 1, 2009); prior: 2008 c 128 § 19; 2008 c 106 § 4; (2008 c 106 § 3 expired July 1, 2009); (2008 c 106 § 2 expired July 1, 2008); prior: 2007 c 514 § 3; 2007 c 513 § 1; 2007 c 484 § 4; 2007 c 356 § 9; prior: 2006 c 337 § 11; (2006 c 337 § 10 expired July 1, 2006); 2006 c 311 § 23; (2006 c 311 § 22 expired July 1, 2006); 2006 c 171 § 10; (2006 c 171 § 9 expired July 1, 2006); 2006 c 56 § 10; (2006 c 56 § 9 expired July 1, 2006); 2006 c 6 § 8; prior: 2005 c 514 § 1106; 2005 c 353 § 4; 2005 c 339 § 23; 2005 c 314 § 110; 2005 c 312 § 8; 2005 c 94 § 2; 2005 c 83 § 5; prior: (2005 c

353 § 2 expired July 1, 2005); 2004 c 242 § 60; prior: 2003 c 361 § 602; 2003 c 324 § 1; 2003 c 150 § 2; 2003 c 48 § 2; prior: 2002 c 242 § 2; 2002 c 114 § 24; 2002 c 56 § 402; prior: 2001 2nd sp.s. c 14 § 608; (2001 2nd sp.s. c 14 § 607 expired March 1, 2002); 2001 c 273 § 6; (2001 c 273 § 5 expired March 1, 2002); 2001 c 141 § 3; (2001 c 141 § 2 expired March 1, 2002); 2001 c 80 § 5; (2001 c 80 § 4 expired March 1, 2002); 2000 2nd sp.s. c 4 § 6; prior: 2000 2nd sp.s. c 4 § 5; (2000 2nd sp.s. c 4 §§ 3, 4 expired September 1, 2000); 2000 c 247 § 702; 2000 c 79 § 39; (2000 c 79 §§ 37, 38 expired September 1, 2000); prior: 1999 c 380 § 9; 1999 c 380 § 8; 1999 c 309 § 929; (1999 c 309 § 928 expired September 1, 2000); 1999 c 268 § 5; (1999 c 268 § 4 expired September 1, 2000); 1999 c 94 § 4; (1999 c 94 §§ 2, 3 expired September 1, 2000); 1998 c 341 § 708; 1997 c 218 § 5; 1996 c 262 § 4; prior: 1995 c 394 § 1; 1995 c 122 § 12; prior: 1994 c 2 § 6 (Initiative Measure No. 601, approved November 2, 1993); 1993 sp.s. c 25 § 511; 1993 sp.s. c 8 § 1; 1993 c 500 § 6; 1993 c 492 § 473; 1993 c 445 § 4; 1993 c 329 § 2; 1993 c 4 § 9; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Reviser's note: This section was amended by 2010 c 145 § 11, 2010 c 162 § 6, 2010 c 222 § 5, 2010 c 248 § 6, 2010 1st sp.s. c 9 § 7, and by 2010 1st sp.s. c 30 § 20, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 30: See RCW 74.60.903.

Effective date—2010 1st sp.s. c 9: See note following RCW 43.105.805.

Intent—2010 c 222: See note following RCW 43.08.150.

Effective date—2010 c 162: See note following RCW 43.42.090.

Effective date—2009 c 479: See note following RCW 2.56.030.

Intent—Effective date—2009 c 472: See notes following RCW 47.56.870.

Effective date—2009 c 451 § 8: "Section 8 of this act takes effect July 1, 2009." [2009 c 451 § 9.]

Expiration dates—2009 c 451 §§ 2, 3, 5, 6, and 7: See note following RCW 43.325.010.

Effective date—Intent—2009 c 451: See notes following RCW 43.325.010.

Effective date—2008 c 128 §§ 17-20: See note following RCW 88.16.061.

Expiration dates—2008 c 106 §§ 2 and 3: "(1) Section 2 of this act expires July 1, 2008.

(2) Section 3 of this act expires July 1, 2009." [2008 c 106 § 5.]

Effective dates—2008 c 106 §§ 3 and 4: "(1) Section 3 of this act takes effect July 1, 2008.

(2) Section 4 of this act takes effect July 1, 2009." [2008 c 106 § 6.]

Effective date—2007 c 513: "This act takes effect July 1, 2009." [2007 c 513 § 2.]

Contingent effective date—2007 c 484 §§ 2-8: See note following RCW 43.79.495.

Short title—2007 c 356: See note following RCW 74.31.005.

Effective date—2006 c 337 § 11: "Section 11 of this act takes effect July 1, 2006." [2006 c 337 § 14.]

Expiration date—2006 c 337 § 10: "Section 10 of this act expires July 1, 2006." [2006 c 337 § 13.]

Effective date—2006 c 311 § 23: "Section 23 of this act takes effect July 1, 2006." [2006 c 311 § 31.]

Expiration date—2006 c 311 § 22: "Section 22 of this act expires July 1, 2006." [2006 c 311 § 30.]

Findings—2006 c 311: See note following RCW 36.120.020.

Expiration date—2006 c 171 § 9: "Section 9 of this act expires July 1, 2006." [2006 c 171 § 14.]

Effective date—2006 c 171 §§ 8 and 10: See note following RCW 42.56.270.

Findings—Severability—2006 c 171: See RCW 43.325.001 and 43.325.901.

Expiration date—2006 c 56 § 9: "Section 9 of this act expires July 1, 2006." [2006 c 56 § 11.]

Effective dates—2006 c 56: See note following RCW 41.45.230.

Effective date—2006 c 6: See RCW 90.90.900.

Effective date—2005 c 514 § 1106: "Section 1106 of this act takes effect July 1, 2006." [2005 c 514 § 1313.]

Part headings not law—Severability—2005 c 514: See notes following RCW 82.12.808.

Effective dates—2005 c 353: See note following RCW 71A.20.170.

Effective date—2005 c 339 § 23: "Section 23 of this act takes effect July 1, 2006." [2005 c 339 § 25.]

Effective dates—2005 c 314 §§ 110 and 201-206: See note following RCW 46.68.035.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

Effective dates—2005 c 312 §§ 6 and 8: See note following RCW 42.17.310.

Intent—Captions—2005 c 312: See notes following RCW 47.56.401.

Effective dates—2005 c 94: "(1) Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005.

(2) Section 2 of this act takes effect July 1, 2006." [2005 c 94 § 3.]

Findings—Effective dates—2005 c 83: See notes following RCW 47.26.340.

Effective date—2004 c 242: See RCW 41.37.901.

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

Effective date—2003 c 150 §§ 2 and 3: "Sections 2 and 3 of this act take effect July 1, 2005." [2003 c 150 § 4.]

Findings—Intent—2003 c 150; 2002 c 242: "The legislature finds that the community economic revitalization board plays a valuable and unique role in stimulating and diversifying local economies, attracting private investment, creating new jobs, and generating additional state and local tax revenues by investing in public facilities projects that result in new or expanded economic development. The legislature also finds that it is in the best interest of the state and local communities to secure a stable and dedicated source of funds for the community economic revitalization board. It is the intent of the legislature to establish an ongoing funding source for the community economic revitalization board that will be used exclusively to advance economic development infrastructure. This act provides a partial funding solution by directing that beginning July 1, 2005, the interest earnings generated by the public works assistance account shall be used to fund the community economic revitalization board's financial assistance programs. These funds are not for use other than for the stated purpose and goals of the community economic revitalization board." [2003 c 150 § 1; 2002 c 242 § 1.]

Effective date—2003 c 48: See note following RCW 29A.04.440.

Finding—Intent—2002 c 114: See RCW 47.46.011.

Captions not law—2002 c 114: See note following RCW 47.46.011.

Captions and subheadings not law—Severability—2002 c 56: See RCW 36.120.900 and 36.120.901.

Effective date—2001 2nd sp.s. c 14 § 608: "Section 608 of this act takes effect March 1, 2002." [2001 2nd sp.s. c 14 § 611.]

Expiration date—2001 2nd sp.s. c 14 § 607: "Section 607 of this act expires March 1, 2002." [2001 2nd sp.s. c 14 § 610.]

Severability—Effective date—2001 2nd sp.s. c 14: See notes following RCW 47.04.210.

(2010 Ed.)

Effective date—2001 c 273 § 6: "Section 6 of this act takes effect March 1, 2002." [2001 c 273 § 8.]

Expiration date—2001 c 273 § 5: "Section 5 of this act expires March 1, 2002." [2001 c 273 § 7.]

Effective date—2001 c 141 § 3: "Section 3 of this act takes effect March 1, 2002." [2001 c 141 § 6.]

Expiration date—2001 c 141 § 2: "Section 2 of this act expires March 1, 2002." [2001 c 141 § 5.]

Purpose—2001 c 141: "This act is needed to comply with federal law, which is the source of funds in the drinking water assistance account, used to fund the Washington state drinking water loan program as part of the federal safe drinking water act." [2001 c 141 § 1.]

Effective date—2001 c 80 § 5: "Section 5 of this act takes effect March 1, 2002." [2001 c 80 § 7.]

Expiration date—2001 c 80 § 4: "Section 4 of this act expires March 1, 2002." [2001 c 80 § 6.]

Findings—Intent—2001 c 80: See note following RCW 43.70.040.

Expiration date—2000 2nd sp.s. c 4 §§ 3 and 4: "Sections 3 and 4 of this act expire September 1, 2000." [2000 2nd sp.s. c 4 § 37.]

Effective date—2000 2nd sp.s. c 4 §§ 1-3 and 20: See note following RCW 82.08.020.

Effective dates—2000 2nd sp.s. c 4 §§ 4-10: See note following RCW 43.89.010.

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Expiration date—2000 c 79 §§ 37 and 38: "Sections 37 and 38 of this act expire September 1, 2000." [2000 c 79 § 49.]

Effective dates—2000 c 79 §§ 26, 38, and 39: See note following RCW 48.43.041.

Severability—2000 c 79: See note following RCW 48.04.010.

Legislative finding—1999 c 94: "The legislature finds that a periodic review of the accounts and their uses is necessary. While creating new accounts may facilitate the implementation of legislative intent, the creation of too many accounts limits the effectiveness of performance-based budgeting. Too many accounts also limit the flexibility of the legislature to address emerging and changing issues in addition to creating administrative burdens for the responsible agencies. Accounts created for specific purposes may no longer be valid or needed. Accordingly, this act eliminates accounts that are not in use or are unneeded and consolidates accounts that are similar in nature." [1999 c 94 § 1.]

Findings—Effective date—1997 c 218: See notes following RCW 70.119.030.

Transportation infrastructure account—Highway infrastructure account—Finding—Intent—Purpose—1996 c 262: See RCW 82.44.195.

Declaration—Intent—Purpose—1995 c 122: See RCW 59.21.006.

Findings—Intent—1993 sp.s. c 25: See note following RCW 82.45.010.

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Intent—Effective date—1989 c 419: See notes following RCW 4.92.006.

Additional notes found at www.leg.wa.gov

43.84.095 Exemption from reserve fund—Motor vehicle fund income from United States securities. Whenever moneys of the motor vehicle fund shall be invested in bonds, notes, bills or certificates of the United States treasury payable at par upon demand, or within a term not greater than one year, it shall not be necessary to place any portion of the income therefrom in the reserve fund provided for in *RCW 43.84.090. [1965 c 8 § 43.84.095. Prior: 1953 c 56 § 1.]

*Reviser's note: RCW 43.84.090 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

43.84.120 Investment in state warrants. Whenever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, and over and above the amount belonging to the permanent school fund as shown by the separation made by the state treasurer, the state treasurer may invest such portion of such funds or balances over and above that belonging to the permanent school fund in registered warrants of the state of Washington at such times and in such amounts, and may sell them at such times, as he or she deems advisable: PROVIDED, That those funds having statutory authority to make investments are excluded from the provisions of RCW 43.84.120.

Upon such investment being made, the state treasurer shall pay into the appropriate fund the amount so invested, and the warrants so purchased shall be deposited with the state treasurer, who shall collect all interest and principal payments falling due thereon and allocate the same to the proper fund or funds. [2009 c 549 § 5161; 1971 ex.s. c 88 § 4; 1965 c 8 § 43.84.120. Prior: 1951 c 232 § 2.]

Additional notes found at www.leg.wa.gov

43.84.130 Separate accounting as to permanent school fund. For the purposes of RCW 43.84.120 the state treasurer shall make and keep an accounting separation of the amount of cash balances in the state treasury belonging to the permanent school fund. [1965 c 8 § 43.84.130. Prior: 1951 c 232 § 1.]

43.84.140 Investment of scientific school, agricultural college, and state university funds in regents' revenue bonds. The state investment board is authorized to invest moneys in the scientific school permanent fund and the agricultural college permanent fund in regents' revenue bonds issued by the board of regents of Washington State University for the purposes provided for in RCW 28B.10.300 and to invest moneys in the state university permanent fund in regents' revenue bonds issued by the board of regents of the University of Washington for the purposes provided in RCW 28B.10.300. [1981 c 3 § 19; 1965 c 8 § 43.84.140. Prior: 1959 c 150 § 1.]

Additional notes found at www.leg.wa.gov

43.84.150 Authority of state investment board to invest, reinvest, manage investments acquired. Except where otherwise specifically provided by law, the state investment board shall have full power to invest, reinvest, manage, contract, or sell or exchange investments acquired. Investments shall be made in accordance with RCW 43.33A.140 and investment policy duly established and published by the state investment board. [1998 c 14 § 4; 1981 c 98 § 1; 1981 c 3 § 20; 1979 c 119 § 3; 1977 ex.s. c 251 § 5; 1975-'76 2nd ex.s. c 17 § 2. Prior: 1975 1st ex.s. c 252 § 1; 1975 1st ex.s. c 81 § 1; 1973 1st ex.s. c 103 § 12.]

Additional notes found at www.leg.wa.gov

43.84.160 Investment counseling fees payable from earnings. Investment counseling fees established by contract shall be payable from the investment earnings derived

from those assets being managed by investment counsel. [1973 1st ex.s. c 103 § 13.]

Additional notes found at www.leg.wa.gov

43.84.170 Investment of surplus moneys in common school fund, agricultural college fund, normal school fund, scientific school fund or university fund. Whenever there are surplus moneys available for investment in the permanent common school fund, the agricultural college permanent fund, the normal school permanent fund, the scientific school permanent fund, or the university permanent fund, the state investment board has full power to invest or reinvest such funds in the manner prescribed by RCW 43.84.150 and 28A.515.330, and not otherwise. [2007 c 505 § 4; 1981 c 3 § 21; 1973 1st ex.s. c 103 § 14.]

Intent—Finding—2007 c 505: See note following RCW 28A.515.330.
Agricultural permanent fund: RCW 43.79.130.

Normal school permanent fund: RCW 43.79.160.

Permanent common school fund: State Constitution Art. 9 § 3, RCW 28A.515.300.

Scientific permanent fund: RCW 43.79.110.

State university permanent fund: RCW 43.79.060.

Additional notes found at www.leg.wa.gov

43.84.180 Public works assistance account earnings—Share to public facilities construction loan revolving account. The proportionate share of earnings based on the average daily balance in the public works assistance account shall be placed in the public facilities construction loan revolving fund. [2003 c 150 § 3.]

Effective date—2003 c 150 §§ 2 and 3: See note following RCW 43.84.092.

Findings—Intent—2003 c 150; 2002 c 242: See note following RCW 43.84.092.

Chapter 43.85 RCW STATE DEPOSITARIES

Sections

43.85.070 Deposits deemed in state treasury—Liability.

43.85.190 Investment deposits and rate of interest.

43.85.200 Investment deposits and rate of interest—State moneys defined.

43.85.210 Investment deposits and rate of interest—Demand and time accounts authorized.

43.85.220 Investment deposits and rate of interest—Members of federal reserve or federal deposit insurance corporation.

43.85.230 Investment deposits and rate of interest—Term deposit basis.

Public depositaries, deposit and investment of public funds: Chapter 39.58 RCW.

43.85.070 Deposits deemed in state treasury—Liability. The state treasurer may deposit with any qualified public depositary which has fully complied with all requirements of law and the regulations of the public deposit protection commission any state moneys in his or her hands or under his or her official control and any sum so on deposit shall be deemed to be in the state treasury, and he or she shall not be liable for any loss thereof resulting from the failure or default of any such depositary without fault or neglect on his or her part or on the part of his or her assistants or clerks. [2009 c 549 § 5162; 1969 ex.s. c 193 § 18; 1965 c 8 § 43.85.070.]

Prior: 1945 c 129 § 2; 1943 c 134 § 1; 1935 c 139 § 3; 1931 c 87 § 2; 1907 c 37 § 4; Rem. Supp. 1945 § 5551.]

Liability of treasurers and state treasurer for losses of deposits: RCW 39.58.140.

Additional notes found at www.leg.wa.gov

43.85.190 Investment deposits and rate of interest. It is the purpose of RCW 43.85.190 through 43.85.230 to authorize the state treasurer to make investment deposits of state moneys or funds in his or her custody in qualified public depositories at a rate of interest permitted by any applicable statute or regulation. [2009 c 549 § 5163; 1983 c 66 § 17; 1983 c 3 § 113; 1969 ex.s. c 193 § 21; 1965 c 8 § 43.85.190. Prior: 1955 c 198 § 1.]

Additional notes found at www.leg.wa.gov

43.85.200 Investment deposits and rate of interest—State moneys defined. All moneys or funds belonging to or in the custody of the state under the control of the state treasurer shall be considered as state moneys or funds. [1965 c 8 § 43.85.200. Prior: 1955 c 198 § 2.]

43.85.210 Investment deposits and rate of interest—Demand and time accounts authorized. The state treasurer may deposit state moneys or funds at interest in any qualified public depository upon a demand or time account basis. [1983 c 66 § 18; 1965 c 8 § 43.85.210. Prior: 1955 c 198 § 3.]

Additional notes found at www.leg.wa.gov

43.85.220 Investment deposits and rate of interest—Members of federal reserve or federal deposit insurance corporation. If state depositories are member banks of the federal reserve system, or are banks the deposits of which, within certain limits, are insured by the federal deposit insurance corporation and, as such, are prohibited by a statute of the United States or by a lawful regulation of the federal reserve system or of the federal deposit insurance corporation, or of any authorized agency of the federal government, from paying interest upon demand deposits of public funds of a state, the payment of interest shall not be required of such depositories to the extent and for the period of time that payment thereof is prohibited. [1965 c 8 § 43.85.220. Prior: 1955 c 198 § 4.]

43.85.230 Investment deposits and rate of interest—Term deposit basis. The state treasurer may deposit moneys not required to meet current demands upon a term deposit basis not to exceed five years at such interest rates and upon such conditions as to withdrawals of such moneys as may be agreed upon between the state treasurer and any qualified public depository. [1993 c 512 § 32; 1984 c 177 § 20; 1983 c 66 § 19; 1965 c 8 § 43.85.230. Prior: 1955 c 198 § 5.]

Additional notes found at www.leg.wa.gov

Chapter 43.86A RCW

SURPLUS FUNDS—INVESTMENT PROGRAM

Sections

43.86A.010 Finding—Objectives.
43.86A.020 Surplus funds held as demand deposits to be limited.

(2010 Ed.)

43.86A.030 Time certificate of deposit investment program—Available funds—Allocation.
43.86A.040 Other investment powers of state treasurer not limited.
43.86A.050 Implementation of chapter by state treasurer.
43.86A.060 Linked deposit program—Eligible entities—Interest rates—Rule-making authority.
43.86A.070 Linked deposit program—Liability.
43.86A.080 Linked deposit program—Minority and women's business enterprises—Public depositories' participation.

Public funds, deposit and investment, public depositories: Chapter 39.58 RCW.

43.86A.010 Finding—Objectives. The legislature finds that a procedure should be established for the management of short term treasury surplus funds by the state treasurer in order to insure a maximum return while they are on deposit in public depositories. The objectives of this procedure are to minimize noninterest earning demand deposits and provide fair compensation to financial institutions for services rendered to the state through the investment of state funds in time deposits. [1983 c 66 § 20; 1973 c 123 § 1.]

Additional notes found at www.leg.wa.gov

43.86A.020 Surplus funds held as demand deposits to be limited. After March 19, 1973, the state treasurer shall limit surplus funds held as demand deposits to an amount necessary for current operating expenses including direct warrant redemption payments, investments and revenue collection. The state treasurer may hold such additional funds as demand deposits as he or she deems necessary to insure efficient treasury management. [2009 c 549 § 5164; 1973 c 123 § 2.]

43.86A.030 Time certificate of deposit investment program—Available funds—Allocation. (1)(a) The state treasurer shall make funds available for a time certificate of deposit investment program according to the following formula: The state treasurer shall apportion to all participating depositories an amount equal to five percent of the three year average mean of general state revenues as certified in accordance with Article VIII, section 1(b) of the state Constitution, or fifty percent of the total surplus treasury investment availability, whichever is less. Within thirty days after certification, an amount equal to those funds determined to be available according to this formula for the time certificate of deposit investment program shall be available for deposit in qualified public depositories. These funds shall be allocated among the participating depositories on a basis to be determined by the state treasurer.

(b) The funds made available by the treasurer for a time certificate of deposit investment program under (a) of this subsection (1) may be provided from either treasury surplus funds or funds held pursuant to chapter 43.250 RCW.

(2) Of all state funds available under this section, the state treasurer may use up to one hundred seventy-five million dollars per year for the purposes of RCW 43.86A.060(2)(c) (i) and (iii) and up to fifteen million dollars per year for the purposes of RCW 43.86A.060(2)(c)(ii). The amounts made available to these public depositories shall be equal to the amounts of outstanding loans made under RCW 43.86A.060.

(3) The formula so devised shall be a matter of public record giving consideration to, but not limited to, deposits,

assets, loans, capital structure, investments, or some combination of these factors. However, if in the judgment of the state treasurer the amount of allocation for certificates of deposit as determined by this section will impair the cash flow needs of the state treasury, the state treasurer may adjust the amount of the allocation accordingly. [2010 c 139 § 1; 2009 c 384 § 2; 2008 c 187 § 2; 2007 c 500 § 1; 2005 c 302 § 2; 1993 c 512 § 33; 1982 c 74 § 1; 1973 c 123 § 3.]

Intent—2005 c 302: "The legislature intends that funds provided under the linked deposit program shall be used to create jobs and economic opportunity as well as to remedy the problem of a lack of access to capital by minority and women's business enterprises." [2005 c 302 § 1.]

43.86A.040 Other investment powers of state treasurer not limited. Except as provided in RCW 43.86A.020 and 43.86A.030, nothing in this chapter shall be construed as a limitation upon the powers of the state treasurer to determine the amount of surplus treasury funds which may be invested in time certificates of deposit. [1973 c 123 § 4.]

43.86A.050 Implementation of chapter by state treasurer. The state treasurer shall devise the necessary formulae and methodology to implement the provisions of this chapter. Periodically, but at least once every six months, the state treasurer shall review all rules and shall adopt, amend or repeal them as may be necessary. These rules and a list of time certificate of deposit allocations shall be published in the treasurer's monthly financial report as required under the provisions of RCW 43.08.150. [1973 c 123 § 5.]

43.86A.060 Linked deposit program—Eligible entities—Interest rates—Rule-making authority. (1) The state treasurer shall establish a linked deposit program for investment of deposits in qualified public depositories. As a condition of participating in the program, qualified public depositories must make qualifying loans as provided in this section. The state treasurer may purchase a certificate of deposit that is equal to the amount of the qualifying loan made by the qualified public depository or may purchase a certificate of deposit that is equal to the aggregate amount of two or more qualifying loans made by one or more qualified public depositories.

(2) Qualifying loans made under this section are those:

(a) Having terms that do not exceed ten years;

(b) Where an individual loan does not exceed one million dollars;

(c)(i) That are made to a minority or women's business enterprise that has received state certification under chapter 39.19 RCW;

(ii) That are made to a veteran-owned business that has received state certification under RCW 43.60A.190; or

(iii) That are made to a community development financial institution that is: (A) Certified by the United States department of the treasury pursuant to 12 U.S.C. Sec. 4701 et seq.; and (B) using that loan to make qualifying loans under (c)(i) of this subsection;

(d) Where the interest rate on the loan to the minority or women's business enterprise or veteran-owned business does not exceed an interest rate that is two hundred basis points below the interest rate the qualified public depository would charge for a loan for a similar purpose and a similar term,

except that, if the preference given by the state treasurer to the qualified public depository under subsection (3) of this section is less than two hundred basis points, the qualified public depository may reduce the preference given on the loan by an amount that corresponds to the reduction in preference below two hundred basis points given to the qualified public depository; and

(e) Where the points or fees charged at loan closing do not exceed one percent of the loan amount.

(3) In setting interest rates of time certificate of deposits, the state treasurer shall offer rates so that a two hundred basis point preference will be given to the qualified public depository, except that the treasurer may lower the amount of the preference to ensure that the effective interest rate on the deposit is not less than zero percent.

(4) Upon notification by the state treasurer that a minority or women's business enterprise is no longer certified under chapter 39.19 RCW or that a veteran-owned business is no longer certified under RCW 43.60A.190, the qualified public depository shall reduce the amount of qualifying loans by the outstanding balance of the loan made under this section to the minority or women's business enterprise or the veteran-owned business, as applicable.

(5) The office of minority and women's business enterprises has the authority to adopt rules to:

(a) Ensure that when making a qualified loan under the linked deposit program, businesses that have never received a loan under the linked deposit program are given first priority;

(b) Limit the total principal loan amount that any one business receives in qualified loans under the linked deposit program over the lifetime of the businesses;

(c) Limit the total principal loan amount that an owner of one or more businesses receives in qualified loans under the linked deposit program during the owner's lifetime;

(d) Limit the total amount of any one qualified loan made under the linked deposit program; and

(e) Ensure that loans made by community development financial institutions are qualifying loans under subsection (2)(c)(i) of this section. [2009 c 385 § 3; 2009 c 384 § 1; 2008 c 187 § 3; 2007 c 500 § 2; 2005 c 302 § 3; 2002 c 305 § 1; 1993 c 512 § 30.]

Reviser's note: This section was amended by 2009 c 384 § 1 and by 2009 c 385 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—2005 c 302: See note following RCW 43.86A.030.

Finding—Intent—1993 c 512: "The legislature finds that minority and women's business enterprises have been historically excluded from access to capital in the marketplace. The lack of capital has been a major barrier to the development and expansion of business by various minority groups and women. There has been a significant amount of attention on the capital needs of minority and women's business enterprises. It is the intent of the legislature to remedy the problem of a lack of access to capital by minority and women's business enterprises, and other small businesses by authorizing the state treasurer to operate a program that links state deposits to business loans by financial institutions to minority and women's business enterprises." [1993 c 512 § 29.]

43.86A.070 Linked deposit program—Liability. The state and those acting as its agents are not liable in any manner for payment of the principal or interest on qualifying loans made under RCW 43.86A.060. Any delay in payments or defaults on the part of the borrower does not in any manner

affect the deposit agreement between the qualified public depository and the state treasurer. [1993 c 512 § 34.]

Finding—Intent—1993 c 512: See note following RCW 43.86A.060.

43.86A.080 Linked deposit program—Minority and women’s business enterprises—Public depositories’ participation. Public depositories participating in the linked deposit program are encouraged to increase the funds available to certified minority and women’s business enterprises by taking full advantage of the linked deposit program loans to qualify for the community reinvestment act community programs under federal law (12 U.S.C. Sec. 2901 et seq.). [2005 c 302 § 4.]

Intent—2005 c 302: See note following RCW 43.86A.030.

Chapter 43.88 RCW

STATE BUDGETING, ACCOUNTING, AND REPORTING SYSTEM

(Formerly: Budget and accounting)

Sections

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State finance committee: Chapter 43.33 RCW.

State payroll revolving account, agency payroll revolving fund: RCW 42.16.010 through 42.16.017.

43.88.005 Finding—Intent. The legislature finds that agency missions, goals, and objectives should focus on statewide results. It is the intent of the legislature to focus the biennial budget on how state agencies produce real results that reflect the goals of statutory programs. Specifically, budget managers and the legislature must have the data to move toward better statewide results that produce the intended public benefit. This data must be supplied in an impartial, quantifiable form, and demonstrate progress toward statewide results. With a renewed focus on achieving

true results, state agencies, the office of financial management, and the legislature will be able to prioritize state resources. [2005 c 386 § 1.]

43.88.010 Purpose—Intent. It is the purpose of this chapter to establish an effective state budgeting, accounting, and reporting system for all activities of the state government, including both capital and operating expenditures; to prescribe the powers and duties of the governor as these relate to securing such fiscal controls as will promote effective budget administration; and to prescribe the responsibilities of agencies of the executive branch of the state government.

It is the intent of the legislature that the powers conferred by this chapter, as amended, shall be exercised by the executive in cooperation with the legislature and its standing, special, and interim committees in its status as a separate and coequal branch of state government. [1986 c 215 § 1; 1981 c 270 § 1; 1973 1st ex.s. c 100 § 1; 1965 c 8 § 43.88.010. Prior: 1959 c 328 § 1.]

Additional notes found at www.leg.wa.gov

43.88.020 Definitions. (1) "Budget" means a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures.

(2) "Budget document" means a formal statement, either written or provided on any electronic media or both, offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" means the official appointed by the governor to serve at the governor's pleasure and to whom the governor may delegate necessary authority to carry out the governor's duties as provided in this chapter. The director of financial management shall be head of the office of financial management which shall be in the office of the governor.

(4) "Agency" means and includes every state office, officer, each institution, whether educational, correctional, or other, and every department, division, board, and commission, except as otherwise provided in this chapter.

(5) "Public funds", for purposes of this chapter, means all moneys, including cash, checks, bills, notes, drafts, stocks, and bonds, whether held in trust, for operating purposes, or for capital purposes, and collected or disbursed under law, whether or not such funds are otherwise subject to legislative appropriation, including funds maintained outside the state treasury.

(6) "Regulations" means the policies, standards, and requirements, stated in writing, designed to carry out the purposes of this chapter, as issued by the governor or the governor's designated agent, and which shall have the force and effect of law.

(7) "Ensuing biennium" means the fiscal biennium beginning on July 1st of the same year in which a regular session of the legislature is held during an odd-numbered year pursuant to Article II, section 12 of the Constitution and which biennium next succeeds the current biennium.

(8) "Dedicated fund" means a fund in the state treasury, or a separate account or fund in the general fund in the state treasury, that by law is dedicated, appropriated, or set aside

for a limited object or purpose; but "dedicated fund" does not include a revolving fund or a trust fund.

(9) "Revolving fund" means a fund in the state treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(10) "Trust fund" means a fund in the state treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise, or bequest that limits the use of the fund to designated objects or purposes.

(11) "Administrative expenses" means expenditures for: (a) Salaries, wages, and related costs of personnel and (b) operations and maintenance including but not limited to costs of supplies, materials, services, and equipment.

(12) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(13) "Lapse" means the termination of authority to expend an appropriation.

(14) "Legislative fiscal committees" means the joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means and transportation committees of the senate and house of representatives.

(15) "Fiscal period" means the period for which an appropriation is made as specified within the act making the appropriation.

(16) "Primary budget driver" means the primary determinant of a budget level, other than a price variable, which causes or is associated with the major expenditure of an agency or budget unit within an agency, such as a caseload, enrollment, workload, or population statistic.

(17) "State tax revenue limit" means the limitation created by chapter 43.135 RCW.

(18) "General state revenues" means the revenues defined by Article VIII, section 1(c) of the state Constitution.

(19) "Annual growth rate in real personal income" means the estimated percentage growth in personal income for the state during the current fiscal year, expressed in constant value dollars, as published by the office of financial management or its successor agency.

(20) "Estimated revenues" means estimates of revenue in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast, that are prepared by the office of financial management in consultation with the transportation revenue forecast council.

(21) "Estimated receipts" means the estimated receipt of cash in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast.

(22) "State budgeting, accounting, and reporting system" means a system that gathers, maintains, and communicates fiscal information. The system links fiscal information beginning with development of agency budget requests

through adoption of legislative appropriations to tracking actual receipts and expenditures against approved plans.

(23) "Allotment of appropriation" means the agency's statement of proposed expenditures, the director of financial management's review of that statement, and the placement of the approved statement into the state budgeting, accounting, and reporting system.

(24) "Statement of proposed expenditures" means a plan prepared by each agency that breaks each appropriation out into monthly detail representing the best estimate of how the appropriation will be expended.

(25) "Undesignated fund balance (or deficit)" means unreserved and undesignated current assets or other resources available for expenditure over and above any current liabilities which are expected to be incurred by the close of the fiscal period.

(26) "Internal audit" means an independent appraisal activity within an agency for the review of operations as a service to management, including a systematic examination of accounting and fiscal controls to assure that human and material resources are guarded against waste, loss, or misuse; and that reliable data are gathered, maintained, and fairly disclosed in a written report of the audit findings.

(27) "Performance verification" means an analysis that (a) verifies the accuracy of data used by state agencies in quantifying intended results and measuring performance toward those results, and (b) verifies whether or not the reported results were achieved.

(28) "Performance audit" has the same meaning as it is defined in RCW 44.28.005. [2005 c 319 § 107; 2000 2nd sp.s. c 4 § 11; 1996 c 288 § 23; 1995 c 155 § 1; 1994 c 184 § 9; 1993 c 406 § 2; 1991 c 358 § 6; 1990 c 229 § 4; 1987 c 502 § 1; 1986 c 215 § 2; 1984 c 138 § 6; 1982 1st ex.s. c 36 § 1. Prior: 1981 c 280 § 6; 1981 c 270 § 2; 1980 c 87 § 25; 1979 c 151 § 135; 1975-'76 2nd ex.s. c 83 § 4; 1973 1st ex.s. c 100 § 2; 1969 ex.s. c 239 § 9; 1965 c 8 § 43.88.020; prior: 1959 c 328 § 2.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Office of financial management: Chapter 43.41 RCW.

Additional notes found at www.leg.wa.gov

43.88.025 "Director" defined. Unless the context clearly requires a different interpretation, whenever "director" is used in this chapter, it shall mean the director of financial management created in RCW 43.41.060. [1979 c 151 § 136; 1969 ex.s. c 239 § 10.]

43.88.027 Annual financial report. The governor, through the director, shall prepare and publish within six months of the end of the fiscal year, as a matter of public record, an annual financial report that encompasses all funds and account groups of the state. [1984 c 247 § 2.]

43.88.030 Instructions for submitting budget requests—Content of the budget document or documents—Separate budget document or schedules—Format changes. (1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least

three months before agency budget documents are due into the office of financial management. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The biennial budget document or documents shall also describe performance indicators that demonstrate measurable progress towards priority results. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and programs for which the forecast councils do not prepare an official forecast. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, and those anticipated for the ensuing biennium;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, and agency;

(f) The expenditures that include nonbudgeted, nonappropriated accounts outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments, and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) The governor's operating budget document or documents shall reflect the statewide priorities as required by RCW 43.88.090.

(4) The governor's operating budget document or documents shall identify activities that are not addressing the statewide priorities.

(5) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan shall include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;

(e) A statement of the reason or purpose for a project;

(f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(g) A statement about the proposed site, size, and estimated life of the project, if applicable;

(h) Estimated total project cost;

(i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(j) Estimated total project cost for each phase of the project as defined by the office of financial management;

(k) Estimated ensuing biennium costs;

(l) Estimated costs beyond the ensuing biennium;

(m) Estimated construction start and completion dates;

(n) Source and type of funds proposed;

(o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(q) Such other information bearing upon capital projects as the governor deems to be useful;

(r) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;

(s) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (5), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative evaluation and accountability program committee, and office of financial management.

(6) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to

the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session. [2006 c 334 § 43. Prior: 2005 c 386 § 3; 2005 c 319 § 108; 2004 c 276 § 908; 2002 c 371 § 911; 2000 2nd sp.s. c 4 § 12; 1998 c 346 § 910; prior: 1997 c 168 § 5; 1997 c 96 § 4; prior: 1994 c 247 § 7; 1994 c 219 § 2; prior: 1991 c 358 § 1; 1991 c 284 § 1; 1990 c 115 § 1; prior: 1989 c 311 § 3; 1989 c 11 § 18; 1987 c 502 § 2; prior: 1986 c 215 § 3; 1986 c 112 § 1; 1984 c 138 § 7; 1981 c 270 § 3; 1980 c 87 § 26; 1977 ex.s. c 247 § 1; 1973 1st ex.s. c 100 § 3; 1965 c 8 § 43.88.030; prior: 1959 c 328 § 3.]

Effective date—2006 c 334: See note following RCW 47.01.051.

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Severability—Effective date—2004 c 276: See notes following RCW 43.330.167.

Severability—Effective date—2002 c 371: See notes following RCW 9.46.100.

Findings—Purpose—1997 c 96: See note following RCW 43.82.150.

Finding—1994 c 219: "The legislature finds that the acquisition, construction, and management of state-owned and leased facilities has a profound and long-range effect upon the delivery and cost of state programs, and that there is an increasing need for better facility planning and management to improve the effectiveness and efficiency of state facilities." [1994 c 219 § 1.]

Additional notes found at www.leg.wa.gov

43.88.0301 Capital budget instructions—Additional information—Staff support from office of community development. (1) The office of financial management must include in its capital budget instructions, beginning with its instructions for the 2003-05 capital budget, a request for "yes" or "no" answers for the following additional informational questions from capital budget applicants for all proposed major capital construction projects valued over five million dollars and required to complete a predesign:

(a) For proposed capital projects identified in this subsection that are located in or serving city or county planning under RCW 36.70A.040:

(i) Whether the proposed capital project is identified in the host city or county comprehensive plan, including the capital facility plan, and implementing rules adopted under chapter 36.70A RCW;

(ii) Whether the proposed capital project is located within an adopted urban growth area:

(A) If at all located within an adopted urban growth area boundary, whether a project facilitates, accommodates, or attracts planned population and employment growth;

(B) If at all located outside an urban growth area boundary, whether the proposed capital project may create pressures for additional development;

(b) For proposed capital projects identified in this subsection that are requesting state funding:

(i) Whether there was regional coordination during project development;

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(ii) Whether local and additional funds were leveraged;
(ii) Whether environmental outcomes and the reduction of adverse environmental impacts were examined.

(2) For projects subject to subsection (1) of this section, the office of financial management shall request the required information be provided during the predesign process of major capital construction projects to reduce long-term costs and increase process efficiency.

(3) The office of financial management, in fulfilling its duties under *RCW 43.88.030(3) to create a capital budget document, must take into account information gathered under subsections (1) and (2) of this section in an effort to promote state capital facility expenditures that minimize unplanned or uncoordinated infrastructure and development costs, support economic and quality of life benefits for existing communities, and support local government planning efforts.

(4) The office of community development must provide staff support to the office of financial management and affected capital budget applicants to help collect data required by subsections (1) and (2) of this section. [2002 c 312 § 1.]

*Reviser's note: RCW 43.88.030 was amended by 2005 c 386 § 3, changing subsection (3) to subsection (5).

43.88.031 Capital appropriation bill—Estimated general fund debt service costs. A capital appropriation bill shall include the estimated general fund debt service costs associated with new capital appropriations contained in that bill for the biennia in which the appropriations occur and for the succeeding two biennia. [1991 c 284 § 2.]

43.88.032 Maintenance costs, operating budget—Debt-financed pass-through money, budget document.

(1) Normal maintenance costs shall be programmed in the operating budget rather than in the capital budget.

(2) All debt-financed pass-through money to local governments shall be programmed and separately identified in the budget document. [1997 c 96 § 5; (2005 c 488 § 921 expired June 30, 2007); (2003 1st sp.s. c 26 § 921 expired June 30, 2005); 1994 c 219 § 4; 1989 c 311 § 1.]

Expiration date—2005 c 488 §§ 920 and 921: See note following RCW 43.135.045.

Part headings not law—Severability—Effective dates—2005 c 488: See notes following RCW 28B.50.360.

Expiration date—Severability—Effective dates—2003 1st sp.s. c 26: See notes following RCW 43.135.045.

Findings—Purpose—1997 c 96: See note following RCW 43.82.150.

Finding—1994 c 219: See note following RCW 43.88.030.

43.88.033 State expenditure limit—Budget document to reflect. The budget document submitted by the governor to the legislature under RCW 43.88.030 shall reflect the state expenditure limit established under chapter 43.135 RCW and shall not propose expenditures in excess of that limit. [1994 c 2 § 7 (Initiative Measure No. 601, approved November 2, 1993).]

Additional notes found at www.leg.wa.gov

43.88.035 Changes in accounting methods, practices or statutes—Explanation in budget document or appendix required—Contents. Any changes in accounting meth-

ods and practices or in statutes affecting expenditures or revenues for the ensuing biennium relative to the then current fiscal period which the governor may wish to recommend shall be clearly and completely explained in the text of the budget document, in a special appendix thereto, or in an alternative budget document. This explanatory material shall include, but need not be limited to, estimates of revenues and expenditures based on the same accounting practices and methods and existing statutes relating to revenues and expenditure effective for the then current fiscal period, together with alternative estimates required by any changes in accounting methods and practices and by any statutory changes the governor may wish to recommend. [1973 1st ex.s. c 100 § 9.]

43.88.037 Comprehensive budgeting, accounting, and reporting system conforming to generally accepted accounting principles—Budget document to conform. (1) The director of financial management shall devise and maintain a comprehensive budgeting, accounting, and reporting system in conformance with generally accepted accounting principles applicable to state governments, as published in the accounting procedures manual pursuant to RCW 43.88.160(1).

(2) The director of financial management shall submit a budget document in conformance with generally accepted accounting principles applicable to state governments, as published in the accounting procedures manual pursuant to RCW 43.88.160(1). [1987 c 502 § 3; 1984 c 247 § 1.]

43.88.050 Cash deficit. Cash deficit of the current fiscal period is defined for purposes of this chapter as the amount by which the aggregate of disbursements charged to a fund will exceed the aggregate of estimated receipts credited to such fund in the current fiscal period, less the extent to which such deficit may have been provided for from available beginning cash surplus.

If, for any applicable fund or account, the estimated receipts for the next ensuing period plus cash beginning balances is less than the aggregate of estimated disbursements proposed by the governor for the next ensuing fiscal period, the governor shall include in Part I of the budget document proposals as to the manner in which the anticipated cash deficit shall be met, whether by an increase in the indebtedness of the state, by the imposition of new taxes, by increases in tax rates or an extension thereof, or in any like manner. The governor may propose orderly liquidation of the anticipated cash deficit over a period of one or more fiscal periods, if, in the governor's discretion, such manner of liquidation would best serve the public interest. [1987 c 502 § 4; 1965 c 8 § 43.88.050. Prior: 1959 c 328 § 5.]

Exception: RCW 43.88.265.

43.88.060 Legislative review of budget document and budget bill or bills—Time for submission. The governor shall submit the budget document for the 1975-77 biennium and each succeeding biennium to the legislature no later than the twentieth day of December in the year preceding the session during which the budget is to be considered: PROVIDED, That where a budget document is submitted for a fis-

cal period other than a biennium, such document shall be submitted no less than twenty days prior to the first day of the session at which such budget document is to be considered. The governor shall also submit a budget bill or bills which for purposes of this chapter is defined to mean the appropriations proposed by the governor as set forth in the budget document. Such representatives of agencies as have been designated by the governor for this purpose shall, when requested, by either house of the legislature, appear to be heard with respect to the budget document and the budget bill or bills and to supply such additional information as may be required. [1977 ex.s. c 247 § 2; 1973 1st ex.s. c 100 § 4; 1965 c 8 § 43.88.060. Prior: 1959 c 328 § 6.]

43.88.070 Appropriations. Appropriations shall be deemed maximum authorizations to incur expenditures but the governor shall exercise all due supervision and control to ensure that expenditure rates are such that program objectives are realized within these maximums. [1965 c 8 § 43.88.070. Prior: 1959 c 328 § 7.]

43.88.080 Adoption of budget. Adoption of the omnibus appropriation bill or bills by the legislature shall constitute adoption of the budget and the making of appropriations therefor. A budget for state government shall be finally adopted not later than thirty calendar days prior to the beginning of the ensuing biennium. [1973 1st ex.s. c 100 § 5; 1965 c 8 § 43.88.080. Prior: 1959 c 328 § 8.]

43.88.090 Development of budget—Detailed estimates—Mission statement, measurable goals, quality and productivity objectives—Integration of strategic plans and performance assessment procedures—Reviews by office of financial management—Governor-elect input. (1) For purposes of developing budget proposals to the legislature, the governor shall have the power, and it shall be the governor's duty, to require from proper agency officials such detailed estimates and other information in such form and at such times as the governor shall direct. The governor shall communicate statewide priorities to agencies for use in developing biennial budget recommendations for their agency and shall seek public involvement and input on these priorities. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget without revision. The estimates for state pension contributions shall be based on the rates provided in chapter 41.45 RCW. Copies of all such estimates shall be transmitted to the standing committees on ways and means of the house and senate at the same time as they are filed with the governor and the office of financial management.

The estimates shall include statements or tables which indicate, by agency, the state funds which are required for the receipt of federal matching revenues. The estimates shall be revised as necessary to reflect legislative enactments and adopted appropriations and shall be included with the initial biennial allotment submitted under RCW 43.88.110. The estimates must reflect that the agency considered any alternatives to reduce costs or improve service delivery identified in the findings of a performance audit of the agency by the joint legislative audit and review committee. Nothing in this sub-

section requires performance audit findings to be published as part of the budget.

(2) Each state agency shall define its mission and establish measurable goals for achieving desirable results for those who receive its services and the taxpayers who pay for those services. Each agency shall also develop clear strategies and timelines to achieve its goals. This section does not require an agency to develop a new mission or goals in place of identifiable missions or goals that meet the intent of this section. The mission and goals of each agency must conform to statutory direction and limitations.

(3) For the purpose of assessing activity performance, each state agency shall establish quality and productivity objectives for each major activity in its budget. The objectives must be consistent with the missions and goals developed under this section. The objectives must be expressed to the extent practicable in outcome-based, objective, and measurable form unless an exception to adopt a different standard is granted by the office of financial management and approved by the legislative committee on performance review. Objectives must specifically address the statutory purpose or intent of the program or activity and focus on data that measure whether the agency is achieving or making progress toward the purpose of the activity and toward statewide priorities. The office of financial management shall provide necessary professional and technical assistance to assist state agencies in the development of strategic plans that include the mission of the agency and its programs, measurable goals, strategies, and performance measurement systems.

(4) Each state agency shall adopt procedures for and perform continuous self-assessment of each activity, using the mission, goals, objectives, and measurements required under subsections (2) and (3) of this section. The assessment of the activity must also include an evaluation of major information technology systems or projects that may assist the agency in achieving or making progress toward the activity purpose and statewide priorities. The evaluation of proposed major information technology systems or projects shall be in accordance with the standards and policies established by the information services board. Agencies' progress toward the mission, goals, objectives, and measurements required by subsections (2) and (3) of this section is subject to review as set forth in this subsection.

(a) The office of financial management shall regularly conduct reviews of selected activities to analyze whether the objectives and measurements submitted by agencies demonstrate progress toward statewide results.

(b) The office of financial management shall consult with the higher education coordinating board and the state board for community and technical colleges in those reviews that involve institutions of higher education.

(c) The goal is for all major activities to receive at least one review each year.

(d) The office of financial management shall consult with the information services board when conducting reviews of major information technology systems in use by state agencies. The goal is that reviews of these information technology systems occur periodically.

(5) It is the policy of the legislature that each agency's budget recommendations must be directly linked to the

agency's stated mission and program, quality, and productivity goals and objectives. Consistent with this policy, agency budget proposals must include integration of performance measures that allow objective determination of an activity's success in achieving its goals. When a review under subsection (4) of this section or other analysis determines that the agency's objectives demonstrate that the agency is making insufficient progress toward the goals of any particular program or is otherwise underachieving or inefficient, the agency's budget request shall contain proposals to remedy or improve the selected programs. The office of financial management shall develop a plan to merge the budget development process with agency performance assessment procedures. The plan must include a schedule to integrate agency strategic plans and performance measures into agency budget requests and the governor's budget proposal over three fiscal biennia. The plan must identify those agencies that will implement the revised budget process in the 1997-1999 biennium, the 1999-2001 biennium, and the 2001-2003 biennium. In consultation with the legislative fiscal committees, the office of financial management shall recommend statutory and procedural modifications to the state's budget, accounting, and reporting systems to facilitate the performance assessment procedures and the merger of those procedures with the state budget process. The plan and recommended statutory and procedural modifications must be submitted to the legislative fiscal committees by September 30, 1996.

(6) In reviewing agency budget requests in order to prepare the governor's biennial budget request, the office of financial management shall consider the extent to which the agency's activities demonstrate progress toward the statewide budgeting priorities, along with any specific review conducted under subsection (4) of this section.

(7) In the year of the gubernatorial election, the governor shall invite the governor-elect or the governor-elect's designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or the governor-elect's designee with such information as will enable the governor-elect or the governor-elect's designee to gain an understanding of the state's budget requirements. The governor-elect or the governor-elect's designee may ask such questions during the hearings and require such information as the governor-elect or the governor-elect's designee deems necessary and may make recommendations in connection with any item of the budget which, with the governor-elect's reasons therefor, shall be presented to the legislature in writing with the budget document. Copies of all such estimates and other required information shall also be submitted to the standing committees on ways and means of the house and senate. [2005 c 386 § 2; 1997 c 372 § 1; 1996 c 317 § 10; 1994 c 184 § 10; 1993 c 406 § 3; 1989 c 273 § 26; 1987 c 505 § 35; 1984 c 247 § 3; 1981 c 270 § 4; 1979 c 151 § 137; 1975 1st ex.s. c 293 § 5; 1973 1st ex.s. c 100 § 6; 1965 c 8 § 43.88.090. Prior: 1959 c 328 § 9.]

Additional notes found at www.leg.wa.gov

43.88.092 Information technology budget detail—Information technology plan—Accounting method for information technology. (1) As part of the biennial budget process, the office of financial management shall collect from

agencies, and agencies shall provide, information to produce reports, summaries, and budget detail sufficient to allow review, analysis, and documentation of all current and proposed expenditures for information technology by state agencies. Information technology budget detail must be included as part of the budget submittal documentation required pursuant to RCW 43.88.030.

(2) The office of financial management must collect, and present as part of the biennial budget documentation, information for all existing information technology projects as defined by information services board policy. The office of financial management must work with the department of information services to maximize the ability to draw this information from the information technology portfolio management data collected by the department of information services pursuant to RCW 43.105.170. Connecting project information collected through the portfolio management process with financial data developed under subsection (1) of this section provides transparency regarding expenditure data for existing technology projects.

(3) The biennial budget documentation submitted by the office of financial management pursuant to RCW 43.88.030 must include an information technology plan identifying proposed large information technology projects. This plan must be presented using a method similar to the capital budget, identifying project costs through stages of the project and across fiscal periods and biennia from project initiation to implementation. This information must be submitted electronically, in a format to be determined by the office of financial management and the legislative evaluation and accountability program committee.

(4) The office of financial management shall also institute a method of accounting for information technology-related expenditures, including creating common definitions for what constitutes an information technology investment. [2010 c 282 § 3.]

43.88.100 Executive hearings. The governor may provide for hearings on all agency requests for expenditures to enable him or her to make determinations as to the need, value or usefulness of activities or programs requested by agencies. The governor may require the attendance of proper agency officials at his or her hearings and it shall be their duty to disclose such information as may be required to enable the governor to arrive at his or her final determination. [2009 c 549 § 5165; 1965 c 8 § 43.88.100. Prior: 1959 c 328 § 10.]

43.88.110 Expenditure programs—Allotments—Reserves—Monitor capital appropriations—Predesign review for major capital construction. This section sets forth the expenditure programs and the allotment and reserve procedures to be followed by the executive branch for public funds.

(1) Allotments of an appropriation for any fiscal period shall conform to the terms, limits, or conditions of the appropriation.

(2) The director of financial management shall provide all agencies with a complete set of operating and capital instructions for preparing a statement of proposed expenditures at least thirty days before the beginning of a fiscal

period. The set of instructions need not include specific appropriation amounts for the agency.

(3) Within forty-five days after the beginning of the fiscal period or within forty-five days after the governor signs the omnibus biennial appropriations act, whichever is later, all agencies shall submit to the governor a statement of proposed expenditures at such times and in such form as may be required by the governor.

(4) The office of financial management shall develop a method for monitoring capital appropriations and expenditures that will capture at least the following elements:

(a) Appropriations made for capital projects including transportation projects;

(b) Estimates of total project costs including past, current, ensuing, and future biennial costs;

(c) Comparisons of actual costs to estimated costs;

(d) Comparisons of estimated construction start and completion dates with actual dates;

(e) Documentation of fund shifts between projects.

This data may be incorporated into the existing accounting system or into a separate project management system, as deemed appropriate by the office of financial management.

(5) The office of financial management, prior to approving allotments for major capital construction projects valued over five million dollars, shall institute procedures for reviewing such projects at the predesign stage that will reduce long-term costs and increase facility efficiency. The procedures shall include, but not be limited to, the following elements:

(a) Evaluation of facility program requirements and consistency with long-range plans;

(b) Utilization of a system of cost, quality, and performance standards to compare major capital construction projects; and

(c) A requirement to incorporate value-engineering analysis and constructability review into the project schedule.

(6) No expenditure may be incurred or obligation entered into for such major capital construction projects including, without exception, land acquisition, site development, predesign, design, construction, and equipment acquisition and installation, until the allotment of the funds to be expended has been approved by the office of financial management. This limitation does not prohibit the continuation of expenditures and obligations into the succeeding biennium for projects for which allotments have been approved in the immediate prior biennium.

(7) If at any time during the fiscal period the governor projects a cash deficit in a particular fund or account as defined by RCW 43.88.050, the governor shall make across-the-board reductions in allotments for that particular fund or account so as to prevent a cash deficit, unless the legislature has directed the liquidation of the cash deficit over one or more fiscal periods. Except for the legislative and judicial branches and other agencies headed by elective officials, the governor shall review the statement of proposed operating expenditures for reasonableness and conformance with legislative intent. The governor may request corrections of proposed allotments submitted by the legislative and judicial branches and agencies headed by elective officials if those proposed allotments contain significant technical errors. Once the governor approves the proposed allotments, further

revisions may at the request of the office of financial management or upon the agency's initiative be made on a quarterly basis and must be accompanied by an explanation of the reasons for significant changes. However, changes in appropriation level authorized by the legislature, changes required by across-the-board reductions mandated by the governor, changes caused by executive increases to spending authority, and changes caused by executive decreases to spending authority for failure to comply with the provisions of chapter 36.70A RCW may require additional revisions. Revisions shall not be made retroactively. However, the governor may assign to a reserve status any portion of an agency appropriation withheld as part of across-the-board reductions made by the governor and any portion of an agency appropriation conditioned on a contingent event by the appropriations act. The governor may remove these amounts from reserve status if the across-the-board reductions are subsequently modified or if the contingent event occurs. The director of financial management shall enter approved statements of proposed expenditures into the state budgeting, accounting, and reporting system within forty-five days after receipt of the proposed statements from the agencies. If an agency or the director of financial management is unable to meet these requirements, the director of financial management shall provide a timely explanation in writing to the legislative fiscal committees.

(8) It is expressly provided that all agencies shall be required to maintain accounting records and to report thereon in the manner prescribed in this chapter and under the regulations issued pursuant to this chapter. Within ninety days of the end of the fiscal year, all agencies shall submit to the director of financial management their final adjustments to close their books for the fiscal year. Prior to submitting fiscal data, written or oral, to committees of the legislature, it is the responsibility of the agency submitting the data to reconcile it with the budget and accounting data reported by the agency to the director of financial management.

(9) The director of financial management may exempt certain public funds from the allotment controls established under this chapter if it is not practical or necessary to allot the funds. Allotment control exemptions expire at the end of the fiscal biennium for which they are granted. The director of financial management shall report any exemptions granted under this subsection to the legislative fiscal committees. [2009 c 518 § 3; 2003 c 206 § 1; 1997 c 96 § 6; 1994 c 219 § 5. Prior: 1991 sp.s. c 32 § 27; 1991 c 358 § 2; 1987 c 502 § 5; 1986 c 215 § 4; 1984 c 138 § 8; 1983 1st ex.s. c 47 § 1; 1982 2nd ex.s. c 15 § 1; 1981 c 270 § 5; 1979 c 151 § 138; 1975 1st ex.s. c 293 § 6; 1965 c 8 § 43.88.110; prior: 1959 c 328 § 11.]

Effective date—2003 c 206: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2003." [2003 c 206 § 2.]

Findings—Purpose—1997 c 96: See note following RCW 43.82.150.

Finding—1994 c 219: See note following RCW 43.88.030.

Exception: RCW 43.88.265.

Additional notes found at www.leg.wa.gov

43.88.120 Revenue estimates. Each agency engaged in the collection of revenues shall prepare estimated revenues and estimated receipts for the current and ensuing biennium

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and shall submit the estimates to the director of financial management and the director of revenue at times and in the form specified by the directors, along with any other information which the directors may request. For those agencies required to develop six-year programs and financial plans under *RCW 44.40.070, six-year revenue estimates shall be submitted to the director of financial management and the transportation committees of the senate and the house of representatives unless the responsibility for reporting these revenue estimates is assumed elsewhere.

A copy of such revenue estimates shall be simultaneously submitted to the economic and revenue forecast work group when required by the office of the economic and revenue forecast council. [2000 2nd sp.s. c 4 § 13; 1991 c 358 § 3; 1987 c 502 § 6; 1984 c 138 § 10; 1981 c 270 § 8; 1973 1st ex.s. c 100 § 7; 1965 c 8 § 43.88.120. Prior: 1959 c 328 § 12.]

***Reviser's note:** RCW 44.40.070 was repealed by 2005 c 319 § 141.

Additional notes found at www.leg.wa.gov

43.88.122 Transportation agency revenue forecasts—Variances. Where there are variances of revenue forecasts between the office of financial management and the transportation revenue forecast council, for those transportation agencies that are required to develop plans under *RCW 44.40.070, the office of financial management shall submit (1) a reconciliation of the differences between the revenue forecasts and (2) the assumptions used by the office of financial management to the transportation committees of the senate and the house of representatives. [2000 2nd sp.s. c 4 § 14; 1991 c 358 § 7.]

***Reviser's note:** RCW 44.40.070 was repealed by 2005 c 319 § 141.

Additional notes found at www.leg.wa.gov

43.88.125 Study of transportation-related funds or accounts—Coordination of activities. The standing committees on transportation of the house and senate shall, in coordination with the joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives, ascertain, study, and analyze all available facts and matters relating or pertaining to sources of revenue, appropriations, expenditures, and financial condition of the motor vehicle fund and accounts thereof, the highway safety fund, and all other funds or accounts related to transportation programs of the state.

The joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives shall coordinate their activities with the transportation committees of the legislature in carrying out the committees' powers and duties under chapter 43.88 RCW in matters relating to the transportation programs of the state. [2005 c 319 § 114; 1996 c 288 § 49; 1981 c 270 § 15; 1977 ex.s. c 235 § 6; 1975 1st ex.s. c 293 § 19; 1971 ex.s. c 195 § 2. Formerly RCW 44.40.025.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Additional notes found at www.leg.wa.gov

43.88.130 When contracts and expenditures prohibited. No agency shall expend or contract to expend any money or incur any liability in excess of the amounts appropriated for that purpose: PROVIDED, That nothing in this section shall prevent the making of contracts or the spending of money for capital improvements, nor the making of contracts of lease or for service for a period exceeding the fiscal period in which such contract is made, when such contract is permitted by law. Any contract made in violation of this section shall be null and void. [1965 c 8 § 43.88.130. Prior: 1959 c 328 § 13.]

43.88.140 Lapsing of appropriations. All appropriations shall lapse at the end of the fiscal period for which the appropriations are made to the extent that they have not been expended or lawfully obligated. [1981 c 270 § 9; 1965 c 8 § 43.88.140. Prior: 1959 c 328 § 14.]

Additional notes found at www.leg.wa.gov

43.88.145 Capital projects—Transfer of excess appropriation authority. (1) The capital appropriations act may authorize the governor, through the director of financial management, to transfer the appropriation authority for a capital project that is in excess of the amount required for the completion of the project to another capital project for which the appropriation is insufficient.

(a) No such transfer may be used to expand the capacity or change the intended use of the project beyond that intended by the legislature in making the appropriation.

(b) The transfer may be effected only between capital projects within a specific department, commission, agency, or institution of higher education.

(c) The transfer may be effected only if the project from which the transfer of funds is made is substantially complete and there are funds remaining, or bids have been let on the project from which the transfer of funds is made and it appears to a substantial certainty that the project can be completed within the biennium for less than the amount appropriated.

(2) For the purposes of this section, the legislature intends that each project be defined as proposed to the legislature in the governor's budget document, unless the legislative history demonstrates that the legislature intended to define the scope of a project in a different way.

(3) The office of financial management shall notify the legislative fiscal committees of the senate and the house of representatives at least thirty days before any transfer is effected under this section except emergency projects or any transfer under two hundred fifty thousand dollars, and shall prepare a report to such committees listing all completed transfers at the close of each fiscal year. [1994 c 219 § 6.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.88.150 Priority of expenditures—Appropriated and nonappropriated funds—Matching funds, disburse state moneys proportionally. (1) For those agencies that make expenditures from both appropriated and nonappropriated funds for the same purpose, the governor shall direct such agencies to charge their expenditures in such ratio, as between appropriated and nonappropriated funds, as will

conserve appropriated funds. This subsection does not apply to institutions of higher education, as defined in RCW 28B.10.016.

(2) Unless otherwise provided by law, if state moneys are appropriated for a capital project and matching funds or other contributions are required as a condition of the receipt of the state moneys, the state moneys shall be disbursed in proportion to and only to the extent that the matching funds or other contributions have been received and are available for expenditure.

(3) The office of financial management shall adopt guidelines for the implementation of this section. The guidelines may account for federal matching requirements or other requirements to spend other moneys in a particular manner. [1995 c 6 § 1; 1991 c 284 § 3; 1981 c 270 § 10; 1965 c 8 § 43.88.150. Prior: 1959 c 328 § 15.]

Additional notes found at www.leg.wa.gov

43.88.160 Fiscal management—Powers and duties of officers and agencies. This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

(2) Except as provided in chapter 43.88C RCW, the director of financial management is responsible for quarterly reporting of primary operating budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance

between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

Each agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following the standards of internal auditing of the institute of internal auditors;

(b) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter the plans, except that for the following agencies no amendment or alteration of the plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(f) Fix the number and classes of positions or authorized employee years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empow-

ered to fix the number or the classes for the following: Agencies headed by elective officials;

(g) Adopt rules to effectuate provisions contained in (a) through (f) of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons: PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW 43.41.180;

(e) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than equipment maintenance providers or as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment maintenance services to be performed more than twelve months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with regulations issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of

each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official, or employee charged with the receipt, custody, or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include determinations as to whether agencies, in making expenditures, complied with the laws of this state. The state auditor is authorized to perform or participate in performance verifications and performance audits as expressly authorized by the legislature in the omnibus biennial appropriations acts or in the performance audit work plan approved by the joint legislative audit and review committee. The state auditor, upon completing an audit for legal and financial compliance under chapter 43.09 RCW or a performance verification, may report to the joint legislative audit and review committee or other appropriate committees of the legislature, in a manner prescribed by the joint legislative audit and review committee, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit or performance verification. The auditor may make such a report to a legislative committee only if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts or in the performance audit work plan. The results of a performance audit conducted by the state auditor that has been requested by the joint legislative audit and review committee must only be transmitted to the joint legislative audit and review committee.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken within six months, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110. The director of financial management shall annually report by December 31st the status of audit resolution to the appropriate committees of the legislature, the state auditor, and the attorney general. The director of financial management shall include in the audit resolution report actions taken as a result of an audit includ-

ing, but not limited to, types of personnel actions, costs and types of litigation, and value of recouped goods or services.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter 42.40 RCW.

(g) In addition to the authority given to the state auditor in this subsection (6), the state auditor is authorized to conduct performance audits identified in RCW 43.09.470. Nothing in this subsection (6) shall limit, impede, or restrict the state auditor from conducting performance audits identified in RCW 43.09.470.

(7) The joint legislative audit and review committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in chapter 44.28 RCW as well as performance audits and program evaluations. To this end the joint committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs, and generally for an improved level of fiscal management. [2006 c 1 § 6 (Initiative Measure No. 900, approved November 8, 2005); 2002 c 260 § 1; 1998 c 135 § 1; 1997 c 168 § 6; 1996 c 288 § 25; 1994 c 184 § 11. Prior: 1993 c 500 § 7; 1993 c 406 § 4; 1993 c 194 § 6; 1992 c 118 § 8; (1992 c 118 § 7 expired April 1, 1992); 1991 c 358 § 4; prior: 1987 c 505 § 36; 1987 c 436 § 1; 1986 c 215 § 5; 1982 c 10 § 11; prior: 1981 c 280 § 7; 1981 c 270 § 11; 1979 c 151 § 139; 1975 1st ex.s. c 293 § 8; 1975 c 40 § 11; 1973 c 104 § 1; 1971 ex.s. c 170 § 4; 1967 ex.s. c 8 § 49; 1965 c 8 § 43.88.160; prior: 1959 c 328 § 16.]

Short title—Effective date—2006 c 1 (Initiative Measure No. 900): See RCW 43.09.471.

Policies and purposes—Construction—Severability—Part headings not law—2006 c 1 (Initiative Measure No. 900): See notes following RCW 43.09.470.

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Director of financial management: Chapter 43.41 RCW.

Joint legislative audit and review committee: Chapter 44.28 RCW.

Post-audit: RCW 43.09.290 through 43.09.330.

Powers and duties of director of general administration as to official bonds: RCW 43.41.360.

State auditor, duties: Chapter 43.09 RCW.

State treasurer, duties: Chapter 43.08 RCW.

Additional notes found at www.leg.wa.gov

43.88.162 State auditor's powers and duties—Performance audits. In addition to the authority given the state auditor in RCW 43.88.160(6), the state auditor is authorized

to contract for and oversee performance audits pursuant to RCW 43.09.440. [2005 c 385 § 7.]

Findings—2005 c 385: See note following RCW 43.09.430.

43.88.170 Refunds of erroneous or excessive payments. Whenever any law which provides for the collection of fees or other payment by an agency does not authorize the refund of erroneous or excessive payments thereof, refunds may be made or authorized by the agency which collected the fees or payments of all such amounts received by the agency in consequence of error, either of fact or of law. The regulations issued by the governor pursuant to this chapter shall prescribe the procedure to be employed in making refunds. [1965 c 8 § 43.88.170. Prior: 1959 c 328 § 17.]

Refunds: RCW 43.01.072 through 43.01.075.

43.88.175 Credit reporting agencies—State agency use. State agencies may report receivables to credit reporting agencies whenever the agency determines that such reporting would be cost-effective and does not violate confidentiality or other legal requirements. Within thirty-five days after satisfaction of a debt reported to a credit reporting agency, the state agency reporting the debt shall notify the credit reporting agency that the debt has been satisfied. [1991 c 85 § 1; 1989 c 100 § 1.]

43.88.180 When appropriations required or not required. Appropriations shall not be required for refunds, as provided in RCW 43.88.170, nor in the case of payments other than for administrative expenses or capital improvements to be made from trust funds specifically created by law to discharge awards, claims, annuities and other liabilities of the state. Said trust funds shall include, but shall not be limited to, the accident fund, medical aid fund, retirement system fund, Washington state patrol retirement fund and unemployment trust fund. Appropriations may be required in the case of public service enterprises defined for the purposes of this section as proprietary functions conducted by an agency of the state. An appropriation may be required to permit payment of obligations by revolving funds, as provided in RCW 43.88.190. [1973 1st ex.s. c 100 § 8; 1965 c 8 § 43.88.180. Prior: 1959 c 328 § 18.]

43.88.190 Revolving funds. Revolving funds shall not be created by law except to finance the operations of service units, or units set up to supply goods and services to other units or agencies. Such service units where created shall be self-supporting operations featuring continuous turnover of working capital. The regulations issued by the governor pursuant to this chapter shall prescribe the procedures to be employed by agencies in accounting and reporting for revolving funds and may provide for the keeping of such funds in the custody of the treasurer. [1965 c 8 § 43.88.190. Prior: 1959 c 328 § 19.]

43.88.195 Establishment of accounts or funds outside treasury without permission of director of financial management prohibited. After August 11, 1969, no state agency, state institution, state institution of higher education, which shall include all state universities, regional universi-

ties, The Evergreen State College, and community colleges, shall establish any new accounts or funds which are to be located outside of the state treasury: PROVIDED, That the office of financial management shall be authorized to grant permission for the establishment of such an account or fund outside of the state treasury only when the requesting agency presents compelling reasons of economy and efficiency which could not be achieved by placing such funds in the state treasury. When the director of financial management authorizes the creation of such fund or account, the director shall forthwith give written notice of the fact to the standing committees on ways and means of the house and senate: PROVIDED FURTHER, That agencies authorized to create local accounts will utilize the services of the state treasurer's office to ensure that new or ongoing relationships with financial institutions are in concert with statewide policies and procedures pursuant to RCW 43.88.160(1). [1996 c 186 § 509; 1993 c 500 § 8; 1991 c 201 § 19; 1979 c 151 § 140; 1977 ex.s. c 169 § 109; 1975 1st ex.s. c 293 § 9; 1969 ex.s. c 248 § 1.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Additional notes found at www.leg.wa.gov

43.88.200 Public records. All agency records reflecting financial transactions, such records being defined for purposes of this chapter to mean books of account, financial statements, and supporting records including expense vouchers and other evidences of obligation, shall be deemed to be public records and shall be available for public inspection in the agency concerned during official working hours. [1965 c 8 § 43.88.200. Prior: 1959 c 328 § 20.]

43.88.205 Federal funds and programs—Participating agencies to give notice—Progress reports. (1) Whenever an agency makes application, enters into a contract or agreement, or submits state plans for participation in, and for grants of federal funds under any federal law, the agency making such application shall at the time of such action, give notice in such form and manner as the director of financial management may prescribe, or the chair of the joint legislative audit and review committee, standing committees on ways and means of the house and senate, the chief clerk of the house, or the secretary of the senate may request.

(2) Whenever any such application, contract, agreement, or state plan is amended, such agency shall notify each such officer of such action in the same manner as prescribed or requested pursuant to subsection (1) of this section.

(3) Such agency shall promptly furnish such progress reports in relation to each such application, contract, agreement, or state plan as may be requested following the date of the filing of the application, contract, agreement, or state plan; and shall also file with each such officer a final report as to the final disposition of each such application, contract, agreement, or state plan if such is requested. [1996 c 288 § 39; 1979 c 151 § 141; 1975 1st ex.s. c 293 § 10; 1973 2nd ex.s. c 17 § 3; 1967 ex.s. c 41 § 4.]

Acceptance of funds by governor, administration: RCW 43.06.120, 43.06.130.

43.88.210 Transfer of certain powers and duties. It is the intent of this chapter to assign to the governor's office authority for developing and maintaining a state budgeting, accounting, and reporting system necessary for effective expenditure and revenue control among agencies.

To this end:

(1) All powers and duties and functions of the state auditor relating to the disbursement of public funds by warrant or check are hereby transferred to the state treasurer as the governor may direct but no later than ninety days after the start of the next fiscal biennium, and the state auditor shall deliver to the state treasurer all books, records, accounts, equipment, or other property relating to such function. In all cases where any question shall arise as to the proper custody of any such books, records, accounts, equipment or property, or pending business, the governor shall determine the question;

(2) In all cases where reports, notices, certifications, vouchers, disbursements and similar statements are now required to be given to any agency the duties and responsibilities of which are being assigned or reassigned by this chapter, the same shall be given to the agency or agencies in the manner provided for in this chapter. [1986 c 215 § 6; 1965 c 8 § 43.88.210. Prior: 1959 c 328 § 21.]

43.88.220 Federal law controls in case of conflict—Rules. If any part of this chapter shall be found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The rules and regulations under this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1965 c 8 § 43.88.220. Prior: 1959 c 328 § 22.]

43.88.230 Legislative agencies and committees deemed part of legislative branch. For the purposes of this chapter, the statute law committee, the joint legislative audit and review committee, the joint transportation committee, the legislative evaluation and accountability program committee, the office of state actuary, and all legislative standing committees of both houses shall be deemed a part of the legislative branch of state government. [2005 c 319 § 109; 1996 c 288 § 40; 1981 c 270 § 12; 1975 1st ex.s. c 293 § 11; 1965 c 8 § 43.88.230. Prior: 1959 c 328 § 23.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Additional notes found at www.leg.wa.gov

43.88.240 Exemption of Washington state commodity commissions. Unless otherwise directed in the commodity commission enabling statute, this chapter shall not apply to the Washington state commodity commissions created either under separate statute or under the provisions of chapters 15.65 and 15.66 RCW: PROVIDED, That all such commissions shall submit estimates and such other necessary information as may be required for the development of the budget and shall also be subject to audit by the appropriate

state auditing agency or officer. [1995 c 374 § 60; 1981 c 225 § 3; 1965 c 8 § 43.88.240. Prior: 1959 c 328 § 24.]

Additional notes found at www.leg.wa.gov

43.88.250 Emergency expenditures. Whenever an emergency shall arise necessitating an expenditure for the preservation of peace, health or safety, or for the carrying on of the necessary work required by law of any state agency for which insufficient or no appropriations have been made, the head of such agency shall submit to the governor, duplicate copies of a sworn statement, setting forth the facts constituting the emergency and the estimated amount of money required therefor. If the governor approves such estimate in whole or in part, the governor shall indorse on each copy of the statement the governor's approval, together with a statement of the amount approved as an allocation from any appropriation available for allocation for emergency purposes and transmit one copy to the head of the agency thereby authorizing the emergency expenditures. [1975-'76 2nd ex.s. c 83 § 1.]

43.88.260 Deficiencies prohibited—Exceptions. (1) It shall be unlawful for any agency head or disbursing officer to incur any cash deficiency and any appointive officer or employee violating the provisions of this section shall be subject to summary removal.

(2) This section does not apply to:

(a) Temporary cash deficiencies resulting from disbursements under a expenditure plan approved under RCW 43.88.110.

(b) Temporary cash deficiencies authorized by the director of financial management for funds and accounts in the state treasury or in the custody of the state treasurer. Each authorization under this subsection (b) shall distinctly specify the fund or account for which a deficiency is authorized, the maximum amount of cash deficiency which may be incurred, and the maximum time period during which the cash deficiency may continue. Each authorization shall expire at the end of each fiscal biennium unless renewed by the director of financial management. The director of financial management shall report each authorization and renewal to the legislative fiscal committees.

(c) Temporary cash deficiencies in funds or accounts which are neither in the state treasury, nor in the custody of the treasurer, if the cash deficiency does not continue past the end of the fiscal biennium.

(3) Nothing in this section permits the expenditure of moneys in excess of an applicable appropriation. [1987 c 502 § 7; 1975-'76 2nd ex.s. c 83 § 2.]

43.88.265 Construction accounts—Exception to certain accounting requirements. In order to comply with the provisions of the federal tax reform act of 1986, construction accounts that receive bond proceeds are exempt from RCW 43.88.050, 43.88.110, and 43.88.260 and may incur seasonal cash deficits pending the sale of bonds or bond anticipation notes subject to the following conditions:

(1) The respective account has unexpended appropriation authority.

(2) There are authorized unissued bonds available for sale by the state finance committee under direction to deposit the proceeds of the sale in the respective account.

(3) The bonds are of an amount that would remedy the cash deficit if the bonds were sold. [1989 1st ex.s. c 14 § 18.]

Additional notes found at www.leg.wa.gov

43.88.270 Penalty for violations. Any officer or employee violating, or wilfully refusing or failing to comply with, any provision of this chapter shall be guilty of a misdemeanor. [1975-'76 2nd ex.s. c 83 § 3.]

43.88.280 Fiscal responsibilities of state officers and employees—"State officer or employee" defined. As used in RCW 43.88.290 and 43.88.300 the term "state officer or employee" includes the members of the governing body of any state agency, as state agency is defined in RCW 43.88.020(4) and those generally known as executive management but excludes nonsupervisory state employees covered by civil service under chapters 41.06 and *28B.16 RCW. [1977 ex.s. c 320 § 1.]

**Reviser's note:* Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.015 and 28B.16.240, which was recodified as RCW 41.06.382. RCW 28B.16.015 and 41.06.382 were subsequently repealed by 2002 c 354 § 403, effective July 1, 2005.

Additional notes found at www.leg.wa.gov

43.88.290 Fiscal responsibilities of state officers and employees—Prohibitions relative to appropriations and expenditures. No state officer or employee shall intentionally or negligently: Over-expend or over-encumber any appropriation made by law; fail to properly account for any expenditures by fund, program, or fiscal period; or expend funds contrary to the terms, limits, or conditions of any appropriation made by law. [1981 c 270 § 13; 1977 ex.s. c 320 § 2.]

Additional notes found at www.leg.wa.gov

43.88.300 Fiscal responsibilities of state officers and employees—Violations—Civil penalties—Forfeiture. (1) Where there is reason to believe that a present or former state officer or employee has violated or threatens to violate RCW 43.88.290, the attorney general may initiate an appropriate civil action for the enforcement of RCW 43.88.280 through 43.88.320 or to prevent any such violation. The action may be brought in the county where the alleged violator resides, or the county where the violation is alleged to have occurred or is threatened.

(2) For each violation of RCW 43.88.290 the attorney general shall seek to recover and the court may award the following damages on behalf of the state of Washington:

(a) From each person found in violation of RCW 43.88.290 a civil penalty in the amount of five hundred dollars, or all costs, including reasonable attorney's fees incurred by the state in said action, whichever is greater;

(b) Any damages sustained by the state as a result of the conduct constituting said violation.

In addition to the other penalties contained in this section, judgment against any person, other than an elected official, for violating RCW 43.88.290 may include a declaration

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of forfeiture of such person's office or employment, to take effect immediately. [1977 ex.s. c 320 § 3.]

Additional notes found at www.leg.wa.gov

43.88.310 Fiscal responsibilities of state officers and employees—Duties of legislative auditor, attorney general. (1) The legislative auditor of the office of the joint legislative audit and review committee, with the concurrence of the joint legislative audit and review committee, may file with the attorney general any audit exceptions or other findings of any performance audit, management study, or special report prepared for the joint legislative audit and review committee, any standing or special committees of the house or senate, or the entire legislature which indicate a violation of RCW 43.88.290, or any other act of malfeasance, misfeasance, or nonfeasance on the part of any state officer or employee.

(2) The attorney general shall promptly review each filing received from the legislative auditor and may act thereon as provided in RCW 43.88.300, or any other applicable statute authorizing enforcement proceedings by the attorney general. The attorney general shall advise the joint legislative audit and review committee of the status of exceptions or findings referred under this section. [1996 c 288 § 41; 1993 c 157 § 1; 1977 ex.s. c 320 § 4.]

Additional notes found at www.leg.wa.gov

43.88.320 Fiscal responsibilities of state officers and employees—Civil penalties additional to other penalties. The civil penalties provided by RCW 43.88.280 through 43.88.320 are in addition to any other penalties which may be provided by law. [1977 ex.s. c 320 § 5.]

Additional notes found at www.leg.wa.gov

43.88.350 Legal services revolving fund—General administration services account—Approval of certain changes required. Any rate increases proposed for or any change in the method of calculating charges from the legal services revolving fund or services provided in accordance with RCW 43.01.090 or 43.19.500 in the general administration services account is subject to approval by the director of financial management prior to implementation. [1998 c 105 § 16; 1981 c 270 § 14.]

General administration services account: RCW 43.19.500.

Legal services revolving fund: RCW 43.10.150.

Additional notes found at www.leg.wa.gov

43.88.500 State boards, commissions, councils, and committees—Legislative finding and declaration. The legislature finds that members of boards, commissions, councils, and committees in state government make a valuable contribution to the public welfare.

Nevertheless, the legislature also finds that the continued proliferation of both statutory and nonstatutory groups of this nature without effective, periodic review of existing groups can result in wasteful duplication of effort, fragmentation of administrative authority, lack of accountability, plus an excessive and frequently hidden financial burden on the state.

The legislature further finds that effective legislative oversight and review of boards, commissions, councils, and

committees is frustrated by a lack of current and reliable information on the status and activities of such groups.

The legislature declares that legislative oversight and overall accountability in state government can be significantly improved by creating in the office of financial management a central clearinghouse for information on boards, commissions, councils, and committees. [1979 c 151 § 142; 1977 c 23 § 1.]

Termination review: RCW 43.41.220.

43.88.505 State boards, commissions, councils, and committees—Compilation of list, information. (1) The director of financial management shall compile, and revise within ninety days after the beginning of each biennium, a current list of all permanent and temporary, statutory and nonstatutory boards, commissions, councils, committees, and other groups of similar nomenclature that are established by the executive, legislative, or judicial branches of state government and whose members are eligible to receive travel expenses for their meetings in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) Such list shall include but not be limited to any such group which:

(a) Functions primarily in an advisory, planning, or coordinating capacity;

(b) Performs advertising, research, promotional, or marketing services for a specific business, industry, or occupation; or

(c) Performs licensing, regulatory, or quasi-judicial functions, adopts rules, or has responsibility for the administration or policy direction of a state agency or program.

(3) Such list shall contain the following information for each board, commission, council, committee, or other group of similar nomenclature:

(a) The legal authorization for the creation of the group;

(b) The number of members on the group, the appointing authority, and the agency to which the group reports;

(c) The number of meetings held during the preceding biennium;

(d) A brief summary of the primary responsibilities of the group;

(e) The total estimated cost of operating the group during the preceding biennium and the estimated cost of the group during the ensuing biennium. Such cost data shall include the estimated administrative expenses of the group as well as the estimated cost to an agency of providing full time equivalent or part time supporting staff to the group; and

(f) The source of funding for the group. [1979 c 151 § 143; 1977 c 23 § 2.]

43.88.510 State boards, commissions, councils, and committees—Submission of list and data to legislature. Not later than ninety days after the beginning of each biennium, the director of financial management shall submit the compiled list of boards, commissions, councils, and committees, together with the information on each such group, that is required by RCW 43.88.505 to:

(1) The speaker of the house and the president of the senate for distribution to the appropriate standing committees, including one copy to the staff of each of the committees;

(2) The chair of the joint legislative audit and review committee, including a copy to the staff of the committee;

(3) The chairs of the committees on ways and means of the senate and house of representatives; and

(4) Members of the state government committee of the house of representatives and of the governmental operations committee of the senate, including one copy to the staff of each of the committees. [1996 c 288 § 42; 1987 c 505 § 37; 1979 c 151 § 144; 1977 c 23 § 3.]

43.88.515 State boards, commissions, councils, and committees—Agencies to submit lists, information. (1) In order to facilitate the compilation of data required by RCW 43.88.505, each agency of the executive, legislative, and judicial branches of state government shall submit to the director of financial management a current list of the permanent and temporary, statutory and nonstatutory boards, commissions, councils, committees, and other groups of similar nomenclature that report to, or are involved in the operation of, the agency and whose members are eligible to receive travel expenses for their meetings in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) Such list shall contain the administrative and cost information for each group that is prescribed in RCW 43.88.505(3).

(3) The director of financial management shall establish guidelines and a format for agencies to follow in submitting information on boards, commissions, councils, and committees. [1979 c 151 § 145; 1977 c 23 § 4.]

43.88.550 Forest firefighting expenses—Transfers to Clarke-McNary fund. Based on schedules submitted by the director of financial management, the state treasurer shall transfer from the general fund—state, or such other funds as the state treasurer deems appropriate, to the Clarke-McNary fund such amounts as are necessary to meet unbudgeted forest firefighting expenses. All amounts borrowed under the authority of this section shall be repaid to the appropriate fund, together with interest at a rate determined by the state treasurer to be equivalent to the return on investments of the state treasury during the period the amounts are borrowed. [1989 c 362 § 3.]

43.88.560 Information technology projects—Funding policies and standards. The director of financial management shall establish policies and standards governing the funding of major information technology projects as required under RCW 43.105.190(2). The director of financial management shall also direct the collection of additional information on information technology projects and submit an information technology plan as required under RCW 43.88.092. [2010 c 282 § 4; 1992 c 20 § 7.]

Additional notes found at www.leg.wa.gov

43.88.570 Social services provided by nongovernment entities receiving state moneys—Report by agen-

cies—Audits. (1) Each state agency shall submit a report to the office of the state auditor listing each nongovernment entity that received over three hundred thousand dollars in state moneys during the previous fiscal year under contract with the agency for purposes related to the provision of social services. The report must be submitted by September 1 each year, and must be in a form prescribed by the office of the state auditor.

(2) The office of the state auditor shall select at random a group of entities from the reports using a procedure prescribed by the office of the state auditor. The office of the state auditor shall ensure that the number of entities selected under this subsection (2) each year is sufficient to ensure a statistically representative sample of all reported entities.

(3) Each entity selected under subsection (2) of this section shall be required to complete a comprehensive entity-wide audit in accordance with generally accepted government auditing standards. The audit shall be completed by, or under the supervision of, a certified public accountant licensed in this state. The audit shall determine, at a minimum, whether:

(a) The financial statements of the entity are presented fairly in all material respects in conformity with generally accepted accounting principles;

(b) The schedule of expenditures of state moneys is presented fairly in all material respects in relation to the financial statements taken as a whole;

(c) Internal accounting controls exist and are effective; and

(d) The entity has complied with laws, regulations, and contract and grant provisions that have a direct and material effect on performance of the contract and the expenditure of state moneys.

(4) The office of the state auditor shall also select a second group based on a risk assessment of entities conducted by the office of the state auditor in consultation with state agencies. The office of the state auditor shall consider, at a minimum, the following factors when conducting risk assessments: Findings from audits of entities under contract with the state to provide services for the same state or federal program; findings from previous audits; decentralization of decision making and controls; turnover in officials and key personnel; changes in management structure or operations; and the presence of new programs, technologies, or funding sources.

(5) The office of the state auditor is required to complete a comprehensive entity-wide audit, in accordance with generally accepted government auditing standards, of each entity selected under subsection (4) of this section. The office of the state auditor may procure the services of a certified public accountant to perform such an audit, as set forth under RCW 43.09.045. The audit shall determine, at a minimum, whether:

(a) The financial statements of the entity are presented fairly in all material respects in conformity with generally accepted accounting principles;

(b) The schedule of expenditures of state moneys is presented fairly in all material respects in relation to the financial statements taken as a whole;

(c) Internal accounting controls exist and are effective; and

(d) The entity has complied with statutes, rules, regulations, and contract and grant provisions that have a direct and material effect on performance of the contract and the expenditure of state moneys.

(6) The office of the state auditor shall prescribe policies and procedures for the conduct of audits under this section. The office of the state auditor shall deem single audits completed in compliance with federal requirements to be in fulfillment of the requirements of this section if the audit meets the requirements of subsection (3)(a) through (d) or (5)(a) through (d) of this section. If the entity is selected under subsection (4) of this section, the office of the state auditor shall review the single audit to determine if there is evidence of misuse of public moneys.

(7) Completed audits must be delivered to the office of the state auditor and the state agency by April 1 in the year following the selection of the entity for audit. Entities must resolve any findings contained in the audit within six months of the delivery of the audit. Entities may not enter into new contracts with state agencies until all major audit findings are resolved.

(8) Nothing in this section limits the authority of the state auditor to carry out statutorily and contractually prescribed powers and duties. [1998 c 232 § 2; 1997 c 374 § 3.]

Findings—Intent—1998 c 232: See note following RCW 43.09.055.

Findings—1997 c 374: See note following RCW 43.63A.125.

43.88.580 Database of state agency contracts for personal services—State expenditure information web site.

(1) The office of financial management shall make electronically available to the public a database of state agency contracts for personal services required to be filed with the office of financial management under chapter 39.29 RCW.

(2) The state expenditure information web site described in RCW 44.48.150 shall include a link to the office of financial management database described in subsection (1) of this section. [2008 c 326 § 3.]

Intent—2008 c 236: See note following RCW 44.48.150.

43.88.899 Intent—Periodic review. The amendments to chapter 43.88 RCW by chapter 215, Laws of 1986 are intended to improve the reporting of state budgeting, accounting, and other fiscal data. The legislative evaluation and accountability program committee shall periodically review chapter 43.88 RCW and shall recommend further revisions if needed. [1986 c 215 § 8.]

43.88.901 Severability—1973 1st ex.s. c 100. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 100 § 10.]

43.88.902 Severability—1975 1st ex.s. c 293. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 293 § 22.]

43.88.903 Severability—1977 c 23. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 c 23 § 5.]

43.88.910 Effective date—1975 1st ex.s. c 293. This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1975. [1975 1st ex.s. c 293 § 23.]

Chapter 43.88A RCW

LEGISLATIVE FISCAL NOTES

Sections

- 43.88A.010 Legislative declaration.
- 43.88A.020 Preparation—Ongoing cost projections—Duties of office of financial management.
- 43.88A.030 Distribution of fiscal notes and cost projections.
- 43.88A.040 Fiscal notes—Preparation upon request of any legislator.
- 43.88A.900 Construction of chapter.

Fiscal impact of proposed legislation on political subdivisions: Chapter 43.132 RCW.

43.88A.010 Legislative declaration. The legislature hereby recognizes the necessity of developing a uniform and coordinated procedure for determining the expected fiscal impact of bills and resolutions on state government. The legislature also recognizes that developing such statements of fiscal impact, which shall be known as fiscal notes, requires the designation of a state agency to be principally responsible therefor. [1977 ex.s. c 25 § 1.]

43.88A.020 Preparation—Ongoing cost projections—Duties of office of financial management. The office of financial management shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of fiscal notes on the expected impact of bills and resolutions which increase or decrease or tend to increase or decrease state government revenues or expenditures. Such fiscal notes shall indicate by fiscal year the impact for the remainder of the biennium in which the bill or resolution will first take effect as well as a cumulative forecast of the fiscal impact for the succeeding four fiscal years. Fiscal notes shall separately identify the fiscal impacts on the operating and capital budgets. Estimates of fiscal impacts shall be calculated using the procedures contained in the fiscal note instructions issued by the office of financial management.

In establishing the fiscal impact called for pursuant to this chapter, the office of financial management shall coordinate the development of fiscal notes with all state agencies affected.

The preparation and dissemination of the ongoing cost projections and other requirements of RCW 43.135.031 for bills increasing taxes or fees shall take precedence over fiscal notes. [2008 c 1 § 3 (Initiative Measure No. 960, approved November 6, 2007); 1994 c 219 § 3; 1979 c 151 § 146; 1977 ex.s. c 25 § 2.]

[Title 43 RCW—page 472]

Findings—Intent—Construction—Severability—Subheadings and part headings not law—Short title—Effective date—2008 c 1 (Initiative Measure No. 960): See notes following RCW 43.135.031.

Finding—1994 c 219: See note following RCW 43.88.030.

43.88A.030 Distribution of fiscal notes and cost projections. When a fiscal note is prepared and approved as to form, accuracy, and completeness by the office of financial management, which depicts the expected fiscal impact of a bill or resolution, copies shall be filed immediately with:

(1) The chairperson of the committee to which the bill or resolution was referred upon introduction in the house of origin;

(2) The senate committee on ways and means, or its successor; and

(3) The house committees on revenue and appropriations, or their successors.

Whenever possible, such fiscal note and, in the case of a bill increasing taxes or fees, the cost projection and other information required under RCW 43.135.031 shall be provided prior to or at the time the bill or resolution is first heard by the committee of reference in the house of origin.

When a fiscal note has been prepared for a bill or resolution, a copy of the fiscal note shall be placed in the bill books or otherwise attached to the bill or resolution and shall remain with the bill or resolution throughout the legislative process insofar as possible. For bills increasing taxes or fees, the cost projection and other information required by RCW 43.135.031 shall be placed in the bill books or otherwise attached to the bill or resolution and shall remain with the bill or resolution throughout the legislative process insofar as possible. [2008 c 1 § 4 (Initiative Measure No. 960, approved November 6, 2007); 1986 c 158 § 16; 1979 ex.s. c 112 § 1; 1979 c 151 § 147; 1977 ex.s. c 25 § 3.]

Findings—Intent—Construction—Severability—Subheadings and part headings not law—Short title—Effective date—2008 c 1 (Initiative Measure No. 960): See notes following RCW 43.135.031.

43.88A.040 Fiscal notes—Preparation upon request of any legislator. The office of financial management shall also provide a fiscal note on any legislative proposal at the request of any legislator. Such fiscal note shall be returned to the requesting legislator, and copies shall be filed with the appropriate legislative committees pursuant to RCW 43.88A.030 at the time such proposed legislation is introduced in either house. [1979 c 151 § 148; 1977 ex.s. c 25 § 4.]

43.88A.900 Construction of chapter. Nothing in this chapter shall prevent either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules and joint rules of the senate and house of representatives, nor shall the lack of any fiscal note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature. [1977 ex.s. c 25 § 5.]

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Chapter 43.88C RCW

CASELOAD FORECAST COUNCIL

Sections

- 43.88C.010 Caseload forecast council—Caseload forecast supervisor—Oversight and approval of official caseload forecast—Alternative forecast—Travel reimbursement—Definitions.
- 43.88C.020 Preparation and submittal of caseload forecasts—Cooperation of state agencies—Official state caseload forecast.
- 43.88C.030 Caseload forecast work group—Submittal of data by state agencies—Meetings.
- 43.88C.900 Effective date—1997 c 168.

43.88C.010 Caseload forecast council—Caseload forecast supervisor—Oversight and approval of official caseload forecast—Alternative forecast—Travel reimbursement—Definitions. (1) The caseload forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ a caseload forecast supervisor to supervise the preparation of all caseload forecasts. As used in this chapter, "supervisor" means the caseload forecast supervisor.

(3) Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(4) The caseload forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official state caseload forecasts prepared under RCW 43.88C.020. If the council is unable to approve a forecast before a date required in RCW 43.88C.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(5) A council member who does not cast an affirmative vote for approval of the official caseload forecast may request, and the supervisor shall provide, an alternative forecast based on assumptions specified by the member.

(6) Members of the caseload forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) "Caseload," as used in this chapter, means the number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state correctional noninstitutional supervision, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support.

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(8) Unless the context clearly requires otherwise, the definitions provided in RCW 43.88.020 apply to this chapter. [2000 c 90 § 1; 1997 c 168 § 1.]

Effective date—2000 c 90: "This act takes effect July 1, 2000." [2000 c 90 § 2.]

43.88C.020 Preparation and submittal of caseload forecasts—Cooperation of state agencies—Official state caseload forecast. (1) In consultation with the caseload forecast work group established under RCW 43.88C.030, and subject to the approval of the caseload forecast council under RCW 43.88C.010, the supervisor shall prepare:

(a) An official state caseload forecast; and
 (b) Other caseload forecasts based on alternative assumptions as the council may determine.

(2) The supervisor shall submit caseload forecasts prepared under this section, along with any unofficial forecasts provided under RCW 43.88C.010, to the governor and the members of the legislative fiscal committees, including one copy to the staff of each of the committees. The forecasts shall be submitted at least three times each year and on such dates as the council determines will facilitate the development of budget proposals by the governor and the legislature.

(3) All agencies of state government shall provide to the supervisor immediate access to all information relating to caseload forecasts.

(4) The administrator of the legislative evaluation and accountability program committee may request, and the supervisor shall provide, alternative caseload forecasts based on assumptions specified by the administrator.

(5) The official state caseload forecast under this section shall be the basis of the governor's budget document as provided in RCW 43.88.030 and utilized by the legislature in the development of the omnibus biennial appropriations act. [1997 c 168 § 2.]

43.88C.030 Caseload forecast work group—Submittal of data by state agencies—Meetings. (1) To promote the free flow of information and to promote legislative and executive input in the development of assumptions and preparation of forecasts, immediate access to all information and statistical models relating to caseload forecasts shall be available to the caseload forecast work group, hereby created. Each state agency affected by caseloads shall submit caseload reports and data to the council as soon as the reports and data are available and shall provide to the council and the supervisor such additional raw, program-level data or information as may be necessary for discharge of their respective duties.

(2) The caseload forecast work group shall consist of one staff member selected by the executive head or chairperson of each of the following agencies, programs, or committees:

(a) Office of financial management;
 (b) Ways and means committee, or its successor, of the senate;

(c) Appropriations committee, or its successor, of the house of representatives;

(d) Legislative evaluation and accountability program committee; and

(e) Each state program for which the council forecasts the caseload.

[Title 43 RCW—page 473]

(3) The caseload forecast work group shall provide technical support to the caseload forecast council. Meetings of the caseload forecast work group may be called by any member of the group for the purpose of assisting the council, reviewing forecasts, or for any other purpose that may assist the council. [1997 c 168 § 3.]

43.88C.900 Effective date—1997 c 168. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997. [1997 c 168 § 8.]

Chapter 43.88D RCW

HIGHER EDUCATION CAPITAL PROJECT STRATEGIC PLANNING

Sections

43.88D.005 Findings—Intent.
43.88D.010 Capital budget projects—Objective analysis and scoring—Prioritized lists.

43.88D.005 Findings—Intent. The legislature finds that the state's public four-year institutions and the higher education coordinating board have made progress in developing a process to create a single prioritized list of capital project requests as required under *RCW 28B.76.220. The legislature also finds that this process requires further refinement to achieve the state's policy objectives as outlined in the higher education coordinating board's strategic master plan for higher education in Washington. The legislature further finds the goal of creating additional, innovative facilities and programs that meet the learning needs of students throughout the state in a timely and cost-effective fashion requires a new approach to facility prioritization that emphasizes strategic planning. The legislature therefore intends to establish a new process for prioritizing capital project requests by the four-year institutions that utilizes the expertise and government-wide perspective of the office of financial management, and that is based upon the model that has been used successfully by the community and technical college system. The new process must emphasize objective analysis, a statewide perspective, and a strategic balance among facility preservation, new construction, and innovative delivery mechanisms. The legislature further recognizes that institutions of higher education are likely to require substantial new capital investments in order to continue to provide a wide range of high quality programs to students and the community, and that the state's ability to provide such resources is constrained by increasing capital expenditure needs within the K-12, public safety, social services, and community economic development arenas. The legislature therefore intends to identify and assess potential alternative means for increasing the capacity of public higher education institutions to meet the demands of the twenty-first century. [2008 c 205 § 1.]

*Reviser's note: RCW 28B.76.220 was repealed by 2008 c 205 § 5.

43.88D.010 Capital budget projects—Objective analysis and scoring—Prioritized lists. (1) By October 1st of each even-numbered year, the office of financial management shall complete an objective analysis and scoring of all

capital budget projects proposed by the public four-year institutions of higher education and submit the results of the scoring process to the legislative fiscal committees, the higher education coordinating board, and the four-year institutions. Each project must be reviewed and scored within one of the following categories, according to the project's principal purpose. Each project may be scored in only one category. The categories are:

(a) Access-related projects to accommodate enrollment growth at main and branch campuses, at existing or new university centers, or through distance learning. Growth projects should provide significant additional student capacity. Proposed projects must demonstrate that they are based on solid enrollment demand projections, more cost-effectively provide enrollment access than alternatives such as university centers and distance learning, and make cost-effective use of existing and proposed new space;

(b) Projects that replace failing permanent buildings. Facilities that cannot be economically renovated are considered replacement projects. New space may be programmed for the same or a different use than the space being replaced and may include additions to improve access and enhance the relationship of program or support space;

(c) Projects that renovate facilities to restore building life and upgrade space to meet current program requirements. Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty-five years of useful life. New space may be programmed for the same or a different use than the space being renovated and may include additions to improve access and enhance the relationship of program or support space;

(d) Major stand-alone campus infrastructure projects;

(e) Projects that promote economic growth and innovation through expanded research activity. The acquisition and installation of specialized equipment is authorized under this category; and

(f) Other project categories as determined by the office of financial management in consultation with the legislative fiscal committees.

(2) The office of financial management, in consultation with the legislative fiscal committees, shall establish a scoring system and process for each four-year project category that is based on the framework used in the community and technical college system of prioritization. Staff from the state board for community and technical colleges, the higher education coordinating board, and the four-year institutions shall provide technical assistance on the development of a scoring system and process.

(3) The office of financial management shall consult with the legislative fiscal committees in the scoring of four-year institution project proposals, and may also solicit participation by independent experts.

(a) For each four-year project category, the scoring system must, at a minimum, include an evaluation of enrollment trends, reasonableness of cost, the ability of the project to enhance specific strategic master plan goals, age and condition of the facility if applicable, and impact on space utilization.

(b) Each four-year project category may include projects at the pre-design, design, or construction funding phase.

(c) To the extent possible, the objective analysis and scoring system of all capital budget projects shall occur within the context of any and all performance agreements between the office of financial management and the governing board of a public, four-year institution of higher education that aligns goals, priorities, desired outcomes, flexibility, institutional mission, accountability, and levels of resources.

(4) In evaluating and scoring four-year institution projects, the office of financial management shall take into consideration project schedules that result in realistic, balanced, and predictable expenditure patterns over the ensuing three biennia.

(5) The office of financial management shall distribute common definitions, the scoring system, and other information required for the project proposal and scoring process as part of its biennial budget instructions. The office of financial management, in consultation with the legislative fiscal committees, shall develop common definitions that four-year institutions must use in developing their project proposals and lists under this section.

(6) In developing any scoring system for capital projects proposed by the four-year institutions, the office of financial management:

(a) Shall be provided with all required information by the four-year institutions as deemed necessary by the office of financial management;

(b) May utilize independent services to verify, sample, or evaluate information provided to the office of financial management by the four-year institutions; and

(c) Shall have full access to all data maintained by the higher education coordinating board and the joint legislative audit and review committee concerning the condition of higher education facilities.

(7) By August 1st of each even-numbered year each public four-year higher education institution shall prepare and submit prioritized lists of the individual projects proposed by the institution for the ensuing six-year period in each category. The lists must be submitted to the office of financial management and the legislative fiscal committees. The four-year institutions may aggregate minor works project proposals by primary purpose for ranking purposes. Proposed minor works projects must be prioritized within the aggregated proposal, and supporting documentation, including project descriptions and cost estimates, must be provided to the office of financial management and the legislative fiscal committees. [2010 c 245 § 9; 2008 c 205 § 2.]

Findings—Expand on demand—System design plan endorsed—2010 c 245: See note following RCW 28B.50.020.

Chapter 43.89 RCW
TELETYPEWRITER
COMMUNICATIONS NETWORK

Sections

- 43.89.010 Communications network—Establishment—Use—Charges—Duties of chief of state patrol.
43.89.030 Connection with and participation in network by political subdivisions.
43.89.040 Transfer of powers, duties, functions to chief of state patrol.

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- 43.89.050 Transfer of powers, duties and functions not to terminate or affect state liability.

43.89.010 Communications network—Establishment—Use—Charges—Duties of chief of state patrol.

The chief of the Washington state patrol is hereby authorized to establish a communications network which will inter-connect the law enforcement agencies of the state and its political subdivisions into a unified written communications system. The chief of the Washington state patrol is authorized to lease or purchase such facilities and equipment as may be necessary to establish and maintain the communications network.

(1) The communications network shall be used exclusively for the official business of the state, and the official business of any city, county, city and county, or other public agency.

(2) This section does not prohibit the occasional use of the state's communications network by any other state or public agency thereof when the messages transmitted relate to the enforcement of the criminal laws of the state.

(3) The chief of the Washington state patrol shall fix the monthly operational charge to be paid by any department or agency of state government, or any city, county, city and county, or other public agency participating in the communications network: PROVIDED, That in computing charges to be made against a city, county, or city and county the state shall bear at least fifty percent of the costs of such service as its share in providing a modern unified communications network to the law enforcement agencies of the state. Of the fees collected pursuant to this section, one-half shall be deposited in the motor vehicle fund and one-half shall be deposited in the state patrol highway account. However, for the 2009-2011 fiscal biennium the fees collected pursuant to this section shall be deposited in the state general fund.

(4) The chief of the Washington state patrol is authorized to arrange for the connection of the communications network with the law enforcement communications system of any adjacent state, or the Province of British Columbia, Canada. [2010 1st sp.s. c 37 § 930; 2000 2nd sp.s. c 4 § 7; 1993 sp.s. c 23 § 63; 1965 ex.s. c 60 § 2; 1965 c 8 § 43.89.010. Prior: 1963 c 160 § 1.]

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Effective dates—2000 2nd sp.s. c 4 §§ 4-10: "(1) Sections 4 and 7 through 10 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2000.

(2) Section 5 of this act takes effect September 1, 2000.

(3) Section 6 of this act takes effect March 1, 2002." [2000 2nd sp.s. c 4 § 36.]

Additional notes found at www.leg.wa.gov

43.89.030 Connection with and participation in network by political subdivisions. Any city, county, city and county, or other public agency may connect with and participate in the teletypewriter communications network subject to the rules, regulations, procedures and methods of operation adopted by the state communications advisory committee: PROVIDED, That such city, county, city and county, or other public agency shall first agree to pay such installation charges as may be necessary for such connection and such monthly operational charges as may be established by the

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chief of the Washington state patrol. [1965 ex.s. c 60 § 4; 1965 c 8 § 43.89.030. Prior: 1963 c 160 § 3.]

43.89.040 Transfer of powers, duties, functions to chief of state patrol. The powers, duties, and functions of the director of budget relating to the state teletypewriter communication network are transferred to the chief of the Washington state patrol. All existing contracts, orders, rules, regulations, records, and obligations together with communications equipment, motor vehicles, and any other property, device, or thing and any remaining appropriation pertaining to such communication network shall be transferred by the director of budget or his or her agent to the chief of the Washington state patrol as of July 1, 1965. [2009 c 549 § 5166; 1965 ex.s. c 60 § 1.]

43.89.050 Transfer of powers, duties and functions not to terminate or affect state liability. The transfer of the powers, duties, and functions relating to the state teletypewriter communication network from the director of budget to the chief of the Washington state patrol shall not terminate or affect the liability of the state accruing with respect to such communications network to any person, company, or corporation. [1965 ex.s. c 60 § 5.]

Chapter 43.92 RCW GEOLOGICAL SURVEY

Sections

43.92.010	State geologist.
43.92.020	Objects of survey.
43.92.025	Seismic, landslide, and tsunami hazards—Assessment—Technical assistance.
43.92.040	Printing and distribution of reports.
43.92.060	Cooperation with federal geological survey.
43.92.070	Topographic map—Stream measurements.
43.92.080	Entry on lands authorized.
43.92.900	Intent—2006 c 340.

Reviser's note: The powers, duties and functions of the department of conservation with respect to geology as set forth in chapter 43.92 RCW were transferred to the department of natural resources by 1967 c 242 § 15 [RCW 43.27A.130].

43.92.010 State geologist. There shall be a geological survey of the state that shall be under the direction of the commissioner of public lands who shall have general charge of the survey, and shall appoint as supervisor of the survey a geologist of established reputation, to be known as the state geologist. [2006 c 340 § 2; 1988 c 127 § 28; 1965 c 8 § 43.92.010. Prior: 1901 c 165 § 1; 1890 p 647 § 1; 1890 p 249 § 1; RRS § 5993.]

43.92.020 Objects of survey. The geological survey shall have for its objects:

(1) An examination of the economic products of the state, including: Gold, silver, copper, lead, and iron ores, as well as building stones, clays, coal, and all mineral substances of value;

(2) An examination and classification of soils, and the study of their adaptability to particular crops;

(3) An investigation and report upon the water supplies, artesian wells, the water power of the state, gauging the

streams, etc., with reference to their application for irrigation and other purposes;

(4) An examination and report upon the occurrence of different road building material;

(5) An examination of the physical features of the state with reference to their practical bearing upon the occupations of the people;

(6) The preparation of special geological and economic maps to illustrate the resources of the state;

(7) The preparation of special reports with necessary illustrations and maps, which shall embrace both the general and detailed description of the geology and natural resources of the state; and

(8) The consideration of similar scientific and economic questions that, in the judgment of the state geologist, is deemed of value to the people of the state. [2006 c 340 § 3; 1965 c 8 § 43.92.020. Prior: 1901 c 165 § 2; 1890 p 249 § 3; 1890 p 648 §§ 3, 4, 5, 6, 7; RRS § 5994.]

43.92.025 Seismic, landslide, and tsunami hazards—Assessment—Technical assistance. In addition to the objectives stated in RCW 43.92.020, the geological survey must conduct and maintain an assessment of seismic, landslide, and tsunami hazards in Washington. This assessment must include the identification and mapping of volcanic, seismic, landslide, and tsunami hazards, an estimation of potential consequences, and the likelihood of occurrence. The maintenance of this assessment must include technical assistance to state and local government agencies on the proper interpretation and application of the results of this assessment. [2006 c 340 § 4.]

43.92.040 Printing and distribution of reports. Regular and special reports of the geological survey, with proper illustrations and maps, shall be printed as directed by the state geologist. All reports shall be distributed or sold by the department of natural resources as the interests of the state and of science demand. All money obtained by the sale of reports under this section shall be paid into the state treasury. [2006 c 340 § 5; 1965 c 8 § 43.92.040. Prior: 1901 c 165 § 4; RRS § 5996.]

43.92.060 Cooperation with federal geological survey. The state geologist may make provisions for topographic, geologic, and hydrographic surveys of the state in cooperation with the United States geological survey in such manner as in the opinion of the state geologist will be of the greatest benefit to the agricultural, industrial, and geological requirements of the state. However, the director of the United States geological survey must first agree to expend on the part of the United States upon such surveys a sum equal to that expended by the state. [2006 c 340 § 6; 1965 c 8 § 43.92.060. Prior: 1903 c 157 § 1; 1901 c 165 § 6; RRS § 5998.]

43.92.070 Topographic map—Stream measurements. In order to complete the topographic map of the state and for the purpose of making more extensive stream measurements, and otherwise investigating and determining the water supply of the state, the state geologist may enter into

such agreements with the director of the United States geological survey as will ensure that the surveys and investigations be carried on in the most economical manner, and that the maps and data be available for the use of the public as quickly as possible. [2006 c 340 § 7; 1965 c 8 § 43.92.070. Prior: 1909 c 245 § 1; RRS § 5999.]

43.92.080 Entry on lands authorized. In order to carry out the purposes of this chapter, all persons employed by the department of natural resources to carry out the duties of this chapter are authorized to enter and cross all land within the state as long as no damage is done to private property. [2006 c 340 § 8; 1965 c 8 § 43.92.080. Prior: 1909 c 245 § 3; RRS § 6000.]

43.92.900 Intent—2006 c 340. It is the intent of the legislature that there be an effective state geological survey that can produce essential information that provides for the health, safety, and economic well-being of the citizens. [2006 c 340 § 1.]

Chapter 43.96B RCW EXPO '74—BOND ISSUE

Sections

STATE PAVILION—BOND ISSUE

- 43.96B.200 Legislative finding.
- 43.96B.205 Bond issue—Authorized.
- 43.96B.210 Bond issue—Issuance and sale of bonds—Form, terms, conditions, etc.—Authority of state finance committee.
- 43.96B.215 Bond issue—Anticipation notes—Disposition of proceeds—Acquisition of property by Expo '74 commission authorized.
- 43.96B.220 Bond issue—Administration of proceeds.
- 43.96B.225 Bond issue—Redemption fund—Payment of bonds.
- 43.96B.230 Bond issue—Additional means of payment.
- 43.96B.235 Bond issue—Legal investment for public funds.
- 43.96B.240 Appropriation.
- 43.96B.245 Severability—1973 1st ex.s. c 116.
- 43.96B.900 Severability—1971 ex.s. c 3.

STATE PAVILION—BOND ISSUE

43.96B.200 Legislative finding. The legislature finds that an expansion of the state pavilion at Expo '74 initially authorized for construction by the 1971 legislature is consistent with the purposes of the exposition and the needs of the state of Washington in order that the facility produced will both more adequately serve the state during the exposition and as a permanent structure for the benefit of the state afterwards. [1973 1st ex.s. c 116 § 1.]

43.96B.205 Bond issue—Authorized. For the purpose of providing additional space for the Washington State Pavilion at Expo '74 as determined to be necessary by the Expo '74 commission, including the planning, acquisition, construction, remodeling and equipping, together with all improvements and enhancements of said project, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two million nine hundred thousand dollars, or so much thereof as may be required, to finance the projects defined in RCW 43.96B.200 through 43.96B.245 and all costs incidental thereto. Such bonds shall be paid and discharged within thirty years of the

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date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1973 1st ex.s. c 116 § 2.]

43.96B.210 Bond issue—Issuance and sale of bonds—Form, terms, conditions, etc.—Authority of state finance committee. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds authorized in RCW 43.96B.200 through 43.96B.245 shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and notes, if any. Such bonds shall be payable at such places as the committee may provide. [1973 1st ex.s. c 116 § 3.]

43.96B.215 Bond issue—Anticipation notes—Disposition of proceeds—Acquisition of property by Expo '74 commission authorized. At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds authorized by RCW 43.96B.200 through 43.96B.245 and any interest earned on the interim investment of such proceeds, shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.96B.200 through 43.96B.245 and for the payment of expenses incurred in the issuance and sale of the bonds. The Expo '74 commission is hereby authorized to acquire property, real and personal, by lease, purchase[,] condemnation or gift to achieve the objectives of chapters 1, 2, and 3, Laws of 1971 ex. sess., and RCW 43.96B.200 through 43.96B.245. The commission is further directed pursuant to RCW 43.19.450 to utilize the department of general administration services to accomplish the purposes set forth herein. [1973 1st ex.s. c 116 § 4.]

43.96B.220 Bond issue—Administration of proceeds. The principal proceeds from the sale of the bonds or notes deposited in the state building construction account of the general fund shall be administered by the Expo '74 commission. [1973 1st ex.s. c 116 § 5.]

43.96B.225 Bond issue—Redemption fund—Payment of bonds. The state building bond redemption fund, 1973-A, is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds authorized by RCW 43.96B.200 through 43.96B.245. The state finance committee, shall, on

or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in the state building bond redemption fund, 1973-A, from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. Bonds issued under the provisions of RCW 43.96B.200 through 43.96B.245 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1973 1st ex.s. c 116 § 6.]

43.96B.230 Bond issue—Additional means of payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized herein, and RCW 43.96B.200 through 43.96B.245 shall not be deemed to provide an exclusive method for such payment. [1973 1st ex.s. c 116 § 7.]

43.96B.235 Bond issue—Legal investment for public funds. The bonds authorized in RCW 43.96B.200 through 43.96B.245 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1973 1st ex.s. c 116 § 8.]

43.96B.240 Appropriation. There is hereby appropriated to the Expo '74 commission from the state building construction account of the general fund the sum of two million nine hundred thousand dollars or so much thereof as may be necessary to accomplish the purposes of RCW 43.96B.200 through 43.96B.245. [1973 1st ex.s. c 116 § 9.]

43.96B.245 Severability—1973 1st ex.s. c 116. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 116 § 10.]

43.96B.900 Severability—1971 ex.s. c 3. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 3 § 9.]

Chapter 43.97 RCW

COLUMBIA RIVER GORGE COMPACT

(Formerly: Columbia River Gorge commission)

Sections

- 43.97.015 Columbia River Gorge Compact—Columbia River Gorge commission.
- 43.97.025 Grant of authority—Appointment of members to commission—Vacancies.
- 43.97.035 Commission members—Compensation—Travel expenses.

43.97.015 Columbia River Gorge Compact—Columbia River Gorge commission. The legislature of the State of Washington hereby ratifies the Columbia River Gorge Compact set forth below, and the provisions of such compact hereby are declared to be the law of this state upon such compact becoming effective as provided in Article III.

A compact is entered into by and between the states of Washington and Oregon, signatories hereto, with the consent of the Congress of the United States of America, granted by an Act entitled, "The Columbia River Gorge National Scenic Area Act," P.L. 99-663.

ARTICLE I

COLUMBIA GORGE COMMISSION ESTABLISHED

a. The States of Oregon and Washington establish by way of this interstate compact a regional agency known as the Columbia River Gorge Commission. The commission established in accordance with this compact shall have the power and authority to perform all functions and responsibilities in accordance with the provisions of this compact and of the Columbia River Gorge National Scenic Area Act (the federal Act), which is incorporated by this specific reference in this agreement. The commission's powers shall include, but not be limited to:

- 1. The power to sue and be sued.
- 2. The power to disapprove a land use ordinance enacted by a county if the ordinance is inconsistent with the management plan, as provided in P.L. 96-663, Sec. 7(b)(3)(B).
- 3. The power to enact a land use ordinance setting standards for the use of nonfederal land in a county within the scenic area if the county fails to enact land use ordinances consistent with the management plan, as provided in P.L. 99-663, Sec. 7(c).
- 4. According to the provisions of P.L. 99-663, Sec. 10(c), the power to review all proposals for major development action and new residential development in each county in the scenic area, except urban areas, and the power to disapprove such development if the commission finds the development is inconsistent with the purposes of P.L. 99-663.

b. The commission shall appoint and remove or discharge such personnel as may be necessary for the performance of the commission's functions, irrespective of the civil service, personnel or other merit system laws of any of the party states.

c. The commission may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivors insurance provided that the commission takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

d. The commission shall obtain the services of such professional, technical, clerical and other personnel as may be deemed necessary to enable it to carry out its functions under this compact. The commission may borrow, accept, or contract for the services of personnel from any state of the United States or any subdivision or agency thereof, from any inter-

state agency, or from any institution, person, firm or corporation.

e. Funds necessary to fulfill the powers and duties imposed upon and entrusted to the commission shall be provided as appropriated by the legislatures of the states in accordance with Article IV. The commission may also receive gifts, grants, endowments and other funds from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the commission and expend the same or any income therefrom according to the terms of the gifts, grants, endowments or other funds.

f. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold and convey real and personal property and any interest therein.

g. The commission shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules and regulations. The commission shall publish its bylaws, rules and regulations in convenient form and shall file a copy thereof and of any amendment thereto, with the appropriate agency or officer in each of the party states.

ARTICLE II THE COMMISSION MEMBERSHIP

a. The commission shall be made up of twelve voting members appointed by the states, as set forth herein, and one non-voting member appointed by the U.S. Secretary of Agriculture.

b. Each state governor shall appoint the members of the commission as provided in the federal Act (three members who reside in the State of Oregon, including one resident of the scenic area, to be appointed by the Governor of Oregon, and three members who reside in the State of Washington, including one resident of the scenic area, appointed by the Governor of Washington).

c. One additional member shall be appointed by the governing body of each of the respective counties of Clark, Klickitat, and Skamania in Washington, and Hood River, Multnomah, and Wasco in Oregon, provided that in the event the governing body of a county fails to make such an appointment, the Governor of the state in which the county is located shall appoint such a member.

d. The terms of the members and procedure for filling vacancies shall all be as set forth in the federal Act.

ARTICLE III EFFECTIVE DATE OF COMPACT AND COMMISSION

This compact shall take effect, and the commission may exercise its authorities pursuant to the compact and pursuant to the Columbia River Gorge National Scenic Area Act when it has been ratified by both states and upon the appointment of four initial members from each state. The date of this compact shall be the date of the establishment of the commission.

ARTICLE IV FUNDING

a. The States of Washington and Oregon hereby agree to provide by separate agreement or statute of each state for

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funding necessary to effectuate the commission, including the establishment of compensation or expenses of commission members from each state which shall be paid by the state of origin.

b. The commission shall submit to the Governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

c. Subject to appropriation by their respective legislatures, the commission shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the commission.

d. The commission's proposed budget and expenditures shall be apportioned equally between the states.

e. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by the appropriate state auditing official and the report of the audit shall be included in and become a part of the annual report of the commission.

f. The accounts of the commission shall be open at any reasonable time for inspection by the public.

ARTICLE V SEVERABILITY

If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid, and to this end the provisions of this compact are severable. [1987 c 499 § 1.]

43.97.025 Grant of authority—Appointment of members to commission—Vacancies. (1) The governor, the Columbia River Gorge commission, and all state agencies and counties are hereby directed and provided authority to carry out their respective functions and responsibilities in accordance with the compact executed pursuant to RCW 43.97.015, the Columbia River Gorge National Scenic Area Act, and the provisions of this chapter.

(2) The governor shall appoint three members of the Columbia River Gorge commission who reside in the state of Washington, at least one of whom shall be a resident of the scenic area as defined in the act.

(3)(a) The governing bodies of Clark, Klickitat, and Skamania counties shall each appoint one member of the Columbia River Gorge commission.

(b) In the event the governing body of a county fails to make the appointments prescribed in section 5(a)(c)(1) of that act and (a) of this subsection, the governor shall appoint any such member.

(4) Each member appointed by the governor shall be subject to confirmation by the Washington state senate and shall serve at the pleasure of the governor until their term shall expire or until a disqualifying change in residence.

(5) Of those members appointed to the Columbia River Gorge commission by the governing body of the counties of Clark, Klickitat, and Skamania, the governor shall designate one member to serve for a term of five years and one to serve for six years. Of those members appointed directly by the governor pursuant to RCW 43.97.015, the governor shall designate one to serve a term of five years and one to serve a term of six years. All other members shall serve a period of four years.

Neither the governor nor governing body of any of the counties may appoint federal, state, or local elected or appointed officials as members to the Columbia River Gorge commission.

Vacancies shall be filled in accordance with the appointing procedure for the commission member occupying the seat before its vacancy. [1987 c 499 § 2.]

43.97.035 Commission members—Compensation—Travel expenses. Members of the Columbia River Gorge commission appointed for Washington shall receive compensation for their services pursuant to RCW 43.03.240, and shall be eligible to receive a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060, and regulations adopted pursuant thereto. [1987 c 499 § 3.]

Chapter 43.99A RCW OUTDOOR RECREATIONAL AREAS AND FACILITIES—1967 BOND ACT (REFERENDUM 18)

Sections

- 43.99A.010 Declaration of purpose.
- 43.99A.020 General obligation bonds authorized.
- 43.99A.030 Form of bonds—Rate of interest—Sale and issuance.
- 43.99A.040 Full faith and credit of state pledged—Call prior to due date—Facsimile signatures.
- 43.99A.050 Disposition of proceeds of sale.
- 43.99A.060 Outdoor recreational bond redemption fund of 1967—Created—Use—Sales tax revenues deposited in.
- 43.99A.070 Proceeds from sale of bonds—Administration—Disposition and use.
- 43.99A.080 Construction of phrase "acquisition and development of outdoor recreational areas and facilities."
- 43.99A.090 Legislature may provide additional means for payment of bonds.
- 43.99A.100 Bonds legal investment for funds of state and municipal corporations.
- 43.99A.110 Referral to electorate.

Outdoor recreational facilities—1963 bond act: Chapter 79A.10 RCW.

43.99A.010 Declaration of purpose. The state of Washington possesses unsurpassed natural wealth in the form of mountains, forests, and waters, ideal not only for recreation, but for supplying the special kind of spiritual regeneration that only close association with the outdoors can provide. As the state grows in population, this wilderness is increasingly threatened; prompt action is necessary to preserve it before much of it permanently disappears. Further, the physical expansion of our cities and towns has made it imperative that outdoor breathing space be set aside and permanently reserved for the people who live in them. Such breathing space may take the form of "green belts" especially planned to relieve the monotony of miles of uninterrupted urban or suburban development, or it may take the form of traditional parks. In any case, it must be acquired as soon as possible,

while land is still available; and where appropriate, this land must be developed in order to meet the recreational needs of growing numbers of potential users. [1967 ex.s. c 126 § 1.]

43.99A.020 General obligation bonds authorized. For the purpose of providing funds for the acquisition and development of outdoor recreational areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty million dollars or so much thereof as may be required to finance the projects described in RCW 43.99A.070 and 43.99A.080. These bonds shall be paid and discharged within twenty years of the date of issuance. [1970 ex.s. c 40 § 1; 1967 ex.s. c 126 § 2.]

Additional notes found at www.leg.wa.gov

43.99A.030 Form of bonds—Rate of interest—Sale and issuance. The state finance committee is authorized to prescribe the form of the bonds, the maximum rate of interest the same shall bear, the time of sale of all or any portion of them, and the conditions of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1970 ex.s. c 40 § 2; 1967 ex.s. c 126 § 3.]

Additional notes found at www.leg.wa.gov

43.99A.040 Full faith and credit of state pledged—Call prior to due date—Facsimile signatures. The bonds shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to their due date under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1967 ex.s. c 126 § 4.]

43.99A.050 Disposition of proceeds of sale. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the outdoor recreation account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of the chapter and for payment of the expense incurred in the issuance and sale of the bonds. [1967 ex.s. c 126 § 5.]

43.99A.060 Outdoor recreational bond redemption fund of 1967—Created—Use—Sales tax revenues deposited in. The outdoor recreational bond redemption fund of 1967 is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the outdoor recreational bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of

Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1971 c 37 § 1; 1967 ex.s. c 126 § 6.]

43.99A.070 Proceeds from sale of bonds—Administration—Disposition and use. The proceeds from the sale of bonds deposited in the outdoor recreation account of the general fund under the terms of RCW 43.99A.050 shall be administered by the recreation and conservation funding board. All such proceeds shall be divided into two equal shares. One share shall be allocated for the acquisition and development of outdoor recreation areas and facilities on behalf of the state as the legislature may direct by appropriation. The other share shall be allocated to public bodies as defined in RCW 79A.25.010 for the acquisition and development of outdoor recreational areas and facilities within the jurisdiction of such public bodies. The recreation and conservation funding board is authorized to use or permit the use of any funds derived from the sale of bonds authorized under this chapter as matching funds in any case where federal or other funds are made available on a matching basis for projects within the purposes of this chapter. [2007 c 241 § 8; 1967 ex.s. c 126 § 7.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

43.99A.080 Construction of phrase "acquisition and development of outdoor recreational areas and facilities." As used in this chapter, the phrase "acquisition and development of outdoor recreational areas and facilities" shall be liberally construed in accordance with the broad interpretation suggested by RCW 43.99A.010. It shall include, but shall not be limited to, acquisition of fee simple or any lesser interests in land, and the development of outdoor areas and facilities for either a single recreational use or multiple recreational uses. The preservation of land or water areas in an unspoiled or undeveloped state shall be among the alternatives permissible under this chapter. [1967 ex.s. c 126 § 8.]

43.99A.090 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1967 ex.s. c 126 § 9.]

43.99A.100 Bonds legal investment for funds of state and municipal corporations. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of municipal corporations. [1967 ex.s. c 126 § 10.]

43.99A.110 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November 1968, in accordance with the provisions of section 3, Article (2010 Ed.)

VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1967 ex.s. c 126 § 11.]

Reviser's note: Chapter 43.99A RCW was adopted and ratified by the people at the November 5, 1968, general election (Referendum Bill No. 18). Governor's proclamation declaring approval of measure is dated December 5, 1968. State Constitution Art. 2 § 1(d) provides: "... Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved. . . ."

Chapter 43.99B RCW

OUTDOOR RECREATIONAL AREAS AND FACILITIES—BOND ISSUES

Sections

1979 BOND ISSUE

- 43.99B.010 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.99B.012 Form, terms, conditions, etc., of bonds.
- 43.99B.014 Proceeds to be deposited in outdoor recreation account.
- 43.99B.016 Administration of proceeds.
- 43.99B.018 Retirement of bonds from outdoor recreational bond redemption fund of 1979—Retirement of bonds from general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.99B.020 Definitions.
- 43.99B.022 Legislature may provide additional means for payment of bonds.
- 43.99B.024 Legal investment for public funds.
- 43.99B.026 Severability—1979 ex.s. c 229.

1981 BOND ISSUE

- 43.99B.028 General obligation bonds—Authorized—Issuance, sale terms—Appropriation required.
- 43.99B.030 Proceeds to be deposited in outdoor recreation account—Use.
- 43.99B.032 Administration of proceeds.
- 43.99B.034 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.99B.036 Definitions.
- 43.99B.038 Legislature may provide additional means for payment of bonds.
- 43.99B.040 Legal investment for public funds.
- 43.99B.042 Severability—1981 c 236.

1979 BOND ISSUE

43.99B.010 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the acquisition and development of outdoor recreational areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight million nine hundred forty-five thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized by RCW 43.99B.010 through 43.99B.026 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance. [1987 1st ex.s. c 3 § 11; 1979 ex.s. c 229 § 1.]

Additional notes found at www.leg.wa.gov

43.99B.012 Form, terms, conditions, etc., of bonds. The issuance, sale, and retirement of the bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms,

conditions, and covenants of the bonds; the time or times of sale of all or any portion of them; and the conditions and manner of their sale, issuance, and redemption. None of the bonds authorized in RCW 43.99B.010 through 43.99B.026 may be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of the bonds and notes, if any. The bonds shall be payable at such places as the committee may provide. [1979 ex.s. c 229 § 2.]

43.99B.014 Proceeds to be deposited in outdoor recreation account. The proceeds from the sale of the bonds authorized by RCW 43.99B.010 through 43.99B.026 shall be deposited in the outdoor recreation account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.99B.010 through 43.99B.026 and for the payment of expenses incurred in the issuance and sale of the bonds. [1979 ex.s. c 229 § 3.]

43.99B.016 Administration of proceeds. The proceeds from the sale of the bonds deposited in the outdoor recreation account of the general fund shall be administered by the recreation and conservation funding board, subject to legislative appropriation, and allocated to any agency or department of the state of Washington and, as grants, to public bodies for the acquisition and development of outdoor recreational areas and facilities within the jurisdiction of the agencies, departments, or public bodies. The recreation and conservation funding board may use or permit the use of any funds derived from the sale of the bonds authorized under RCW 43.99B.010 through 43.99B.026 as matching funds in any case where federal, local, or other funds are made available on a matching basis for projects within the purposes of RCW 43.99B.010 through 43.99B.026. [2007 c 241 § 9; 1979 ex.s. c 229 § 4.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

43.99B.018 Retirement of bonds from outdoor recreational bond redemption fund of 1979—Retirement of bonds from general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The outdoor recreational bond redemption fund of 1979 is hereby created in the state treasury, which fund shall be used for the payment of the principal of and interest on the bonds authorized by RCW 43.99B.010 through 43.99B.026. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the outdoor recreational bond redemption fund of 1979 an amount equal to the amount certified by the state finance committee to be due on the payment date.

[Title 43 RCW—page 482]

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st sess. and becomes effective by statute prior to the issuance of any of the bonds authorized by RCW 43.99B.010 through 43.99B.026, the state general obligation bond retirement fund shall be used for purposes of RCW 43.99B.010 through 43.99B.026 in lieu of the outdoor recreational bond redemption fund of 1979, and the outdoor recreational bond redemption fund of 1979 shall cease to exist.

Bonds issued under RCW 43.99B.010 through 43.99B.026 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1979 ex.s. c 229 § 5.]

State general obligation bond retirement fund: RCW 43.83.160.

43.99B.020 Definitions. As used in RCW 43.99B.010 through 43.99B.026, the phrase "acquisition and development of outdoor recreational areas and facilities" shall be liberally construed and shall include, but shall not be limited to, acquisition of fee simple or any lesser interests in land, and the development of outdoor areas and facilities. Swimming pools constructed with proceeds from these bonds may be enclosed at the sponsor's expense. The preservation of land or water areas in an unspoiled or undeveloped state shall be among the alternatives permissible under RCW 43.99B.010 through 43.99B.026.

As used in RCW 43.99B.010 through 43.99B.026, the term "public body" means any political subdivision, taxing district, or municipal corporation of the state of Washington and those Indian tribes now or hereafter recognized as Indian tribes by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants from the state of Washington. [1979 ex.s. c 229 § 6.]

43.99B.022 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99B.010 through 43.99B.026, and RCW 43.99B.010 through 43.99B.026 shall not be deemed to provide an exclusive method for the payment. [1979 ex.s. c 229 § 7.]

43.99B.024 Legal investment for public funds. The bonds authorized in RCW 43.99B.010 through 43.99B.026 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1979 ex.s. c 229 § 8.]

43.99B.026 Severability—1979 ex.s. c 229. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the applica-

tion of the provision to other persons or circumstances is not affected. [1979 ex.s. c 229 § 9.]

1981 BOND ISSUE

43.99B.028 General obligation bonds—Authorized—Issuance, sale terms—Appropriation required. For the purpose of providing funds for the acquisition and development of outdoor recreational areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of thirteen million four hundred thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized by RCW 43.99B.028 through 43.99B.040 may be offered for sale without prior legislative appropriation. [1981 c 236 § 1.]

43.99B.030 Proceeds to be deposited in outdoor recreation account—Use. The proceeds from the sale of the bonds authorized by RCW 43.99B.028 through 43.99B.040 shall be deposited in the outdoor recreation account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.99B.028 through 43.99B.040 and for the payment of expenses incurred in the issuance and sale of the bonds. [1981 c 236 § 2.]

43.99B.032 Administration of proceeds. The proceeds from the sale of the bonds deposited in the outdoor recreation account of the general fund shall be allocated to the recreation and conservation funding board as grants to public bodies for the acquisition and development of outdoor recreational areas and facilities within the jurisdiction of the agencies, departments, or public bodies or to any agency or department of the state of Washington, subject to legislative appropriation. The recreation and conservation funding board may use or permit the use of any funds derived from the sale of the bonds authorized under RCW 43.99B.028 through 43.99B.040 as matching funds in any case where federal, local, or other funds are made available on a matching basis for projects within the purposes of RCW 43.99B.028 through 43.99B.040. [2007 c 241 § 10; 1981 c 236 § 3.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

43.99B.034 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized by RCW 43.99B.028 through 43.99B.040.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to

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the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.99B.028 through 43.99B.040 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1981 c 236 § 4.]

State general obligation bond retirement fund: RCW 43.83.160.

43.99B.036 Definitions. As used in RCW 43.99B.028 through 43.99B.040, the phrase "acquisition and development of outdoor recreational areas and facilities" shall be liberally construed and shall include, but shall not be limited to, acquisition of fee simple or any lesser interests in land and the development of outdoor areas and facilities. Swimming pools constructed with proceeds from these bonds may be enclosed at the sponsor's expense. The preservation of land or water areas in an unspoiled or undeveloped state shall be among the alternatives permissible under RCW 43.99B.028 through 43.99B.040.

As used in RCW 43.99B.028 through 43.99B.040, the term "public body" means any political subdivision, taxing district, or municipal corporation of the state of Washington and those Indian tribes now or hereafter recognized as Indian tribes by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants from the state of Washington. [1981 c 236 § 5.]

43.99B.038 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99B.028 through 43.99B.040, and RCW 43.99B.028 through 43.99B.040 shall not be deemed to provide an exclusive method for the payment. [1981 c 236 § 6.]

43.99B.040 Legal investment for public funds. The bonds authorized in RCW 43.99B.028 through 43.99B.038 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1981 c 236 § 7.]

43.99B.042 Severability—1981 c 236. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 c 236 § 8.]

Chapter 43.99C RCW

HANDICAPPED FACILITIES BOND ISSUE (REFERENDUM 37)

Sections

43.99C.010 Declaration.

- 43.99C.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.99C.020 Definitions.
- 43.99C.025 Bond anticipation notes—Payment.
- 43.99C.030 Form, terms, conditions, etc., of bonds and notes.
- 43.99C.035 Pledge and promise.
- 43.99C.045 Administration of proceeds—Distribution—Transfer of fixed assets.
- 43.99C.047 Prohibition of expenditures not submitted in budget document or schedule—Capital appropriation—Exception—Contents.
- 43.99C.050 Retirement of bonds and notes from 1979 handicapped facilities bond redemption fund—Retirement of bonds and notes from state general obligation bond retirement fund.
- 43.99C.055 Legislature may provide additional means for payment of bonds.
- 43.99C.060 Bonds legal investment for public funds.
- 43.99C.070 Transfers of real property and facilities to nonprofit corporations.

43.99C.010 Declaration. The physical and mental health of the people of the state directly affects the achievement of economic progress and full employment. The establishment of a system of regional and community facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps will provide the improved and convenient services needed for an efficient workforce and a healthy and secure people. [1979 ex.s. c 221 § 1.]

Reviser's note: "This act," chapter 43.99C RCW (1979 ex.s. c 221), was adopted and ratified by the people at the November 6, 1979, general election (Referendum Bill No. 37). State Constitution Art. 2 § 1(d) provides: "... Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved"

Additional notes found at www.leg.wa.gov

43.99C.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of financing the planning, acquisition, construction, renovation, improvement, and equipping of regional and community facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps, the state finance committee is authorized to issue and sell general obligation bonds of the state of Washington in the sum of twenty-five million dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds or bond anticipation notes authorized by this chapter shall be offered for sale without prior legislative appropriation and the bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1979 ex.s. c 221 § 2.]

Additional notes found at www.leg.wa.gov

43.99C.020 Definitions. As used in this chapter, the term "facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps" means real property and any interest therein, equipment, buildings, structures, mobile units, parking facilities, utilities, landscaping, and all incidental improvements and appurtenances thereto, developed and owned by any public body within the state for purposes of the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps when used in the following limited programs as designated by the department of social and health services: nonprofit group training homes, community centers, close to home living units, sheltered workshops, vocational rehabilitation centers,

developmental disability training centers, and community homes for the mentally ill.

As used in this chapter, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof. [1979 ex.s. c 221 § 3.]

Additional notes found at www.leg.wa.gov

43.99C.025 Bond anticipation notes—Payment. When the state finance committee has determined to issue the general obligation bonds, or a portion thereof, it may, pending the issuance of the bonds, issue in the name of the state temporary notes in anticipation of the bonds, which notes shall be designated as "bond anticipation notes." Such portion of the proceeds of the sale of the bonds as may be required for the payment of principal of and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued. [1979 ex.s. c 221 § 4.]

Additional notes found at www.leg.wa.gov

43.99C.030 Form, terms, conditions, etc., of bonds and notes. The state finance committee is authorized to determine the amounts, dates, form, terms, conditions, denominations, interest rates, maturities, rights and manner of redemption prior to maturity, registration privileges, place(s) of payment, and covenants of the bonds and the bond anticipation notes; the time or times of sale of all or any portion of them; and the conditions and manner of their sale, issuance, and redemption. [1979 ex.s. c 221 § 5.]

Additional notes found at www.leg.wa.gov

43.99C.035 Pledge and promise. Each bond and bond anticipation note shall state that it is a general obligation of the state of Washington, shall contain a pledge of the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain the state's unconditional promise to pay the principal and interest as the same shall become due. [1979 ex.s. c 221 § 6.]

Additional notes found at www.leg.wa.gov

43.99C.045 Administration of proceeds—Distribution—Transfer of fixed assets. Subject to legislative appropriation, all principal proceeds of the bonds and bond anticipation notes authorized in this chapter shall be administered by the state department of social and health services exclusively for the purposes specified in this chapter and for the payment of expenses incurred in connection with the sale and issuance of the bonds and bond anticipation notes.

In carrying out the purposes of this chapter all counties of the state shall be eligible to participate in the distribution of the bond proceeds. The share coming to each county shall be determined by a division among all counties according to the relation which the population of each county, as shown by the last federal or official state census, whichever is the later, bears to the total combined population of all counties, as shown by such census; except that, each county with a population of less than twelve thousand shall receive an aggregate amount of up to seventy-five thousand dollars if, through a procedure established in rule, the department has determined there is a demonstrated need and the share determined for

such county is less than seventy-five thousand dollars. No single project in a county with a population of one million or more shall be eligible for more than fifteen percent of such county's total distribution of bond proceeds.

In carrying out the purposes specified in this chapter, the department may use or permit the use of the proceeds by direct expenditures, grants, or loans to any public body, including but not limited to grants to a public body as matching funds in any case where federal, local, or other funds are made available on a matching basis for purposes specified in this chapter.

In carrying out the purpose of this chapter, fixed assets acquired under this chapter, and no longer utilized by the program having custody of the assets, may be transferred to other public bodies either in the same county or another county. Prior to such transfer the department shall first determine if the assets can be used by another program as designated by the department of social and health services in RCW 43.99C.020. Such programs shall have priority in obtaining the assets to ensure the purpose of this chapter is carried out. [1991 c 363 § 121; 1989 c 265 § 1; 1980 c 136 § 1; 1979 ex.s. c 221 § 8.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Additional notes found at www.leg.wa.gov

43.99C.047 Prohibition of expenditures not submitted in budget document or schedule—Capital appropriation—Exception—Contents. (1) No expenditure of funds shall be allowed for facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps which have not been submitted to the legislature in a budget document or schedule as specified in *RCW 43.88.030(3), and have been approved through a capital appropriation; except that, the fiscal committees of the legislature may approve such facilities which have been, not later than December 1, 1980, verified by the department of social and health services as meeting the assessed need of a county and being ready to proceed.

(2) In order to assure compliance with RCW 43.99C.045, such document or schedule shall indicate the population of each county, all requests submitted from each county for participation in the distribution of the bond proceeds, the requests which are proposed to be accepted, and the basis for acceptance. [1980 c 136 § 2.]

***Reviser's note:** RCW 43.88.030 was amended by 2005 c 386 § 3, changing subsection (3) to subsection (5).

Additional notes found at www.leg.wa.gov

43.99C.050 Retirement of bonds and notes from 1979 handicapped facilities bond redemption fund—Retirement of bonds and notes from state general obligation bond retirement fund. The 1979 handicapped facilities bond redemption fund, hereby created in the state treasury, shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds and the bond anticipation notes authorized to be issued under this chapter.

The state finance committee, on or before June 30 of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the pay-

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ment of the principal of and interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenue received in the state treasury and deposit in the 1979 handicapped facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 ex. sess., and becomes effective by statute prior to the issuance of any of the bonds authorized by this chapter, the state general obligation bond retirement fund shall be used for purposes of this chapter in lieu of the 1979 handicapped facilities bond redemption fund, and the 1979 handicapped facilities bond redemption fund shall cease to exist. [1979 ex.s. c 221 § 9.]

State general obligation bond retirement fund: RCW 43.83.160.

Additional notes found at www.leg.wa.gov

43.99C.055 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and the interest on the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for the payment. [1979 ex.s. c 221 § 10.]

Additional notes found at www.leg.wa.gov

43.99C.060 Bonds legal investment for public funds. The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1979 ex.s. c 221 § 11.]

Additional notes found at www.leg.wa.gov

43.99C.070 Transfers of real property and facilities to nonprofit corporations. (1) Public bodies, as defined in RCW 43.99C.020, may transfer without further consideration real property and facilities acquired, constructed, or otherwise improved under this chapter to nonprofit corporations organized to provide services for individuals with physical or mental disabilities, in exchange for the promise to continually operate services benefiting the public on the site, subject to all the conditions in this section. For purposes of this section, "transfer" may include lease renewals. The nonprofit corporation shall use the real property and facilities for the purpose of providing the following limited programs as designated by the department of social and health services: Nonprofit community centers, close-to-home living units, employment and independent living training centers, vocational rehabilitation centers, developmental disabilities training centers, and community homes for individuals with mental illness.

(2) The deed transferring the property in subsection (1) of this section must provide for immediate reversion back to the public body if the nonprofit corporation ceases to use the property for the purposes described in subsection (1) of this section.

(3) The nonprofit corporation is authorized to sell the property transferred to it pursuant to subsection (1) of this section only if all of the following conditions are satisfied: (a) Any such sale must have the prior written approval by the

department of social and health services; (b) all proceeds from such a sale must be applied to the purchase price of a different property or properties of equal or greater value than the original property; (c) any new property or properties must be used for the purposes stated in subsection (1) of this section; (d) the new property or properties must be available for use within one year of sale; and (e) the nonprofit corporation must enter into an agreement with the public entity to reimburse the public entity for the value of the original property at the time of the sale if the nonprofit corporation ceases to use the new property for the purposes described in subsection (1) of this section.

(4) If the nonprofit corporation ceases to use the property for the purposes described in subsection (1) of this section, the property and facilities revert immediately to the public body. The public body shall then determine if the property, or the reimbursed amount in the case of a reimbursement under subsection (3)(e) of this section, may be used by another program as designated by the department of social and health services. These programs have priority in obtaining the property to ensure that the purposes specified in this chapter are carried out. [2006 c 35 § 2.]

Findings—2006 c 35: "The legislature finds that protecting the public health, safety, and welfare by providing services to needy or vulnerable persons is a fundamental purpose of government. The legislature further finds that private nonprofit corporations fill an important public purpose in providing these types of health, safety, and welfare services to our state's residents. Acting through partnerships with governmental entities, these private sector providers are able to increase the amount and quality of these services available to state residents. The legislature finds that ensuring continued provision of these services in the private sector confers a valuable benefit on the public that constitutes consideration for transfer of certain public property and facilities to eligible private nonprofit corporations, subject to restrictions that provide continued protection of the public interest." [2006 c 35 § 1.]

Chapter 43.99D RCW

WATER SUPPLY FACILITIES—1979 BOND ISSUE

Sections

- 43.99D.005 Transfer of duties to the department of health.
- 43.99D.010 Declaration.
- 43.99D.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.99D.020 Proceeds to be deposited in state and local improvements revolving account—Water supply facilities.
- 43.99D.025 Administration of proceeds—Use of funds.
- 43.99D.030 Definitions.
- 43.99D.035 Form, terms, conditions, etc., of bonds.
- 43.99D.040 Anticipation notes—Payment—Pledge and promise—Seal.
- 43.99D.045 Retirement of bonds from 1979 water supply facilities bond redemption fund—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders.
- 43.99D.050 Legislature may provide additional means for payment of bonds.
- 43.99D.055 Bonds legal investment for public funds.
- 43.99D.900 Severability—1979 ex.s. c 258.

43.99D.005 Transfer of duties to the department of health. The powers and duties of the department of social and health services under this chapter shall be performed by the department of health. [1989 1st ex.s. c 9 § 241.]

Additional notes found at www.leg.wa.gov

43.99D.010 Declaration. The development goals for the state of Washington must include the provision of those supportive public services necessary for the development and expansion of industry, commerce, and employment, includ-

ing the furnishing of an adequate supply of water for domestic and industrial purposes. [1979 ex.s. c 258 § 1.]

43.99D.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of water supply facilities within the state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of ten million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within thirty years of the date of issuance. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1979 ex.s. c 258 § 2.]

43.99D.020 Proceeds to be deposited in state and local improvements revolving account—Water supply facilities. The proceeds from the sale of bonds authorized by this chapter, and any interest earned on the interim investment of the proceeds, shall be deposited in the state and local improvements revolving account—water supply facilities in the general fund and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1979 ex.s. c 258 § 3.]

43.99D.025 Administration of proceeds—Use of funds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account—water supply facilities of the general fund under the terms of this chapter shall be administered by the state department of health subject to legislative appropriation. The department may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for which the bonds are issued by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter. [1991 c 3 § 301; 1979 ex.s. c 258 § 4.]

43.99D.030 Definitions. As used in this chapter, the term "water supply facilities" means municipal and industrial water supply and distribution systems including, but not limited to, all equipment, utilities, structures, real property, and interests in and improvements on real property, necessary for or incidental to the acquisition, construction, installation, or use of any municipal and industrial water supply or distribution system.

As used in this chapter, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1979 ex.s. c 258 § 5.]

43.99D.035 Form, terms, conditions, etc., of bonds.

The state finance committee shall prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds authorized by this chapter shall be sold for less than their par value. [1979 ex.s. c 258 § 6.]

43.99D.040 Anticipation notes—Payment—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of the bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes." Such portion of the proceeds of the sale of the bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on the anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1979 ex.s. c 258 § 7.]

43.99D.045 Retirement of bonds from 1979 water supply facilities bond redemption fund—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders. The 1979 water supply facilities bond redemption fund is created in the state treasury. This fund shall be used for the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1979 water supply facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess., and becomes effective by statute prior to the issuance of any of the bonds authorized by this chapter, the state general obligation bond retirement fund shall be used for purposes of this chapter in lieu of the 1979 water supply facilities bond redemption fund, and the water supply facilities bond redemption fund shall cease to exist.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1979 ex.s. c 258 § 8.]

State general obligation bond retirement fund: RCW 43.83.160.

43.99D.050 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the

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principal and interest of the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1979 ex.s. c 258 § 9.]

43.99D.055 Bonds legal investment for public funds.

The bonds authorized by this chapter shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1979 ex.s. c 258 § 10.]

43.99D.900 Severability—1979 ex.s. c 258. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 258 § 13.]

Chapter 43.99E RCW**WATER SUPPLY FACILITIES—1980 BOND ISSUE (REFERENDUM 38)**

Sections

- 43.99E.005 Transfer of duties to the department of health.
- 43.99E.010 Declaration.
- 43.99E.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.99E.020 Deposit of proceeds in state and local improvements revolving account—Water supply facilities—Use.
- 43.99E.025 Administration of proceeds.
- 43.99E.030 Definitions.
- 43.99E.035 Form, terms, conditions, etc., of bonds.
- 43.99E.040 Anticipation notes—Payment—Pledge and promise—Seal.
- 43.99E.045 Retirement of bonds from public water supply facilities bond redemption fund—Remedies of bondholders—Debt-limit general fund bond retirement account.
- 43.99E.050 Legislature may provide additional means for payment of bonds.
- 43.99E.055 Bonds legal investment for public funds.
- 43.99E.900 Severability—1979 ex.s. c 234.

43.99E.005 Transfer of duties to the department of health. The powers and duties of the department of social and health services under this chapter shall be performed by the department of health. [1989 1st ex.s. c 9 § 242.]

Additional notes found at www.leg.wa.gov

43.99E.010 Declaration. The long-range development goals for the state of Washington must include the provision of those supportive public services necessary for the development and expansion of industry, commerce, and employment including the furnishing of an adequate supply of water for domestic, industrial, agricultural, municipal, fishery, recreational, and other beneficial uses. [1979 ex.s. c 234 § 1.]

Reviser's note: "This act," chapter 43.99E RCW (1979 ex.s. c 234), was adopted and ratified by the people at the November 4, 1980, general election (Referendum Bill No. 38). State Constitution Art. 2 § 1(d) provides: "... Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved"

Additional notes found at www.leg.wa.gov

43.99E.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of water supply facilities within the state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in

the sum of sixty-five million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. No bonds authorized by this chapter may be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold. [1990 1st ex.s. c 15 § 8. Prior: 1989 1st ex.s. c 14 § 11; 1989 c 136 § 4; 1979 ex.s. c 234 § 2.]

Intent—1989 c 136: See note following RCW 43.83A.020.

Additional notes found at www.leg.wa.gov

43.99E.020 Deposit of proceeds in state and local improvements revolving account—Water supply facilities—Use. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account—water supply facilities hereby created in the general fund and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1979 ex.s. c 234 § 3.]

Additional notes found at www.leg.wa.gov

43.99E.025 Administration of proceeds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account—water supply facilities of the general fund under the terms of this chapter shall be divided into two shares as follows:

(1) Seventy-five million dollars, or so much thereof as may be required, shall be used for domestic, municipal, and industrial water supply facilities; and

(2) Fifty million dollars, or so much thereof as may be required, shall be used for water supply facilities for agricultural use alone or in combination with fishery, recreational, or other beneficial uses of water.

The share of seventy-five million dollars shall be administered by the department of health and the share of fifty million dollars shall be administered by the department of ecology, subject to legislative appropriation. The administering departments may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for the issuance of the bonds by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter. [1991 c 3 § 302; 1979 ex.s. c 234 § 4.]

Additional notes found at www.leg.wa.gov

43.99E.030 Definitions. As used in this chapter, the term "water supply facilities" means domestic, municipal, industrial, and agricultural (and any associated fishery, recreational, or other beneficial use) water supply or distribution systems including but not limited to all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to the acquisition, construction, installation, or use of any such water supply or distribution system.

As used in this chapter, the term "public body" means the state of Washington or any agency, political subdivision, tax-

ing district, or municipal or public corporation thereof; a board of joint control; an agency of the federal government; and those Indian tribes which may constitutionally receive grants or loans from the state of Washington. [1996 c 320 § 21; 1979 ex.s. c 234 § 5.]

Additional notes found at www.leg.wa.gov

43.99E.035 Form, terms, conditions, etc., of bonds. The state finance committee is authorized to prescribe the forms, terms, conditions, and covenants of the bonds; the time or times of sale of all or any portion of them; and the conditions and manner of their sale and issuance. [1989 c 136 § 5; 1979 ex.s. c 234 § 6.]

Intent—1989 c 136: See note following RCW 43.83A.020.

Additional notes found at www.leg.wa.gov

43.99E.040 Anticipation notes—Payment—Pledge and promise—Seal. When the state finance committee has decided to issue the bonds, or a portion of the bonds, it may, pending the issuance of the bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The portion of the proceeds of the sale of the bonds as may be required for this purpose shall be applied to the payment of the principal of and interest on the anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1979 ex.s. c 234 § 7.]

Additional notes found at www.leg.wa.gov

43.99E.045 Retirement of bonds from public water supply facilities bond redemption fund—Remedies of bondholders—Debt-limit general fund bond retirement account. The public water supply facilities bond redemption fund is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the public water supply facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

If a debt-limit general fund bond retirement account is created in the state treasury by chapter 456, Laws of 1997 and becomes effective prior to the issuance of any of the bonds authorized by this chapter, the debt-limit general fund bond retirement account shall be used for the purposes of this chap-

ter in lieu of the public water supply facilities bond redemption fund. [1997 c 456 § 13; 1979 ex.s. c 234 § 8.]

State general obligation bond retirement fund: RCW 43.83.160.

Additional notes found at www.leg.wa.gov

43.99E.050 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized in this chapter, and this chapter shall not be considered to provide an exclusive method for the payment. [1979 ex.s. c 234 § 9.]

Additional notes found at www.leg.wa.gov

43.99E.055 Bonds legal investment for public funds. The bonds authorized in this chapter shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1979 ex.s. c 234 § 10.]

Additional notes found at www.leg.wa.gov

43.99E.900 Severability—1979 ex.s. c 234. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 234 § 11.]

Additional notes found at www.leg.wa.gov

Chapter 43.99F RCW

WASTE DISPOSAL FACILITIES—1980 BOND ISSUE (REFERENDUM 39)

Sections

43.99F.010	Declaration.
43.99F.020	General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
43.99F.030	Deposit of proceeds in state and local improvements revolving account, Waste Disposal Facilities, 1980—Use.
43.99F.040	Administration of proceeds.
43.99F.050	Definitions.
43.99F.060	Form, terms, conditions, etc., of bonds.
43.99F.070	Anticipation notes—Payment—Pledge and promise—Seal.
43.99F.080	Retirement of bonds from waste disposal facilities bond redemption fund—Remedies of bondholders—Debt-limit general fund bond retirement account.
43.99F.090	Legislature may provide additional means for payment of bonds.
43.99F.100	Bonds legal investment for public funds.
43.99F.110	Referral to electorate.

43.99F.010 Declaration. The long-range development goals for the state of Washington must include the protection of the resources and environment of the state, the health and safety of its people, and the beneficial uses of water by providing facilities and systems, among others, for the general control, collection, treatment, or disposal of nonradioactive solid and nonradioactive liquid waste materials. The purpose of this chapter is to assist the state and local governments in providing that protection but it is not the purpose of this chapter to provide funding for facilities which encourage development. A high priority in the expenditure of these funds shall be the protection of sole-source aquifers designated pursuant to the federal Safe Drinking Water Act (88 Stat. 1660) which aquifers have been designated as of July 24, 1983. [1983 c 269 § 1; 1980 c 159 § 1.]

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43.99F.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds to public bodies for the planning, design, acquisition, construction, and improvement of public waste disposal and management facilities, or for purposes of assisting a public body to obtain an ownership interest in waste disposal and management facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW 70.150.060, in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of three hundred thirty million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto. The department may not use or permit the use of any funds derived from the sale of bonds authorized by this chapter for: (1) the support of a solid waste recycling activity or service in a locale if the department determines that the activity or service is reasonably available to persons within that locale from private enterprise; or (2) the construction of municipal wastewater facilities unless said facilities have been approved by a general purpose unit of local government in accordance with chapter 36.94 RCW, chapter 35.67 RCW, or RCW 57.16.010. These bonds shall be paid and discharged within thirty years of the date of issuance. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold. [1996 c 230 § 1611; 1990 1st ex.s. c 15 § 9. Prior: 1989 1st ex.s. c 14 § 12; 1989 c 136 § 6; 1987 c 436 § 2; 1980 c 159 § 2.]

Intent—1989 c 136: See note following RCW 43.83A.020.

Additional notes found at www.leg.wa.gov

43.99F.030 Deposit of proceeds in state and local improvements revolving account, Waste Disposal Facilities, 1980—Use. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account, Waste Disposal Facilities, 1980 hereby created in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 44; 1985 c 57 § 56; 1980 c 159 § 3.]

Additional notes found at www.leg.wa.gov

43.99F.040 Administration of proceeds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account, Waste Disposal Facilities, 1980 of the general fund under the terms of this chapter shall be administered by the state department of ecology subject to legislative appropriation. The department may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for which the bonds are issued by direct expenditures and by grants or loans to public bodies, including grants to public bodies as cost-sharing funds in any case where federal, local, or other funds are made available on a cost-sharing basis for improvements within the purposes of this chapter. The department shall ensure that funds derived from the sale of bonds authorized under this chapter do not constitute more than seventy-

five percent of the total cost of any waste disposal or management facility. Not more than two percent of the proceeds of the bond issue may be used by the department of ecology in relation to the administration of the expenditures, grants, and loans.

At least one hundred fifty million dollars of the proceeds of the bonds authorized by this chapter shall be used exclusively for waste management systems capable of producing renewable energy or energy savings as a result of the management of the wastes. "Renewable energy" means, but is not limited to, the production of steam, hot water for steam heat, electricity, cogeneration, gas, or fuel through the use of wastes by incineration, refuse-derived fuel processes, pyrolysis, hydrolysis, or bioconversion, and energy savings through material recovery from waste source separation and/or recycling.

Integration of the management and operation of systems for solid waste disposal with systems of liquid waste disposal holds promise of improved waste disposal efficiency and greater environmental protection and restoration. To encourage the planning for and development of such integration, the department may provide for special grant incentives to public bodies which plan for or operate integrated waste disposal management systems.

Funds provided for waste disposal and management facilities under this chapter may be used for payments to a service provider under a service agreement pursuant to RCW 70.150.060. If funds are to be used for such payments, the department may make periodic disbursements to a public body or may make a single lump sum disbursement. Disbursements of funds with respect to a facility owned or operated by a service provider shall be equivalent in value to disbursements that would otherwise be made if that facility were owned or operated by a public body. Payments under this chapter for waste disposal and management facilities made to public bodies entering into service agreements pursuant to RCW 70.150.060 shall not exceed amounts paid to public bodies not entering into service agreements. [1998 c 245 § 80; 1996 c 37 § 1; 1987 c 436 § 3; 1980 c 159 § 4.]

43.99F.050 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Waste disposal and management facilities" means any facilities or systems for the control, collection, storage, treatment, disposal, recycling, or recovery of nonradioactive liquid wastes or nonradioactive solid wastes, or a combination thereof, including but not limited to, sanitary sewage, storm water, residential, industrial, commercial, and agricultural wastes, and concentrations of organic sediments waste, inorganic nutrients, and toxic materials which are causing environmental degradation and loss of the beneficial use of the environment, and material segregated into recyclables and nonrecyclables. Waste disposal and management facilities may include all equipment, utilities, structures, real property, and interest in and improvements on real property necessary for or incidental to such purpose. As used in this chapter, the phrase "waste disposal and management facilities" shall not include the acquisition of equipment used to collect residential or commercial garbage.

(2) "Public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal corporation thereof, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government.

(3) "Control" means those measures necessary to maintain and/or restore the beneficial uses of polluted land and water resources including, but not limited to, the diversion, sedimentation, flocculation, dredge and disposal, or containment or treatment of nutrients, organic waste, and toxic material to restore the beneficial use of the state's land and water resources and prevent the continued pollution of these resources.

(4) "Planning" means the development of comprehensive plans for the purpose of identifying statewide or regional needs for specific waste disposal facilities as well as the development of plans specific to a particular project.

(5) "Department" means the department of ecology. [1987 c 436 § 4; 1980 c 159 § 5.]

43.99F.060 Form, terms, conditions, etc., of bonds.

The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. [1989 c 136 § 7; 1980 c 159 § 6.]

Intent—1989 c 136: See note following RCW 43.83A.020.

43.99F.070 Anticipation notes—Payment—Pledge and promise—Seal. When the state finance committee has decided to issue the bonds, or a portion thereof, it may, pending the issuing of the bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes." Such portion of the proceeds of the sale of the bonds as may be required for this purpose shall be applied to the payment of the principal of and interest on any of these anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1980 c 159 § 7.]

43.99F.080 Retirement of bonds from waste disposal facilities bond redemption fund—Remedies of bondholders—Debt-limit general fund bond retirement account. The waste disposal facilities bond redemption fund shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds and the bond anticipation notes authorized to be issued under this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in

the state treasury and deposit in the waste disposal facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this chapter.

If a debt-limit general fund bond retirement account is created in the state treasury by chapter 456, Laws of 1997 and becomes effective prior to the issuance of any of the bonds authorized by this chapter, the debt-limit general fund bond retirement account shall be used for the purposes of this chapter in lieu of the waste disposal facilities bond redemption fund. [1997 c 456 § 14; 1980 c 159 § 8.]

Additional notes found at www.leg.wa.gov

43.99F.090 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1980 c 159 § 9.]

43.99F.100 Bonds legal investment for public funds. The bonds authorized in this chapter shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1980 c 159 § 10.]

43.99F.110 Referral to electorate. This act shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1980, in accordance with the provisions of Article VIII, section 3, of the Constitution of the state of Washington, and in accordance with the provisions of Article II, section 1, of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1980 c 159 § 12.]

Reviser's note: "This act," chapter 43.99F RCW, was adopted and ratified by the people at the November 4, 1980, general election (Referendum Bill No. 39). State Constitution Art. 2 § 1(d) provides: ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved . . ."

**Chapter 43.99G RCW
BONDS FOR CAPITAL PROJECTS**

Sections

1985 BOND ISSUE

- 43.99G.010 General obligation bonds authorized—Terms—Appropriation required—Short-term obligations.
- 43.99G.020 Conditions and limitations—Deposit of proceeds—Administration.
- 43.99G.030 Retirement of bonds from debt-limit general fund bond retirement account.
- 43.99G.040 Retirement of bonds from nondebt-limit reimbursable bond retirement account.
- 43.99G.050 Retirement of bonds from debt-limit general fund bond retirement account.
- 43.99G.060 Pledge and promise—Remedies of bondholders.
- 43.99G.070 Institutions of higher education—Apportionment of principal and interest payments—Transfer of moneys to general fund.
- 43.99G.080 Legislature may provide additional means for payment of bonds.
- 43.99G.090 Bonds legal investment for public funds.

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1987 BOND ISSUE

- 43.99G.100 General obligation bonds authorized—Terms—Appropriation required—Short-term obligations.
- 43.99G.102 Conditions and limitations—Deposit of proceeds—Administration.
- 43.99G.104 Retirement of bonds from debt-limit general fund bond retirement account.
- 43.99G.108 Pledge and promise—Remedies of bondholders.
- 43.99G.112 Legislature may provide additional means for payment of bonds.
- 43.99G.114 Bonds legal investment for public funds.

2002 BOND ISSUE

- 43.99G.120 General obligation bonds authorized.
- 43.99G.122 Proceeds—Deposit—Use.
- 43.99G.124 Retirement of bonds from debt-limit general fund bond retirement account.
- 43.99G.126 Pledge and promise—Remedies of bondholders.
- 43.99G.128 Additional means for payment of bonds.
- 43.99G.130 Bonds legal investment for public funds.

2006 BOND ISSUE FOR STATE CORRECTIONAL FACILITIES

- 43.99G.150 General obligation bonds authorized.
- 43.99G.152 Proceeds—Deposit—Use.
- 43.99G.154 Retirement of bonds from debt-limit general fund bond retirement account—Pledge and promise—Remedies of bondholders.
- 43.99G.156 Additional means for payment of bonds.
- 43.99G.158 Bonds legal investment for public funds.

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CONSTRUCTION

- 43.99G.900 Severability—1985 ex.s. c 4.
- 43.99G.901 Severability—1987 1st ex.s. c 3.
- 43.99G.902 Severability—2002 c 240.
- 43.99G.903 Effective date—2002 c 240.
- 43.99G.904 Severability—2006 c 167.
- 43.99G.905 Effective date—2006 c 167.

1985 BOND ISSUE

43.99G.010 General obligation bonds authorized—Terms—Appropriation required—Short-term obligations. The state finance committee is authorized to issue gen-

eral obligation bonds of the state of Washington in the sum of two hundred eighty-five million eight hundred fifty-one thousand dollars, or so much thereof as may be required, to finance the projects authorized in RCW 43.99G.020 and all costs incidental thereto.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance or letters of credit and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1985 ex.s. c 4 § 1.]

43.99G.020 Conditions and limitations—Deposit of proceeds—Administration. Bonds issued under RCW 43.99G.010 are subject to the following conditions and limitations:

(1) General obligation bonds of the state of Washington in the sum of thirty-eight million fifty-four thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for grants and loans to local governments and subdivisions of the state for capital projects through the community economic revitalization board and for the department of general administration, military department, parks and recreation commission, and department of corrections to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of general administration, subject to legislative appropriation.

(2) General obligation bonds of the state of Washington in the sum of four million six hundred thirty-five thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the planning, design, acquisition, construction, and improvement of a

Washington state agricultural trade center, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered as provided in the capital budget acts, subject to legislative appropriation.

(3) General obligation bonds of the state of Washington in the sum of twenty-five million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the department of social and health services and the department of corrections to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, and grounds, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the social and health services construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of social and health services, subject to legislative appropriation.

(4) General obligation bonds of the state of Washington in the sum of one million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the *department of fisheries to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the fisheries capital projects account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of fisheries, subject to legislative appropriation.

(5) General obligation bonds of the state of Washington in the sum of fifty-three million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for state agencies and the institutions of higher education, including the community colleges, to perform capital renewal projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equip-

ping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state facilities renewal account hereby created in the state treasury, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered as provided in the capital budget acts, subject to legislative appropriation.

(6) General obligation bonds of the state of Washington in the sum of twenty-two million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the University of Washington and the state community colleges to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, improving, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the higher education reimbursable short-term bond account hereby created in the state treasury, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the University of Washington, subject to legislative appropriation.

(7) General obligation bonds of the state of Washington in the sum of twenty-eight million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the institutions of higher education to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the higher education construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by Washington State University, subject to legislative appropriation.

(8) General obligation bonds of the state of Washington in the sum of seventy-five million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the institutions of higher education, including facilities for the community college system, to perform capi-

tal projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account in the state treasury and shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection. [1989 1st ex.s. c 14 § 13; 1988 c 36 § 22; 1986 c 103 § 1; 1985 ex.s. c 4 § 2.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

Additional notes found at www.leg.wa.gov

43.99G.030 Retirement of bonds from debt-limit general fund bond retirement account. Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99G.020 (1) through (6) shall be payable from the debt-limit general fund bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account such amounts and at such times as are required by the bond proceedings. [1997 c 456 § 15; 1989 1st ex.s. c 14 § 19; 1985 ex.s. c 4 § 3.]

Additional notes found at www.leg.wa.gov

43.99G.040 Retirement of bonds from nondebt-limit reimbursable bond retirement account. Both principal of and interest on the bonds issued for the purposes of RCW 43.99G.020(7) shall be payable from the nondebt-limit reimbursable bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit reimbursable bond retirement account such amounts and at such times as are required by the bond proceedings. [1997 c 456 § 16; 1989 1st ex.s. c 14 § 20; 1985 ex.s. c 4 § 4.]

Additional notes found at www.leg.wa.gov

43.99G.050 Retirement of bonds from debt-limit general fund bond retirement account. Both principal of and interest on the bonds issued for the purposes of RCW

43.99G.020(8) shall be payable from the debt-limit general fund bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account such amounts and at such times as are required by the bond proceedings. [1997 c 456 § 17; 1989 1st ex.s. c 14 § 21; 1985 ex.s. c 4 § 5.]

Additional notes found at www.leg.wa.gov

43.99G.060 Pledge and promise—Remedies of bondholders. Bonds issued under RCW 43.99G.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1985 ex.s. c 4 § 6.]

43.99G.070 Institutions of higher education—Apportionment of principal and interest payments—Transfer of moneys to general fund. On or before June 30th of each year and in accordance with the provisions of the bond proceedings the state finance committee shall determine the relative shares of the principal and interest payments determined pursuant to RCW 43.99G.040, exclusive of deposit interest credit, attributable to each of the institutions of higher education in proportion to the principal amount of bonds issued for the purposes of RCW 43.99G.020(7) for projects for each institution. On each date on which any interest or principal and interest payment is due, the board of regents or the board of trustees of each institution of higher education shall cause the amount so computed to be paid out of the appropriate building account or capital projects account to the state treasurer for deposit into the general fund of the state treasury. [1989 1st ex.s. c 14 § 22; 1985 ex.s. c 4 § 7.]

Additional notes found at www.leg.wa.gov

43.99G.080 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.010, and RCW 43.99G.030 through 43.99G.050 shall not be deemed to provide an exclusive method for the payment. [1985 ex.s. c 4 § 8.]

43.99G.090 Bonds legal investment for public funds. The bonds authorized in RCW 43.99G.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1985 ex.s. c 4 § 9.]

[Title 43 RCW—page 494]

43.99G.100 General obligation bonds authorized—Terms—Appropriation required—Short-term obligations. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of four hundred twelve million three hundred thousand dollars, or so much thereof as may be required, to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1987-1989 fiscal biennium and subsequent fiscal biennia, and all costs incidental thereto.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance or letters of credit and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1987 1st ex.s. c 3 § 1.]

43.99G.102 Conditions and limitations—Deposit of proceeds—Administration. Bonds issued under RCW 43.99G.100 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of four hundred four million four hundred thousand dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1987-1989 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited as follows:

One hundred forty million five hundred thousand dollars in the state building construction account created in RCW 43.83.020.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the office of financial management, subject to legislative

appropriation. [1989 1st ex.s. c 14 § 14; 1987 1st ex.s. c 3 § 2.]

Additional notes found at www.leg.wa.gov

43.99G.104 Retirement of bonds from debt-limit general fund bond retirement account. Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99G.102 shall be payable from the debt-limit general fund bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account such amounts and at such times as are required by the bond proceedings. [1997 c 456 § 18; 1989 1st ex.s. c 14 § 23; 1987 1st ex.s. c 3 § 3.]

Additional notes found at www.leg.wa.gov

43.99G.108 Pledge and promise—Remedies of bondholders. Bonds issued under RCW 43.99G.100 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1987 1st ex.s. c 3 § 5.]

43.99G.112 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.100 and 43.99G.104 shall not be deemed to provide an exclusive method for the payment. [1989 1st ex.s. c 14 § 24; 1987 1st ex.s. c 3 § 7.]

Additional notes found at www.leg.wa.gov

43.99G.114 Bonds legal investment for public funds. The bonds authorized in RCW 43.99G.100 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1987 1st ex.s. c 3 § 8.]

2002 BOND ISSUE

43.99G.120 General obligation bonds authorized. For the purpose of providing funds for the construction, reconstruction, planning, design, and other necessary costs of the various facilities defined in chapter 238, Laws of 2002, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eighty-nine million seven hundred thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be

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offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2002 c 240 § 1.]

Reviser's note: 2002 c 240 directed that "sections 1 through 6 of this act" be codified as a new chapter in Title 43 RCW. "Sections 1 through 6 of this act" have been codified as RCW 43.99G.120 through 43.99G.130, in the chapter dealing with bonds for capital projects.

43.99G.122 Proceeds—Deposit—Use. (1) The proceeds from the sale of the bonds authorized in RCW 43.99G.120 shall be deposited in the state building construction account created by RCW 43.83.020, with eighty-seven million five hundred thousand dollars to remain in the state building construction account created by RCW 43.83.020. If the state finance committee deems it necessary to issue the bonds authorized in RCW 43.99G.120 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

(2) These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2002 c 240 § 2.]

43.99G.124 Retirement of bonds from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.120.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99G.120.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99G.120 the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2002 c 240 § 3.]

43.99G.126 Pledge and promise—Remedies of bondholders. (1) Bonds issued under RCW 43.99G.120 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the trans-

fer and payment of funds as directed in this section. [2002 c 240 § 4.]

43.99G.128 Additional means for payment of bonds.

The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.120, and RCW 43.99G.122 and 43.99G.124 shall not be deemed to provide an exclusive method for the payment. [2002 c 240 § 5.]

43.99G.130 Bonds legal investment for public funds.

The bonds authorized in RCW 43.99G.120 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2002 c 240 § 6.]

2006 BOND ISSUE FOR
STATE CORRECTIONAL FACILITIES

43.99G.150 General obligation bonds authorized.

For the purpose of providing funds for state correctional facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of fifty-nine million three hundred thousand dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2006 c 167 § 101.]

Reviser's note: 2006 c 167 § 501 directed that "sections 101 through 105 of this act" be codified as a new chapter in Title 43 RCW. "Sections 101 through 105 of this act" have been codified in chapter 43.99G RCW, concerning bonds for capital projects, under the subchapter heading "2006 Bond Issue for State Correctional Facilities."

43.99G.152 Proceeds—Deposit—Use. The proceeds from the sale of the bonds authorized in RCW 43.99G.150 shall be deposited in the state building construction account created in RCW 43.83.020. If the state finance committee deems it necessary to issue the bonds authorized in RCW 43.99G.150 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposit otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. The proceeds shall be used exclusively for the purposes specified in RCW 43.99G.150 and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management, subject to legislative appropriation. [2006 c 167 § 102.]

43.99G.154 Retirement of bonds from debt-limit general fund bond retirement account—Pledge and promise—Remedies of bondholders. The debt-limit general fund bond retirement account shall be used for the pay-

ment of the principal of and interest on the bonds authorized in RCW 43.99G.150.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.99G.150 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2006 c 167 § 103.]

43.99G.156 Additional means for payment of bonds.

The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.150, and RCW 43.99G.154 shall not be deemed to provide an exclusive method for the payment. [2006 c 167 § 104.]

43.99G.158 Bonds legal investment for public funds.

The bonds authorized in RCW 43.99G.150 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2006 c 167 § 105.]

2006 BOND ISSUE FOR THE COLUMBIA RIVER BASIN
WATER SUPPLY DEVELOPMENT PROGRAM

43.99G.160 General obligation bonds authorized.

For the purpose of providing funds for the Columbia river basin water supply development program, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two hundred million dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2006 c 167 § 201.]

Reviser's note: 2006 c 167 § 502 directed that "sections 201 through 206 of this act" be codified as a new chapter in Title 43 RCW. "Sections 201 through 206 of this act" have been codified in chapter 43.99G RCW, concerning bonds for capital projects, under the subchapter heading "2006 Bond Issue for the Columbia River Basin Water Supply Development Program."

43.99G.161 Appropriation of bond proceeds over multiple biennia. It is the intent of the legislature that the proceeds of the new bonds authorized in RCW 43.99G.160 will be appropriated in phases over five biennia, beginning with the 2005-2007 biennium. This is not intended to limit

the legislature's ability to appropriate bond proceeds if the full amount authorized in RCW 43.99G.160 has not been appropriated after five biennia. The authorization to issue bonds contained in RCW 43.99G.160 does not expire until the full authorization has been appropriated and issued. [2006 c 167 § 202.]

43.99G.162 Proceeds—Deposit—Use. The proceeds from the sale of the bonds authorized in RCW 43.99G.160 shall be deposited in the Columbia river basin water supply development account created in chapter 6, Laws of 2006. If the state finance committee deems it necessary to issue the bonds authorized in RCW 43.99G.160 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposit otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. The proceeds shall be used exclusively for the purposes specified in RCW 43.99G.160 and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management, subject to legislative appropriation. [2006 c 167 § 203.]

43.99G.164 Retirement of bonds from debt-limit general fund bond retirement account—Pledge and promise—Remedies of bondholders. The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.160.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.99G.160 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2006 c 167 § 204.]

43.99G.166 Additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.160, and RCW

43.99G.164 shall not be deemed to provide an exclusive method for the payment. [2006 c 167 § 205.]

43.99G.168 Bonds legal investment for public funds. The bonds authorized in RCW 43.99G.160 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2006 c 167 § 206.]

2006 BOND ISSUE FOR THE HOOD CANAL
AQUATIC REHABILITATION PROGRAM

43.99G.170 General obligation bonds authorized. For the purpose of providing funds for the Hood Canal aquatic rehabilitation program, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of six million nine hundred twenty thousand dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2006 c 167 § 301.]

Reviser's note: 2006 c 167 § 503 directed that "sections 301 through 307 of this act" be codified as a new chapter in Title 43 RCW. "Sections 301 through 307 of this act" have been codified in chapter 43.99G RCW, concerning bonds for capital projects, under the subchapter heading "2006 Bond Issue for the Hood Canal Aquatic Rehabilitation Program."

43.99G.171 Appropriation of bond proceeds—Use for wastewater and clean water improvement projects. (1) It is the intent of the legislature that the proceeds of the new bonds authorized in RCW 43.99G.170 will be appropriated in the 2005-2007 biennium.

(2) A portion of the bonds issued under RCW 43.99G.170 are intended to be used for wastewater and clean water improvement projects at state parks as part of the Hood Canal aquatic rehabilitation program. State parks intended to be improved by the bond proceeds authorized in RCW 43.99G.170 include, but are not limited to, the following:

- (a) Approximately one hundred thousand dollars for Twanoh state park;
- (b) Approximately one million two hundred thousand dollars for Dosewallips state park;
- (c) Approximately seven hundred thousand dollars for Belfair state park;
- (d) Approximately one million fifty thousand dollars for Potlatch state park;
- (e) Approximately five hundred thousand dollars for Kit-sap Memorial state park;
- (f) Approximately nine hundred thousand dollars for Scenic Beach state park;
- (g) Approximately three hundred thousand dollars for Twanoh and Triton Cove state parks;
- (h) Approximately eight hundred fifty thousand dollars for Shine Tideland state park;
- (i) Approximately one hundred fifty thousand dollars for Pleasant Harbor state park; and
- (j) Approximately one hundred seventy thousand dollars for Triton Cove state park. [2006 c 167 § 302.]

43.99G.172 Proceeds—Deposit—Use. The proceeds from the sale of the bonds authorized in RCW 43.99G.170 shall be deposited in the Hood Canal aquatic rehabilitation bond account created in RCW 43.99G.179. If the state finance committee deems it necessary to issue the bonds authorized in RCW 43.99G.170 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposit otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. The proceeds shall be used exclusively for the purposes specified in RCW 43.99G.170 and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management, subject to legislative appropriation. [2006 c 167 § 303.]

43.99G.174 Retirement of bonds from debt-limit general fund bond retirement account—Pledge and promise—Remedies of bondholders. The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.170.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.99G.170 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2006 c 167 § 304.]

43.99G.176 Additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.170, and RCW 43.99G.174 shall not be deemed to provide an exclusive method for the payment. [2006 c 167 § 305.]

43.99G.178 Bonds legal investment of public funds. The bonds authorized in RCW 43.99G.170 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2006 c 167 § 306.]

43.99G.179 Hood Canal aquatic rehabilitation bond account. The Hood Canal aquatic rehabilitation bond account is created in the state treasury. All receipts from proceeds from the bonds issued under RCW 43.99G.170 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for programs and projects to protect and restore Hood Canal, including implementing RCW 90.88.020 and 90.88.030. [2006 c 167 § 307.]

2006 BOND ISSUE FOR
PUGET SOUND REHABILITATION

43.99G.180 General obligation bonds authorized. For the purpose of providing funds for the rehabilitation of Puget Sound, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seven million three hundred seventy-five thousand dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2006 c 167 § 401.]

Reviser's note: 2006 c 167 § 504 directed that "sections 401 through 406 of this act" be codified as a new chapter in Title 43 RCW. "Sections 401 through 406 of this act" have been codified in chapter 43.99G RCW, concerning bonds for capital projects, under the subchapter heading "2006 Bond Issue for Puget Sound Rehabilitation."

43.99G.181 Appropriation of bond proceeds—Use for wastewater and clean water improvement projects. (1) It is the intent of the legislature that the proceeds of the new bonds authorized in RCW 43.99G.180 will be appropriated in the 2005-2007 biennium.

(2) The bonds issued under RCW 43.99G.180 are intended to be used for wastewater and clean water improvement projects at state parks as part of the rehabilitation of Puget Sound. State parks intended to be improved by the bond proceeds authorized in RCW 43.99G.180 include, but are not limited to, the following:

(a) Approximately one hundred twenty-five thousand dollars for Sequim Bay state park;

(b) Approximately seven hundred fifty thousand dollars for Fort Flagler state park;

(c) Approximately seven hundred fifty thousand dollars for Larabee state park;

(d) Approximately three hundred thousand dollars for Fort Worden state park;

(e) Approximately three hundred thousand dollars for Camano Island state park;

(f) Approximately three hundred fifty thousand dollars for Deception Pass state park;

(g) Approximately two hundred fifty thousand dollars for Possession Point;

(h) Approximately one million one hundred thousand dollars for Illahee state park;

(i) Approximately one million two hundred thousand dollars for Kopachuck state park;

(j) Approximately seven hundred thousand dollars for Penrose Point state park;

(k) Approximately two hundred fifty thousand dollars for Blake Island state park; and

(l) Approximately one million three hundred thousand dollars for Fay Bainbridge state park. [2006 c 167 § 402.]

43.99G.182 Proceeds—Deposit—Use. The proceeds from the sale of the bonds authorized in RCW 43.99G.180 shall be deposited in the state building construction account created in RCW 43.83.020. If the state finance committee deems it necessary to issue the bonds authorized in RCW 43.99G.180 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposit otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. The proceeds shall be used exclusively for the purposes specified in RCW 43.99G.180 and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management, subject to legislative appropriation. [2006 c 167 § 403.]

43.99G.184 Retirement of bonds from debt-limit general fund bond retirement account—Pledge and promise—Remedies of bondholders. The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.180.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.99G.180 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2006 c 167 § 404.]

43.99G.186 Additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.180, and RCW

43.99G.184 shall not be deemed to provide an exclusive method for the payment. [2006 c 167 § 405.]

43.99G.188 Bonds legal investment of public funds. The bonds authorized in RCW 43.99G.180 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2006 c 167 § 406.]

CONSTRUCTION

43.99G.900 Severability—1985 ex.s. c 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 ex.s. c 4 § 16.]

43.99G.901 Severability—1987 1st ex.s. c 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 1st ex.s. c 3 § 13.]

43.99G.902 Severability—2002 c 240. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2002 c 240 § 10.]

43.99G.903 Effective date—2002 c 240. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 28, 2002]. [2002 c 240 § 11.]

43.99G.904 Severability—2006 c 167. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2006 c 167 § 505.]

43.99G.905 Effective date—2006 c 167. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 22, 2006]. [2006 c 167 § 506.]

Chapter 43.99H RCW

FINANCING FOR APPROPRIATIONS—
1989-1991 BIENNIUM

Sections

- 43.99H.010 1989-1991 Fiscal biennium—General obligation bonds for capital and operating appropriations act.
- 43.99H.020 Conditions and limitations.
- 43.99H.030 Retirement of bonds.
- 43.99H.040 Retirement of bonds.
- 43.99H.050 Pledge and promise—Remedies.
- 43.99H.060 Reimbursement of general fund.
- 43.99H.070 East capitol campus construction account—Additional means of reimbursement.
- 43.99H.080 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Additional means for payment of principal and interest.

- 43.99H.090 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Legal investment.
 43.99H.900 Severability—1989 1st ex.s. c 14.
 43.99H.901 Effective dates—1989 1st ex.s. c 14.

43.99H.010 1989-1991 Fiscal biennium—General obligation bonds for capital and operating appropriations act. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion four hundred four million dollars, or so much thereof as may be required, to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1989-1991 fiscal biennium and subsequent fiscal biennia, and all costs incidental thereto, and to provide for reimbursement of bond-funded accounts from the 1987-1989 fiscal biennium.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance, letters of credit, or other credit enhancements and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1990 1st ex.s. c 15 § 1; 1989 1st ex.s. c 14 § 1.]

Additional notes found at www.leg.wa.gov

43.99H.020 Conditions and limitations. Bonds issued under RCW 43.99H.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion four hundred four million dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1989-91 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects, and to provide for reimbursement of bond-funded accounts from the 1987-89 fiscal biennium. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

(1) Thirty million dollars to the state and local improvements revolving account—waste disposal facilities, created by RCW 43.83A.030, to be used for the purposes described in RCW 43.83A.020;

(2) Five million three hundred thousand dollars to the salmon enhancement construction account created by *RCW 75.48.030;

(3) One hundred twenty million dollars to the state and local improvements revolving account—waste disposal facilities, 1980 created by RCW 43.99F.030, to be used for the purposes described in RCW 43.99F.020;

(4) Forty million dollars to the common school construction fund as referenced in RCW 28A.515.320.

(5) Three million two hundred thousand dollars to the state higher education construction account created by RCW 28B.10.851;

(6) Eight hundred five million dollars to the state building construction account created by RCW 43.83.020;

(7) Nine hundred fifty thousand dollars to the higher education reimbursable short-term bond account created by RCW 43.99G.020(6);

(8) Twenty-nine million seven hundred thirty thousand dollars to the outdoor recreation account created by **RCW 43.99.060;

(9) Sixty million dollars to the state and local improvements revolving account—water supply facilities, created by RCW 43.99E.020 to be used for the purposes described in chapter 43.99E RCW;

(10) Four million three hundred thousand dollars to the state social and health services construction account created by RCW 43.83H.030;

(11) Two hundred fifty thousand dollars to the fisheries capital projects account created by RCW 43.83I.040;

(12) Four million nine hundred thousand dollars to the state facilities renewal account created by RCW 43.99G.020(5);

(13) Two million three hundred thousand dollars to the essential rail assistance account created by ***RCW 47.76.030;

(14) One million one hundred thousand dollars to the essential rail bank account hereby created in the state treasury;

(15) Seventy-three million dollars to the east capitol campus construction account hereby created in the state treasury;

(16) Eight million dollars to the higher education construction account created in RCW 28B.14D.040;

(17) Sixty-three million two hundred thousand dollars to the labor and industries construction account hereby created in the state treasury;

(18) Seventy-five million dollars to the higher education construction account created by RCW 28B.14D.040;

(19) Twenty-six million five hundred fifty thousand dollars to the habitat conservation account hereby created in the state treasury; and

(20) Eight million dollars to the public safety reimbursable bond account hereby created in the state treasury.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by

the office of financial management, subject to legislative appropriation.

Bonds authorized for the purposes of subsection (17) of this section shall be issued only after the director of the department of labor and industries has certified, based on reasonable estimates, that sufficient revenues will be available from the accident fund created in RCW 51.44.010 and the medical aid fund created in RCW 51.44.020 to meet the requirements of RCW 43.99H.060(4) during the life of the bonds.

Bonds authorized for the purposes of subsection (18) of this section shall be issued only after the board of regents of the University of Washington has certified, based on reasonable estimates, that sufficient revenues will be available from nonappropriated local funds to meet the requirements of RCW 43.99H.060(4) during the life of the bonds. [1990 1st ex.s. c 15 § 2; 1990 c 33 § 582; 1989 1st ex.s. c 14 § 2.]

Reviser's note: (1) This section was amended by 1990 c 33 § 582 and by 1990 1st ex.s. c 15 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

*(2) RCW 75.48.030 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

** (3) RCW 43.99.060 was recodified as RCW 79A.25.060 pursuant to 1999 c 249 § 1601.

*** (4) RCW 47.76.030 was recodified as RCW 47.76.250 pursuant to 1993 c 224 § 15.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

43.99H.030 Retirement of bonds. Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99H.020 (1) through (3), (5) through (14), and (19) shall be payable from the debt-limit general fund bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account such amounts and at such times as are required by the bond proceedings. [1997 c 456 § 19; 1991 sp.s. c 31 § 13; 1990 1st ex.s. c 15 § 4; 1989 1st ex.s. c 14 § 3.]

Additional notes found at www.leg.wa.gov

43.99H.040 Retirement of bonds. (1) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(16) shall be payable from the nondebt-limit reimbursable bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit reimbursable bond retirement account such amounts and at such times as are required by the bond proceedings.

(2010 Ed.)

(2) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(15) shall be payable from the debt-limit reimbursable bond retirement account and nondebt-limit reimbursable bond retirement account as set forth under RCW 43.99H.060(2).

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit reimbursable bond retirement account and nondebt-limit reimbursable bond retirement account as set forth under RCW 43.99H.060(2) such amounts and at such times as are required by the bond proceedings.

(3) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(17) shall be payable from the nondebt-limit proprietary appropriated bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit proprietary appropriated bond retirement account such amounts and at such times as are required by the bond proceedings.

(4) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(18) shall be payable from the nondebt-limit reimbursable bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit reimbursable bond retirement account such amounts and at such times as are required by the bond proceedings.

(5) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(20) shall be payable from the nondebt-limit reimbursable bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit reimbursable bond retirement account such amounts and at such times as are required by the bond proceedings.

(6) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(4) shall be payable from the nondebt-limit general fund bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall

withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit general fund bond retirement account such amounts and at such times as are required by the bond proceedings. [1997 c 456 § 20; 1991 sp.s. c 31 § 14; 1990 1st ex.s. c 15 § 5; 1989 1st ex.s. c 14 § 4.]

Additional notes found at www.leg.wa.gov

43.99H.050 Pledge and promise—Remedies. Bonds issued under RCW 43.99H.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1989 1st ex.s. c 14 § 5.]

43.99H.060 Reimbursement of general fund. (1) For bonds issued for the purposes of RCW 43.99H.020(16), on each date on which any interest or principal and interest payment is due, the board of regents or the board of trustees of Washington State University shall cause the amount computed in RCW 43.99H.040(1) to be paid out of the appropriate building account or capital projects account to the state treasurer for deposit into the general fund of the state treasury.

(2) For bonds issued for the purposes of RCW 43.99H.020(15), on each date on which any interest or principal and interest payment is due, the state treasurer shall transfer the amount computed in RCW 43.99H.040(2) from the capitol campus reserve account, hereby created in the state treasury, to the general fund of the state treasury. At the time of sale of the bonds issued for the purposes of RCW 43.99H.020(15), and on or before June 30th of each succeeding year while such bonds remain outstanding, the state finance committee shall determine, based on current balances and estimated receipts and expenditures from the capitol campus reserve account, that portion of principal and interest on such RCW 43.99H.020(15) bonds which will, by virtue of payments from the capitol campus reserve account, be reimbursed from sources other than "general state revenues" as that term is defined in Article VIII, section 1 of the state Constitution.

(3) For bonds issued for the purposes of RCW 43.99H.020(17), on each date on which any interest or principal and interest payment is due, the director of the department of labor and industries shall cause fifty percent of the amount computed in RCW 43.99H.040(3) to be transferred from the accident fund created in RCW 51.44.010 and fifty percent of the amount computed in RCW 43.99H.040(3) to be transferred from the medical aid fund created in RCW 51.44.020, to the general fund of the state treasury.

(4) For bonds issued for the purposes of RCW 43.99H.020(18), on each date on which any interest or principal and interest payment is due, the board of regents of the University of Washington shall cause the amount computed in RCW 43.99H.040(4) to be paid out of University of Wash-

ington nonappropriated local funds to the state treasurer for deposit into the general fund of the state treasury.

(5) For bonds issued for the purposes of RCW 43.99H.020(4), on each date on which any interest or principal and interest payment is due, the state treasurer shall transfer from property taxes in the state general fund levied for the support of the common schools under RCW 84.52.065 to the general fund of the state treasury for unrestricted use the amount computed in RCW 43.99H.040(6). [2009 c 500 § 8; 2009 c 479 § 32; 1991 sp.s. c 31 § 15; 1990 1st ex.s. c 15 § 6; 1989 1st ex.s. c 14 § 6.]

Reviser's note: This section was amended by 2009 c 479 § 32 and by 2009 c 500 § 8, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2009 c 500: See note following RCW 39.42.070.

Effective date—2009 c 479: See note following RCW 2.56.030.

Additional notes found at www.leg.wa.gov

43.99H.070 East capitol campus construction account—Additional means of reimbursement. In addition to any other charges authorized by law and to assist in the reimbursement of principal and interest payments on bonds issued for the purposes of RCW 43.99H.020(15), the following revenues may be collected:

(1) The director of general administration may assess a charge against each state board, commission, agency, office, department, activity, or other occupant of the facility or building constructed with bonds issued for the purposes of RCW 43.99H.020(15) for payment of a proportion of costs for each square foot of floor space assigned to or occupied by the entity. Payment of the amount billed to the entity for such occupancy shall be made quarterly during each fiscal year. The director of general administration shall deposit the payment in the capitol campus reserve account.

(2) The director of general administration may pledge a portion of the parking rental income collected by the department of general administration from parking space developed as a part of the facility constructed with bonds issued for the purposes of RCW 43.99H.020(15). The pledged portion of this income shall be deposited in the capitol campus reserve account. The unpledged portion of this income shall continue to be deposited in the state vehicle parking account.

(3) The state treasurer shall transfer four million dollars from the capitol building construction account to the capitol campus reserve account each fiscal year from 1990 to 1995. Beginning in fiscal year 1996, the director of general administration, in consultation with the state finance committee, shall determine the necessary amount for the state treasurer to transfer from the capitol building construction account to the capitol campus reserve account for the purpose of repayment of the general fund of the costs of the bonds issued for the purposes of RCW 43.99H.020(15).

(4) Any remaining balance in the state building and parking bond redemption account after the final debt service payment shall be transferred to the capitol campus reserve account. [1995 c 215 § 6; 1989 1st ex.s. c 14 § 7.]

43.99H.080 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Additional means for payment of principal and

interest. The legislature may provide additional means for raising moneys for the payment of the principal and interest on the bonds authorized in RCW 43.99H.010. RCW 43.99H.030 and 43.99H.040 shall not be deemed to provide an exclusive method for the payment. [1990 1st ex.s. c 15 § 3; 1989 1st ex.s. c 14 § 8.]

Additional notes found at www.leg.wa.gov

43.99H.090 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Legal investment. The bonds authorized in RCW 43.99H.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1989 1st ex.s. c 14 § 9.]

43.99H.900 Severability—1989 1st ex.s. c 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 1st ex.s. c 14 § 26.]

43.99H.901 Effective dates—1989 1st ex.s. c 14. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989, except for section 18 of this act which shall take effect immediately [June 1, 1989]. [1989 1st ex.s. c 14 § 28.]

Chapter 43.99I RCW

**FINANCING FOR APPROPRIATIONS—
1991-1993 BIENNIUM**

Sections

43.99I.010	1991-1993 Fiscal biennium—General obligation bonds for capital and operating appropriations act.
43.99I.020	Conditions and limitations.
43.99I.030	Retirement of bonds.
43.99I.040	Reimbursement of general fund.
43.99I.060	Pledge and promise—Remedies.
43.99I.070	Additional means for payment of principal and interest.
43.99I.080	Legal investment.
43.99I.090	Dairy products commission—Bond conditions and limitations.
43.99I.900	Severability—1991 sp.s. c 31.

43.99I.010 1991-1993 Fiscal biennium—General obligation bonds for capital and operating appropriations act. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion two hundred eighty-four million dollars, or so much thereof as may be required, to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1991-1993 fiscal biennium and subsequent fiscal biennia, and all costs incidental thereto.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance, letters of credit, or other credit enhancements and may authorize the execution and delivery of agreements, promissory notes, and other obli-

gations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1992 c 235 § 1; 1991 sp.s. c 31 § 1.]

43.99I.020 Conditions and limitations. Bonds issued under RCW 43.99I.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion two hundred seventy-one million sixty-five thousand dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1991-93 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

- (1) Eight hundred thirty-five thousand dollars to the state higher education construction account created by RCW 28B.10.851;
- (2) Eight hundred seventy-one million dollars to the state building construction account created by RCW 43.83.020;
- (3) Two million eight hundred thousand dollars to the energy efficiency services account created by *RCW 39.35C.110;
- (4) Two hundred fifty-five million five hundred thousand dollars to the common school reimbursable construction account hereby created in the state treasury;
- (5) Ninety-eight million six hundred forty-eight thousand dollars to the higher education reimbursable construction account hereby created in the state treasury;
- (6) Three million two hundred eighty-four thousand dollars to the data processing building construction account created in **RCW 43.99I.100; and
- (7) Nine hundred thousand dollars to the Washington state dairy products commission facility account created in **RCW 43.99I.110.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation. [1997 c 456 § 38; 1992 c 235 § 2; 1991 sp.s. c 31 § 2.]

Reviser's note: *(1) RCW 39.35C.110 was repealed by 2001 c 292 § 4.

** (2) RCW 43.991.100 and 43.991.110 were repealed by 2010 1st sp.s. c 9 § 8.

Additional notes found at www.leg.wa.gov

43.991.030 Retirement of bonds. (1)(a) Both principal of and interest on the bonds issued for the purposes specified in RCW 43.991.020 (1) and (2) shall be payable from the debt-limit general fund bond retirement account.

(b) Both principal of and interest on the bonds issued for the purposes specified in RCW 43.991.020(3) shall be payable from the nondebt-limit proprietary appropriated bond retirement account.

(c) Both principal of and interest on the bonds issued for the purposes specified in RCW 43.991.020(4) shall be payable from the nondebt-limit general fund bond retirement account.

(d) Both principal of and interest on the bonds issued for the purposes specified in RCW 43.991.020 (5) and (6) shall be payable from the nondebt-limit reimbursable bond retirement account.

(e) Both principal of and interest on the bonds issued for the purposes specified in RCW 43.991.020(7) shall be payable from the nondebt-limit proprietary nonappropriated bond retirement account.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the appropriate account as set forth under subsection (1) of this section such amounts and at such times as are required by the bond proceedings. [1997 c 456 § 21; 1991 sp.s. c 31 § 3.]

Additional notes found at www.leg.wa.gov

43.991.040 Reimbursement of general fund. (1) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.991.020(4), the state treasurer shall transfer from property taxes in the state general fund levied for this support of the common schools under RCW 84.52.065 to the general fund of the state treasury for unrestricted use the amount computed in RCW 43.991.030 for the bonds issued for the purposes of RCW 43.991.020(4).

(2) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.991.020(5), the state treasurer shall transfer from higher education operating fees deposited in the general fund to the general fund of the state treasury for unrestricted use, or if chapter 231, Laws of 1992 (Senate Bill No. 6285) becomes law and changes the disposition of higher education operating fees from the general fund to another account, the state treasurer shall transfer the proportional share from the University of Washington operating fees account, the Washington State University operating fees account, and the Central Washington University operating fees account the amount computed in RCW 43.991.030 for the bonds issued for the purposes of RCW 43.991.020(6).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.991.020(6), the state treasurer shall transfer from the data processing revolving fund created in RCW 43.105.080 to the general fund of the state treasury the amount computed in RCW 43.991.030 for the bonds issued for the purposes of RCW 43.991.020(6).

(4) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of RCW 43.991.020(7), the Washington state dairy products commission shall cause the amount computed in RCW 43.991.030 for the bonds issued for the purposes of RCW 43.991.020(7) to be paid out of the commission's general operating fund to the state treasurer for deposit into the general fund of the state treasury.

(5) The higher education operating fee accounts for the University of Washington, Washington State University, and Central Washington University established by chapter 231, Laws of 1992 and repealed by chapter 18, Laws of 1993 1st sp. sess. are reestablished in the state treasury for purposes of fulfilling debt service reimbursement transfers to the general fund required by bond resolutions and covenants for bonds issued for purposes of RCW 43.991.020(5).

(6) For bonds issued for purposes of RCW 43.991.020(5), on each date on which any interest or principal and interest payment is due, the board of regents or board of trustees of the University of Washington, Washington State University, or Central Washington University shall cause the amount as determined by the state treasurer to be paid out of the local operating fee account for deposit by the universities into the state treasury higher education operating fee accounts. The state treasurer shall transfer the proportional share from the University of Washington operating fees account, the Washington State University operating fees account, and the Central Washington University operating fees account the amount computed in RCW 43.991.030 for the bonds issued for the purposes of RCW 43.991.020(6) to reimburse the general fund. [1997 c 456 § 39; 1992 c 235 § 3; 1991 sp.s. c 31 § 4.]

Additional notes found at www.leg.wa.gov

43.991.060 Pledge and promise—Remedies. Bonds issued under RCW 43.991.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1991 sp.s. c 31 § 6.]

43.991.070 Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.991.010, and RCW 43.991.030 and 43.991.040 shall not be deemed to pro-

vide an exclusive method for the payment. [1991 sp.s. c 31 § 7.]

43.99I.080 Legal investment. The bonds authorized in RCW 43.99I.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1991 sp.s. c 31 § 8.]

43.99I.090 Dairy products commission—Bond conditions and limitations. The bonds authorized by RCW 43.99I.020(7) shall be issued only after the director of financial management has (a) certified that, based on the future income from assessments levied pursuant to chapter 15.44 RCW and other revenues collected by the Washington state dairy products commission, an adequate balance will be maintained in the commission's general operating fund to pay the interest or principal and interest payments due under *RCW 43.99I.040(3) for the life of the bonds; and (b) approved the facility to be acquired using the bond proceeds. [1997 c 456 § 40; 1992 c 235 § 5.]

*Reviser's note: The reference to RCW 43.99I.040(3) appears erroneous. RCW 43.99I.040(4) was apparently intended.

Additional notes found at www.leg.wa.gov

43.99I.900 Severability—1991 sp.s. c 31. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 sp.s. c 31 § 18.]

Chapter 43.99J RCW

FINANCING FOR APPROPRIATIONS— 1993-1995 BIENNIUM

Sections

43.99J.010	1993-1995 Fiscal biennium—General obligation bonds for capital and operating appropriations acts.
43.99J.020	Conditions and limitations.
43.99J.030	Retirement of bonds—Pledge and promise—Remedies.
43.99J.040	Additional means for payment of principal and interest.
43.99J.050	Legal investment.
43.99J.060	Washington state fruit commission—Reimbursement of general fund.
43.99J.070	Washington state fruit commission—Bond conditions and limitations.
43.99J.900	Severability—1993 sp.s. c 12.

43.99J.010 1993-1995 Fiscal biennium—General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1993-95 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of nine hundred twenty-six million seven hundred thirty-seven thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1993 sp.s. c 12 § 1.]

(2010 Ed.)

43.99J.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99J.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Nine hundred three million dollars to remain in the state building construction account created by RCW 43.83.020; and

(2) One million five hundred thousand dollars to the fruit commission facility account.

These proceeds shall be used exclusively for the purposes specified in this section, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [1993 sp.s. c 12 § 2.]

Reviser's note: The 1994 publication of this code section inadvertently omitted two lines of text. The full text of the law is reprinted here.

43.99J.030 Retirement of bonds—Pledge and promise—Remedies. (1)(a) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.020(1).

(b) The nondebt-limit proprietary nonappropriated bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.020(2).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account or nondebt-limit proprietary nonappropriated bond retirement account, as necessary, an amount equal to the amount certified by the state finance committee to be due on the payment date.

(3) Bonds issued under RCW 43.99J.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(4) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1997 c 456 § 22; 1993 sp.s. c 12 § 3.]

Additional notes found at www.leg.wa.gov

43.99J.040 Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.010, and RCW 43.99J.030 shall not be deemed to provide an exclusive method for the payment. [1993 sp.s. c 12 § 7.]

43.99J.050 Legal investment. The bonds authorized in RCW 43.99J.010 shall be a legal investment for all state

funds or funds under state control and for all funds of any other public body. [1993 sp.s. c 12 § 8.]

43.99J.060 Washington state fruit commission—Reimbursement of general fund. On each date on which any interest or principal and interest payment is due for the purposes of RCW 43.99J.020(2), the Washington state fruit commission shall cause the amount computed by the state finance committee in RCW 43.99J.030 for the purposes of RCW 43.99J.020(2) to be paid out of the commission's general operating fund to the state treasurer for deposit into the general fund of the state treasury. [1993 sp.s. c 12 § 4.]

43.99J.070 Washington state fruit commission—Bond conditions and limitations. The bonds authorized in RCW 43.99J.020(2) may be issued only after the director of financial management has: (1) Certified that, based on the future income from assessments levied under this chapter and other revenues collected by the commission, an adequate balance will be maintained in the commission's general operating fund to pay the interest or principal and interest payments due under RCW 43.99J.060 for the life of the bonds; and (2) approved the plans for facility. [1993 sp.s. c 12 § 5.]

43.99J.900 Severability—1993 sp.s. c 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 sp.s. c 12 § 10.]

Chapter 43.99K RCW

FINANCING FOR APPROPRIATIONS— 1995-1997 BIENNIUM

Sections

43.99K.010	1995-1997 Fiscal biennium—General obligation bonds for capital and operating appropriations acts.
43.99K.020	Conditions and limitations.
43.99K.030	Retirement of bonds—Reimbursement of general fund—Pledge and promise—Remedies.
43.99K.040	Additional means for payment of principal and interest.
43.99K.050	Legal investment.
43.99K.900	Severability—1995 2nd sp.s. c 17.

43.99K.010 1995-1997 Fiscal biennium—General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1995-97 fiscal biennium only, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight hundred sixty-seven million one hundred sixty thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1997 c 456 § 41; 1995 2nd sp.s. c 17 § 1.]

Additional notes found at www.leg.wa.gov

43.99K.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99K.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Seven hundred eighty-five million four hundred thirty-eight thousand dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-two million five hundred thousand dollars to the outdoor recreation account created by *RCW 43.99.060;

(3) Twenty-one million one hundred thousand dollars to the habitat conservation account created by *RCW 43.98A.020;

(4) Two million nine hundred twelve thousand dollars to the public safety reimbursable bond account; and

(5) Ten million dollars to the higher education construction account created by RCW 28B.14D.040.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [1997 c 456 § 42; 1995 2nd sp.s. c 17 § 2.]

*Reviser's note: RCW 43.99.060 and 43.98A.020 were recodified as RCW 79A.25.060 and 79A.15.020, respectively, pursuant to 1999 c 249 § 1601.

Additional notes found at www.leg.wa.gov

43.99K.030 Retirement of bonds—Reimbursement of general fund—Pledge and promise—Remedies. (1)(a) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020 (1), (2), and (3).

(b) The debt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020(4).

(c) The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020(5).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account, debt-limit reimbursable bond retirement account, nondebt-limit reimbursable bond retirement account, as necessary, an amount equal to the amount certified by the state finance committee to be due on the payment date.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99K.020(5), the board of regents of the University of Washington shall cause to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the general fund of the state treasury the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99K.020(5).

(4) Bonds issued under this section and RCW 43.99K.010 and 43.99K.020 shall state that they are a general

obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(5) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2009 c 479 § 33; 2005 c 487 § 8; 1997 c 456 § 23; 1995 2nd sp.s. c 17 § 3.]

Effective date—2009 c 479: See note following RCW 2.56.030.

Severability—Effective date—2005 c 487: See RCW 43.99S.900 and 43.99S.901.

Additional notes found at www.leg.wa.gov

43.99K.040 Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.010, and RCW 43.99K.030 shall not be deemed to provide an exclusive method for the payment. [1995 2nd sp.s. c 17 § 4.]

43.99K.050 Legal investment. The bonds authorized in RCW 43.99K.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1995 2nd sp.s. c 17 § 5.]

43.99K.900 Severability—1995 2nd sp.s. c 17. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1995 2nd sp.s. c 17 § 8.]

Chapter 43.99L RCW

FINANCING FOR APPROPRIATIONS— 1997-1999 BIENNIUM

Sections

43.99L.010	General obligation bonds for capital and operating appropriations acts.
43.99L.020	Conditions and limitations.
43.99L.030	Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
43.99L.040	Retirement of bonds—Reimbursement of general fund from debt-limit reimbursable bond retirement account.
43.99L.050	Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account.
43.99L.060	Pledge and promise—Remedies.
43.99L.070	Payment of principal and interest—Additional means for raising moneys authorized.
43.99L.080	Legal investment.
43.99L.900	Severability—1997 c 456.

43.99L.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1997-99 fiscal biennium only, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of nine hundred eighty-nine million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may

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be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1997 c 456 § 1.]

43.99L.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99L.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Nine hundred fifteen million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) One million six hundred thousand dollars to the public safety reimbursable bond account; and

(3) Forty-four million three hundred thousand dollars to the higher education construction account created by RCW 28B.14D.040.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [1997 c 456 § 2.]

43.99L.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99L.020(1).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99L.020(1).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of RCW 43.99L.020(1), the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [1997 c 456 § 3.]

43.99L.040 Retirement of bonds—Reimbursement of general fund from debt-limit reimbursable bond retirement account. (1) The debt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99L.020(2).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99L.020(2).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of RCW 43.99L.020(2), the state treasurer shall transfer from the state general fund to the debt-limit reimbursable bond retirement account the amount computed in subsection (2) of

this section for the bonds issued for the purpose of RCW 43.99L.020(2). [2009 c 479 § 34; 1997 c 456 § 4.]

Effective date—2009 c 479: See note following RCW 2.56.030.

43.99L.050 Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account. (1) The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99L.020(3).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99L.020(3).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99L.020(3), the board of regents of the University of Washington shall cause to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the nondebt-limit reimbursable bond retirement account the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99L.020(3). [1997 c 456 § 5.]

43.99L.060 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99L.010 through 43.99L.050 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1997 c 456 § 6.]

43.99L.070 Payment of principal and interest—Additional means for raising moneys authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99L.010, and RCW 43.99L.030 through 43.99L.050 shall not be deemed to provide an exclusive method for the payment. [1997 c 456 § 7.]

43.99L.080 Legal investment. The bonds authorized in RCW 43.99L.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1997 c 456 § 8.]

43.99L.900 Severability—1997 c 456. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1997 c 456 § 46.]

Chapter 43.99M RCW BOND RETIREMENT ACCOUNTS

Sections

- 43.99M.005 Findings.
- 43.99M.010 Debt-limit general fund bond retirement account.
- 43.99M.020 Debt-limit reimbursable bond retirement account.
- 43.99M.030 Nondebt-limit general fund bond retirement account.
- 43.99M.040 Nondebt-limit reimbursable bond retirement account.
- 43.99M.050 Nondebt-limit proprietary appropriated bond retirement account.
- 43.99M.060 Nondebt-limit proprietary nonappropriated bond retirement account.
- 43.99M.070 Nondebt-limit revenue bond retirement account.
- 43.99M.080 Transportation improvement board bond retirement account.
- 43.99M.900 Severability—1997 c 456.
- 43.99M.901 Effective date—1997 c 456 §§ 9-43.

43.99M.005 Findings. (1) The legislature declares that it is in the best interest of the state and the owners and holders of the bonds issued by the state and its political subdivisions that the accounts used by the treasurer for debt service retirement are accurately designated and named in statute.

(2) It is the intent of the legislature in this chapter and sections 10 through 37, chapter 456, Laws of 1997 to create and change the names of funds and accounts to accomplish the declaration under subsection (1) of this section. The legislature does not intend to diminish in any way the current obligations of the state or its political subdivisions or diminish in any way the rights of bond owners and holders. [1997 c 456 § 9.]

43.99M.010 Debt-limit general fund bond retirement account. The debt-limit general fund bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 30.]

43.99M.020 Debt-limit reimbursable bond retirement account. The debt-limit reimbursable bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 31.]

43.99M.030 Nondebt-limit general fund bond retirement account. The nondebt-limit general fund bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 32.]

43.99M.040 Nondebt-limit reimbursable bond retirement account. The nondebt-limit reimbursable bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 33.]

43.99M.050 Nondebt-limit proprietary appropriated bond retirement account. The nondebt-limit proprietary appropriated bond retirement account is created in the state treasury. This account shall be exclusively devoted to the

payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 34.]

43.99M.060 Nondebt-limit proprietary nonappropriated bond retirement account. The nondebt-limit proprietary nonappropriated bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 35.]

43.99M.070 Nondebt-limit revenue bond retirement account. The nondebt-limit revenue bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 36.]

43.99M.080 Transportation improvement board bond retirement account. The transportation improvement board bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 37.]

43.99M.900 Severability—1997 c 456. See RCW 43.99L.900.

43.99M.901 Effective date—1997 c 456 §§ 9-43. Sections 9 through 43 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [May 20, 1997]. [1997 c 456 § 47.]

Chapter 43.99N RCW

STADIUM AND EXHIBITION CENTER BOND ISSUE (REFERENDUM 48)

Sections

- 43.99N.010 Definitions.
- 43.99N.020 General obligation bonds—Certifications by public stadium authority—Obligations of team affiliate.
- 43.99N.030 Escrow agreement, account—Distributions.
- 43.99N.040 Stadium and exhibition center construction account.
- 43.99N.050 Payment of principal and interest from nondebt-limit reimbursable bond retirement account—Transfers of certified amounts—Bonds as general obligation, full faith and credit, promise to pay—Insufficiency in stadium and exhibition center account as obligation—Proceedings to require transfer and payment.
- 43.99N.060 Stadium and exhibition center account—Youth athletic facility account—Community outdoor athletic facility loans and grants.
- 43.99N.070 Sections null and void if certification not made by office of financial management—Conditions.
- 43.99N.080 Additional means for raising moneys authorized.
- 43.99N.090 Bonds as legal investment.
- 43.99N.100 Total public share—State contribution limited.
- 43.99N.120 Loans—Terms and conditions of repayment and interest.
- 43.99N.800 Referendum only measure for taxes for stadium and exhibition center—Limiting legislation upon failure to approve—1997 c 220.
- 43.99N.801 Legislation as opportunity for voter's decision—Not indication of legislators' personal vote on referendum proposal—1997 c 220.
- 43.99N.802 Contingency—Null and void—Team affiliate's agreement for reimbursement for election—1997 c 220.

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- 43.99N.803 Referendum—Submittal—Explanatory statement—Voters' pamphlet—Voting procedures—Canvassing and certification—Reimbursement of counties for costs—No other elections on stadium and exhibition center—1997 c 220.
- 43.99N.900 Part headings not law—1997 c 220.
- 43.99N.901 Severability—1997 c 220.

43.99N.010 Definitions. The definitions in RCW 36.102.010 apply to this chapter. [1997 c 220 § 209 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.020 General obligation bonds—Certifications by public stadium authority—Obligations of team affiliate. (1) For the purpose of providing funds to pay for operation of the public stadium authority created under RCW 36.102.020, to pay for the preconstruction, site acquisition, design, site preparation, construction, owning, leasing, and equipping of the stadium and exhibition center, and to reimburse the county or the public stadium authority for its direct or indirect expenditures or to repay other indebtedness incurred for these purposes, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of three hundred million dollars, or so much thereof as may be required, for these purposes and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine.

(2) Bonds shall not be issued under this section unless the public stadium authority has certified to the director of financial management that:

(a) A professional football team has made a binding and legally enforceable contractual commitment to play all of its regular season and playoff home games in the stadium and exhibition center, other than games scheduled elsewhere by the league, for a period of time not shorter than the term of the bonds issued or to be issued to finance the initial construction of the stadium and exhibition center;

(b) A team affiliate has entered into one or more binding and legally enforceable contractual commitments with a public stadium authority under RCW 36.102.050 that provide that:

(i) The team affiliate assumes the risks of cost overruns;

(ii) The team affiliate shall raise at least one hundred million dollars, less the amount, if any, raised by the public stadium authority under RCW 36.102.060(15). The total one hundred million dollars raised, which may include cash payments and in-kind contributions, but does not include any interest earned on the escrow account described in RCW 43.99N.030, shall be applied toward the reasonably necessary preconstruction, site acquisition, design, site preparation, construction, and equipping of the stadium and exhibition center, or to any associated public purpose separate from bond-financed expenses. No part of the payment may be made without the consent of the public stadium authority. In any event, all amounts to be raised by the team affiliate under (b)(ii) of this subsection shall be paid or expended before the completion of the construction of the stadium and exhibition center. To the extent possible, contributions shall be structured in a manner that would allow for the issuance of bonds to construct the stadium and exhibition center that are exempt from federal income taxes;

(iii) The team affiliate shall deposit at least ten million dollars into the *youth athletic facility grant account created in RCW 43.99N.060 upon execution of the lease and development agreements in RCW 36.102.060 (7) and (8);

(iv) At least ten percent of the seats in the stadium for home games of the professional football team shall be for sale at an affordable price. For the purposes of this subsection, "affordable price" means that the price is the average of the lowest ticket prices charged by all other national football league teams;

(v) One executive suite with a minimum of twenty seats must be made available, on a lottery basis, as a free upgrade, at home games of the professional football team, to purchasers of tickets that are not located in executive suites or club seat areas;

(vi) A nonparticipatory interest in the professional football team has been granted to the state beginning on the date on which bonds are issued under this section which only entitles the state to receive ten percent of the gross selling price of the interest in the team that is sold if a majority interest or more of the professional football team is sold within twenty-five years of the date on which bonds are issued under the [this] section. The ten percent shall apply to all preceding sales of interests in the team which comprise the majority interest sold. This provision shall apply only to the first sale of such a majority interest. The ten percent must be deposited in the permanent common school fund. If the debt is retired at the time of the sale, then the ten percent may only be used for costs associated with capital maintenance, capital improvements, renovations, reequipping, replacement, and operations of the stadium and exhibition center;

(vii) The team affiliate must provide reasonable office space to the public stadium authority without charge;

(viii) The team affiliate, in consultation with the public stadium authority, shall work with surrounding areas to mitigate the impact of the construction and operation of the stadium and exhibition center with a budget of at least ten million dollars dedicated to area mitigation. For purposes of this subsection, "mitigation" includes, but is not limited to, parking facilities and amenities, neighborhood beautification projects and landscaping, financial grants for neighborhood programs intended to mitigate adverse impacts caused by the construction and operation of the stadium and exhibition center, and mitigation measures identified in the environmental impact statement required for the stadium and exhibition center under chapter 43.21C RCW; and

(ix) Twenty percent of the net profit from the operation of the exhibition facility of the stadium and exhibition center shall be deposited into the permanent common school fund. Profits shall be verified by the public stadium authority. [1997 c 220 § 210 (Referendum Bill No. 48, approved June 17, 1997).]

***Reviser's note:** The "youth athletic facility grant account" was renamed the "youth athletic facility account" by 2000 c 137 § 1.

43.99N.030 Escrow agreement, account—Distributions. On or before August 1, 1997: (1) The state treasurer and a team affiliate or an entity that has an option to become a team affiliate shall enter into an escrow agreement creating an escrow account; and (2) the team affiliate or the entity that has an option to become a team affiliate shall deposit the sum

of fifty million dollars into the escrow account as a credit against the obligation of the team affiliate in RCW 43.99N.020(2)(b)(ii).

The escrow agreement shall provide that the fifty million dollar deposit shall be invested by the state treasurer and shall earn interest. If the stadium and exhibition center project proceeds, then the interest on amounts in the escrow account shall be for the benefit of the state, and all amounts in the escrow account, including all principal and interest, shall be distributed to the stadium and exhibition center account. The escrow agreement shall provide for appropriate adjustments based on amounts previously and subsequently raised by the team affiliate under RCW 43.99N.020(2)(b)(ii) and amounts previously and subsequently raised by the public stadium authority under RCW 36.102.060(15). If the stadium and exhibition center project does not proceed, all principal and the interest in the escrow account shall be distributed to the team affiliate or the entity that has an option to become a team affiliate. [1997 c 220 § 211 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.040 Stadium and exhibition center construction account. The proceeds from the sale of the bonds authorized in RCW 43.99N.020 shall be deposited in the stadium and exhibition center construction account, hereby created in the custody of the state treasurer, and shall be used exclusively for the purposes specified in RCW 43.99N.020 and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management. Only the director of the office of financial management or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. At the direction of the office of financial management the state treasurer shall transfer moneys from the stadium and exhibition center construction account to the public stadium authority created in RCW 36.102.020 as required by the public stadium authority. [1997 c 220 § 212 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.050 Payment of principal and interest from nondebt-limit reimbursable bond retirement account—Transfers of certified amounts—Bonds as general obligation, full faith and credit, promise to pay—Insufficiency in stadium and exhibition center account as obligation—Proceedings to require transfer and payment. The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99N.020.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall transfer from the stadium and exhibition center account to the nondebt-limit reimbursable bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.99N.020 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due. If in any year the amount accumulated in the stadium and exhibition center account is insufficient for payment of the principal and interest on the bonds issued under RCW 43.99N.020, the amount of the insufficiency shall be a continuing obligation against the stadium and exhibition center account until paid.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1997 c 220 § 213 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.060 Stadium and exhibition center account—Youth athletic facility account—Community outdoor athletic facility loans and grants. (1) The stadium and exhibition center account is created in the custody of the state treasurer. All receipts from the taxes imposed under RCW 82.14.0494 and distributions under RCW 67.70.240(5) shall be deposited into the account. Only the director of the office of financial management or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. An appropriation is not required for expenditures from this account.

(2) Until bonds are issued under RCW 43.99N.020, up to five million dollars per year beginning January 1, 1999, shall be used for the purposes of subsection (3)(b) of this section, all remaining moneys in the account shall be transferred to the public stadium authority, created under RCW 36.102.020, to be used for public stadium authority operations and development of the stadium and exhibition center.

(3) After bonds are issued under RCW 43.99N.020, all moneys in the stadium and exhibition center account shall be used exclusively for the following purposes in the following priority:

(a) On or before June 30th of each year, the office of financial management shall accumulate in the stadium and exhibition center account an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued under RCW 43.99N.020;

(b) An additional reserve amount not in excess of the expected average annual principal and interest requirements of bonds issued under RCW 43.99N.020 shall be accumulated and maintained in the account, subject to withdrawal by the state treasurer at any time if necessary to meet the requirements of (a) of this subsection, and, following any withdrawal, reaccumulated from the first tax revenues and other amounts deposited in the account after meeting the requirements of (a) of this subsection; and

(c) The balance, if any, shall be transferred to the youth athletic facility account under subsection (4) of this section.

Any revenues derived from the taxes authorized by RCW 36.38.010(5) and 36.38.040 or other amounts that if used as provided under (a) and (b) of this subsection would cause the loss of any tax exemption under federal law for

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interest on bonds issued under RCW 43.99N.020 shall be deposited in and used exclusively for the purposes of the youth athletic facility account and shall not be used, directly or indirectly, as a source of payment of principal of or interest on bonds issued under RCW 43.99N.020, or to replace or reimburse other funds used for that purpose.

(4) Any moneys in the stadium and exhibition center account not required or permitted to be used for the purposes described in subsection (3)(a) and (b) of this section shall be deposited in the youth athletic facility account hereby created in the state treasury. Expenditures from the account may be used only for purposes of grants or loans to cities, counties, and qualified nonprofit organizations for community outdoor athletic facilities. Only the director of the recreation and conservation office or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. The athletic facility grants or loans may be used for acquiring, developing, equipping, maintaining, and improving community outdoor athletic facilities. Funds shall be divided equally between the development of new community outdoor athletic facilities, the improvement of existing community outdoor athletic facilities, and the maintenance of existing community outdoor athletic facilities. Cities, counties, and qualified nonprofit organizations must submit proposals for grants or loans from the account. To the extent that funds are available, cities, counties, and qualified nonprofit organizations must meet eligibility criteria as established by the director of the recreation and conservation office. The grants and loans shall be awarded on a competitive application process and the amount of the grant or loan shall be in proportion to the population of the city or county for where the community outdoor athletic facility is located. Grants or loans awarded in any one year need not be distributed in that year. In the 2009-2011 biennium, if there are not enough project applications submitted in a category within the account to meet the requirement of equal distribution of funds to each category, the director of the recreation and conservation office may distribute any remaining funds to other categories within the account. The director of the recreation and conservation office may expend up to one and one-half percent of the moneys deposited in the account created in this subsection for administrative purposes. [2009 c 497 § 6026; 2008 c 328 § 6017; 2007 c 241 § 11; 2006 c 371 § 227; 2000 c 137 § 1; 1997 c 220 § 214 (Referendum Bill No. 48, approved June 17, 1997).]

Effective date—2009 c 497: See note following RCW 28B.15.210.

Part headings not law—Severability—Effective date—2008 c 328: See notes following RCW 43.155.050.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Part headings not law—Severability—Effective date—2006 c 371: See notes following RCW 43.325.040.

43.99N.070 Sections null and void if certification not made by office of financial management—Conditions. Unless *the office of financial management certifies by December 31, 1997, that the following conditions have been met, sections 201 through 208, chapter 220, Laws of 1997 are null and void:

(1) The professional football team that will use the stadium and exhibition center is at least majority-owned and controlled by, directly or indirectly, one or more persons who are each residents of the state of Washington and who have been residents of the state of Washington continuously since at least January 1, 1993;

(2) The county in which the stadium and exhibition center is to be constructed has created a public stadium authority under this chapter to acquire property, construct, own, remodel, maintain, equip, reequip, repair, and operate a stadium and exhibition center;

(3) The county in which the stadium and exhibition center is to be constructed has enacted the taxes authorized in RCW 36.38.010(5) and 36.38.040; and

(4) The county in which the stadium and exhibition center is to be constructed pledges to maintain and continue the taxes authorized in RCW 36.38.010(5), 67.28.180, and 36.38.040 until the bonds authorized in RCW 43.99N.020 are fully redeemed, both principal and interest. [1997 c 220 § 215 (Referendum Bill No. 48, approved June 17, 1997).]

***Reviser's note:** The office of financial management certified on December 3, 1997, that the conditions in subsections (1) through (4) of this section had been met.

43.99N.080 Additional means for raising moneys authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99N.020, and RCW 43.99N.050 shall not be deemed to provide an exclusive method for the payment. [1997 c 220 § 216 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.090 Bonds as legal investment. The bonds authorized in RCW 43.99N.020 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1997 c 220 § 217 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.100 Total public share—State contribution limited. (1) The total public share of a stadium and exhibition center shall not exceed three hundred million dollars. For the purposes of this section, "total public share" means all state and local funds expended for preconstruction and construction costs of the stadium and exhibition center, including proceeds of any bonds issued for the purposes of the stadium and exhibition center, tax revenues, and interest earned on the escrow account described in RCW 43.99N.030 and not including expenditures for deferred sales taxes.

(2) Sections 201 through 207, chapter 220, Laws of 1997 and this chapter constitute the entire state contribution for a stadium and exhibition center. The state will not make any additional contributions based on revised cost or revenue estimates, cost overruns, unforeseen circumstances, or any other reason. [1997 c 220 § 218 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.120 Loans—Terms and conditions of repayment and interest. The recreation and conservation funding board, in consultation with the community outdoor athletic fields advisory council, shall establish the terms and conditions of repayment and interest, based on financial consider-

ations for any loans made under this section. Loans made under this section shall be low or no interest. [2007 c 241 § 12; 2000 c 137 § 2.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

43.99N.800 Referendum only measure for taxes for stadium and exhibition center—Limiting legislation upon failure to approve—1997 c 220. See RCW 36.102.800.

43.99N.801 Legislation as opportunity for voter's decision—Not indication of legislators' personal vote on referendum proposal—1997 c 220. See RCW 36.102.801.

43.99N.802 Contingency—Null and void—Team affiliate's agreement for reimbursement for election—1997 c 220. See RCW 36.102.802.

43.99N.803 Referendum—Submittal—Explanatory statement—Voters' pamphlet—Voting procedures—Canvassing and certification—Reimbursement of counties for costs—No other elections on stadium and exhibition center—1997 c 220. See RCW 36.102.803.

43.99N.900 Part headings not law—1997 c 220. See RCW 36.102.900.

43.99N.901 Severability—1997 c 220. See RCW 36.102.901.

Chapter 43.99P RCW

FINANCING FOR APPROPRIATIONS— 1999-2001 BIENNIUM

Sections

43.99P.010	General obligation bonds for capital and operating appropriations acts.
43.99P.020	Conditions and limitations.
43.99P.030	Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
43.99P.040	Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account.
43.99P.050	Pledge and promise—Remedies.
43.99P.060	Payment of principal and interest—Additional means for raising moneys authorized.
43.99P.070	Legal investment.
43.99P.900	Severability—1999 c 380.
43.99P.901	Effective date—1999 c 380.

43.99P.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriation acts for the 1999-01 fiscal biennium only, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion two hundred four million two hundred sixty-five thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale with-

out prior legislative appropriation of the net proceeds of the sale of the bonds. [1999 c 380 § 1.]

43.99P.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99P.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Nine hundred fifty million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-two million five hundred thousand dollars to the outdoor recreation account created by *RCW 43.99.060;

(3) Twenty-two million five hundred thousand dollars to the habitat conservation account created by *RCW 43.98A.020;

(4) One hundred thirty-six million eight hundred thirty-six thousand dollars to the higher education construction account created by RCW 28B.14D.040;

(5) Thirty-six million three hundred thousand dollars to the state higher education construction account created by RCW 28B.10.851.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [1999 c 380 § 2.]

***Reviser's note:** RCW 43.99.060 and 43.98A.020 were recodified as RCW 79A.25.060 and 79A.15.020, respectively, pursuant to 1999 c 249 § 1601.

43.99P.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99P.020 (1), (2), and (3).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99P.020 (1), (2), and (3).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99P.020 (1), (2), and (3) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [1999 c 380 § 3.]

43.99P.040 Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account. (1) The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99P.020 (4) and (5).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retire-

ment and interest requirements on the bonds authorized in RCW 43.99P.020 (4) and (5).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99P.020(4), the board of regents of the University of Washington shall cause to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the nondebt-limit reimbursement bond retirement account the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99P.020(4).

(4) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99P.020(5), the board of regents of Washington State University shall cause to be paid out of the Washington State University nonappropriated funds to the state treasurer for deposit into the nondebt-limit reimbursement bond retirement account the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99P.020(5). [1999 c 380 § 4.]

43.99P.050 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99P.010 through 43.99P.040 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1999 c 380 § 5.]

43.99P.060 Payment of principal and interest—Additional means for raising moneys authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99P.010, and RCW 43.99P.020 through 43.99P.040 shall not be deemed to provide an exclusive method for the payment. [1999 c 380 § 6.]

43.99P.070 Legal investment. The bonds authorized in RCW 43.99P.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1999 c 380 § 7.]

43.99P.900 Severability—1999 c 380. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1999 c 380 § 10.]

43.99P.901 Effective date—1999 c 380. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 18, 1999]. [1999 c 380 § 12.]

Chapter 43.99Q RCW
FINANCING FOR APPROPRIATIONS—
2001-2003 BIENNIUM

Sections

- 43.99Q.010 General obligation bonds for capital and operating appropriations acts.
- 43.99Q.020 Conditions and limitations.
- 43.99Q.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.99Q.040 Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account.
- 43.99Q.050 Pledge and promise—Remedies.
- 43.99Q.060 Payment of principal and interest—Additional means for raising money authorized.
- 43.99Q.070 East plaza garage project—General obligation bonds.
- 43.99Q.080 East plaza garage project—Conditions and limitations.
- 43.99Q.090 East plaza garage project—Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account.
- 43.99Q.100 East plaza garage project—Pledge and promise—Remedies.
- 43.99Q.110 East plaza garage project—Payment of principal and interest—Additional means for raising moneys authorized.
- 43.99Q.120 Legislative building rehabilitation project—Finding—Intent.
- 43.99Q.130 Legislative building rehabilitation project—General obligation bonds.
- 43.99Q.140 Legislative building rehabilitation project—Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account.
- 43.99Q.150 Legislative building rehabilitation project—Pledge and promise—Remedies.
- 43.99Q.160 Legislative building rehabilitation project—Payment of principal and interest—Additional means for raising money authorized.
- 43.99Q.170 Legal investment.
- 43.99Q.900 Severability—2001 2nd sp.s. c 9.
- 43.99Q.901 Effective date—2001 2nd sp.s. c 9.

43.99Q.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriation acts for the 2001-2003 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of nine hundred thirty-five million five hundred thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2001 2nd sp.s. c 9 § 1.]

43.99Q.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99Q.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

- (1) Seven hundred seventy-four million two hundred thousand dollars to remain in the state building construction account created by RCW 43.83.020;
- (2) Twenty-two million five hundred thousand dollars to the outdoor recreation account created by RCW 79A.25.060;
- (3) Twenty-two million five hundred thousand dollars to the habitat conservation account created by RCW 79A.15.020;
- (4) Sixty million dollars to the state taxable building construction account which is hereby established in the state treasury. All receipts from taxable bond issues are to be

deposited into the account. If the state finance committee deems it necessary to issue more than fifty million dollars of the bonds authorized in RCW 43.99Q.010 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation;

(5) Twenty-nine million twenty-five thousand dollars to the higher education construction account created by RCW 28B.140.040 [28B.14D.040].

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2001 2nd sp.s. c 9 § 2.]

43.99Q.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99Q.020 (1), (2), (3), and (4).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99Q.020 (1), (2), (3), and (4).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99Q.020 (1), (2), (3), and (4) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2001 2nd sp.s. c 9 § 3.]

43.99Q.040 Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account. (1) The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99Q.020(5).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99Q.020(5).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99Q.020(5), the board of regents of the University of Washington shall cause to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the nondebt-limit reimbursement bond retire-

ment account the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99Q.020(5). [2001 2nd sp.s. c 9 § 4.]

43.99Q.050 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99Q.010 through 43.99Q.040 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2001 2nd sp.s. c 9 § 5.]

43.99Q.060 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99Q.010, and RCW 43.99Q.020 through 43.99Q.040 shall not be deemed to provide an exclusive method for the payment. [2001 2nd sp.s. c 9 § 6.]

43.99Q.070 East plaza garage project—General obligation bonds. For the purpose of providing funds for the planning, design, construction, and other necessary costs for replacing the waterproof membrane over the east plaza garage and revising related landscaping, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of sixteen million dollars, or as much thereof as may be required, to finance this project and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2001 2nd sp.s. c 9 § 7.]

43.99Q.080 East plaza garage project—Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99Q.070 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows: Fifteen million five hundred twenty thousand dollars to the state vehicle parking account created by RCW 43.01.225.

These proceeds shall be used exclusively for the purposes specified in RCW 43.99Q.070 and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2001 2nd sp.s. c 9 § 8.]

43.99Q.090 East plaza garage project—Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account. (1) The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99Q.070.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99Q.070.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99Q.080, the state treasurer shall transfer from the state vehicle parking account for deposit into the nondebt-limit reimbursable bond retirement account, the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99Q.070. [2001 2nd sp.s. c 9 § 9.]

43.99Q.100 East plaza garage project—Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99Q.070 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2001 2nd sp.s. c 9 § 10.]

43.99Q.110 East plaza garage project—Payment of principal and interest—Additional means for raising moneys authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99Q.070, and RCW 43.99Q.080 and 43.99Q.090 shall not be deemed to provide an exclusive method for the payment. [2001 2nd sp.s. c 9 § 11.]

43.99Q.120 Legislative building rehabilitation project—Finding—Intent. The legislature finds that it is necessary to complete the rehabilitation of the state legislative building, to extend the useful life of the building, and provide for the permanent relocation of offices displaced by the rehabilitation and create new space for public uses.

Furthermore, it is the intent of the legislature to fund the majority of the rehabilitation and construction using bonds repaid by the capitol building construction account, as provided for in the enabling act and dedicated by the federal government for the sole purpose of establishing a state capitol, to fund the cash elements of the project using capital project surcharge revenues in the Thurston county capital facilities account, and to support the establishment of a private foundation to engage the public in the preservation of the state legislative building and raise private funds for restoration and educational efforts. [2009 c 500 § 9; 2001 2nd sp.s. c 9 § 13.]

Effective date—2009 c 500: See note following RCW 39.42.070.

43.99Q.130 Legislative building rehabilitation project—General obligation bonds. For the purpose of providing funds for the planning, design, construction, and other necessary costs for the rehabilitation of the state legislative building, the state finance committee is authorized to

issue general obligation bonds of the state of Washington in the sum of eighty-two million five hundred ten thousand dollars or as much thereof as may be required to finance the rehabilitation and improvements to the legislative building and all costs incidental thereto. The approved rehabilitation plan includes costs associated with earthquake repairs and future earthquake mitigation and allows for associated relocation costs and the acquisition of appropriate relocation space. Bonds authorized in this section may be sold at a price the state finance committee determines. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The proceeds of the sale of the bonds issued for the purposes of this section shall be deposited in the capitol historic district construction account hereby created in the state treasury. These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2009 c 500 § 10; 2001 2nd sp.s. c 9 § 14.]

Effective date—2009 c 500: See note following RCW 39.42.070.

43.99Q.140 Legislative building rehabilitation project—Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account. (1) The nondebt-limit reimbursable bond retirement account must be used for the payment of the principal and interest on the bonds authorized in RCW 43.99Q.130.

(2)(a) The state finance committee must, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99Q.130.

(b) On or before the date on which any interest or principal and interest is due, the state treasurer shall transfer from the capitol building construction account for deposit into the nondebt-limit reimbursable bond retirement account, the amount computed in (a) of this subsection for bonds issued for the purposes of RCW 43.99Q.130.

(3) If the capitol building construction account has insufficient revenues to pay the principal and interest computed in subsection (2)(a) of this section, then the debt-limit reimbursable bond retirement account shall be used for the payment of the principal and interest on the bonds authorized in RCW 43.99Q.130 from any additional means provided by the legislature. [2001 2nd sp.s. c 9 § 15.]

43.99Q.150 Legislative building rehabilitation project—Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99Q.130 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal and interest, and shall contain an unconditional promise to pay the principal and interest as it becomes due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the trans-

fer and payment of funds as directed in this section. [2001 2nd sp.s. c 9 § 16.]

43.99Q.160 Legislative building rehabilitation project—Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal and interest on the bonds authorized in RCW 43.99Q.130, and RCW 43.99Q.140 and 43.99Q.150 shall not be deemed to provide an exclusive method for their payment. [2001 2nd sp.s. c 9 § 17.]

43.99Q.170 Legal investment. The bonds authorized in RCW 43.99Q.010, 43.99Q.070, and 43.99Q.130 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2001 2nd sp.s. c 9 § 12.]

43.99Q.900 Severability—2001 2nd sp.s. c 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2001 2nd sp.s. c 9 § 20.]

43.99Q.901 Effective date—2001 2nd sp.s. c 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 26, 2001]. [2001 2nd sp.s. c 9 § 21.]

Chapter 43.99R RCW

FINANCING FOR APPROPRIATIONS— 2003-2005 BIENNIUM

Sections

43.99R.010	General obligation bonds for capital and operating appropriations act.
43.99R.020	Conditions and limitations.
43.99R.030	Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
43.99R.040	Pledge and promise—Remedies.
43.99R.050	Payment of principal and interest—Additional means for raising money authorized.
43.99R.900	Severability—2003 1st sp.s. c 3.
43.99R.901	Effective date—2003 1st sp.s. c 3.

43.99R.010 General obligation bonds for capital and operating appropriations act. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriation acts for the 2003-2005 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion two hundred twelve million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2003 1st sp.s. c 3 § 1.]

43.99R.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99R.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) One billion fifty-one million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-two million five hundred thousand dollars to the outdoor recreation account created by RCW 79A.25.060;

(3) Twenty-two million five hundred thousand dollars to the habitat conservation account created by RCW 79A.15.020;

(4) Eighty million dollars to the state taxable building construction account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary to issue more than the amount specified in this subsection (4) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2003 1st sp.s. c 3 § 2.]

43.99R.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99R.020 (1), (2), (3), and (4).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99R.020 (1), (2), (3), and (4).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99R.020 (1), (2), (3), and (4) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2003 1st sp.s. c 3 § 3.]

43.99R.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99R.010 through 43.99R.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest

thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2003 1st sp.s. c 3 § 4.]

43.99R.050 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99R.010, and RCW 43.99R.020 and 43.99R.030 shall not be deemed to provide an exclusive method for the payment. [2003 1st sp.s. c 3 § 5.]

43.99R.900 Severability—2003 1st sp.s. c 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2003 1st sp.s. c 3 § 7.]

43.99R.901 Effective date—2003 1st sp.s. c 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 20, 2003]. [2003 1st sp.s. c 3 § 8.]

Chapter 43.99S RCW

**FINANCING FOR APPROPRIATIONS—
2005-2007 BIENNIUM**

Sections

- 43.99S.010 General obligation bonds for capital and operating appropriations acts.
- 43.99S.020 Conditions and limitations.
- 43.99S.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.99S.040 Pledge and promise—Remedies.
- 43.99S.050 Payment of principal and interest—Additional means for raising money authorized.
- 43.99S.900 Severability—2005 c 487.
- 43.99S.901 Effective date—2005 c 487.

43.99S.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriation acts for the 2003-2005 and 2005-2007 fiscal bienniums, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion four hundred thirty-four million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2005 c 487 § 1.]

43.99S.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99S.010

shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) One billion two hundred thirty-four million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-five million dollars to the outdoor recreation account created by RCW 79A.25.060;

(3) Twenty-five million dollars to the habitat conservation account created by RCW 79A.15.020;

(4) One hundred eight million two hundred thousand dollars to the state taxable building construction account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary to issue more than the amount specified in this subsection (4) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of non-taxable bond proceeds, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2005 c 487 § 2.]

43.99S.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99S.020 (1), (2), (3), and (4).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99S.020 (1), (2), (3), and (4).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99S.020 (1), (2), (3), and (4) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2005 c 487 § 3.]

43.99S.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99S.010 through 43.99S.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2005 c 487 § 4.]

43.99S.050 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99S.010, and RCW 43.99S.020 and 43.99S.030 shall not be deemed to provide an exclusive method for the payment. [2005 c 487 § 5.]

43.99S.900 Severability—2005 c 487. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2005 c 487 § 11.]

43.99S.901 Effective date—2005 c 487. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 16, 2005]. [2005 c 487 § 12.]

Chapter 43.99T RCW

FINANCING FOR APPROPRIATIONS— 2007-2009 BIENNIUM

Sections

- 43.99T.010 General obligation bonds for capital and operating appropriations acts.
- 43.99T.020 Conditions and limitations.
- 43.99T.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.99T.040 Pledge and promise—Remedies.
- 43.99T.050 Payment of principal and interest—Additional means for raising money authorized.
- 43.99T.900 Severability—2007 c 521.
- 43.99T.901 Effective date—2007 c 521.

43.99T.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 2005-2007 and 2007-2009 fiscal bienniums, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion nine hundred seventy-two million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2007 c 521 § 1.]

43.99T.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99T.010 shall be deposited in the state building construction account

created by RCW 43.83.020. The proceeds shall be transferred as follows:

- (1) One billion six hundred ninety-three million dollars to remain in the state building construction account created by RCW 43.83.020;
- (2) Thirty-six million dollars to the outdoor recreation account created by RCW 79A.25.060;
- (3) Thirty-six million dollars to the habitat conservation account created by RCW 79A.15.020;
- (4) Nineteen million dollars to the riparian protection account created by RCW 79A.15.120;
- (5) Nine million dollars to the farmlands preservation account created by RCW 79A.15.130;
- (6) One hundred forty million dollars to the state taxable building construction account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary to issue more than the amount specified in this subsection (6) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2007 c 521 § 2.]

43.99T.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99T.020 (1), (2), (3), (4), (5), and (6).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99T.020 (1), (2), (3), (4), (5), and (6).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99T.020 (1), (2), (3), (4), (5), and (6) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2007 c 521 § 3.]

43.99T.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99T.010 through 43.99T.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest

thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2007 c 521 § 4.]

43.99T.050 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99T.010, and RCW 43.99T.020 and 43.99T.030 shall not be deemed to provide an exclusive method for the payment. [2007 c 521 § 5.]

43.99T.900 Severability—2007 c 521. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2007 c 521 § 7.]

43.99T.901 Effective date—2007 c 521. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 15, 2007]. [2007 c 521 § 8.]

Chapter 43.99U RCW

FLOOD HAZARD MITIGATION—BOND ISSUE

Sections

- 43.99U.010 Flood hazard mitigation—Bond issue.
- 43.99U.020 Conditions and limitations.
- 43.99U.030 Retirement of bonds.
- 43.99U.040 Pledge and promise—Remedies.
- 43.99U.050 Payment of principal and interest—Additional means for raising money authorized.
- 43.99U.060 Bonds legal investment for public funds.
- 43.99U.900 Part headings not law—2008 c 179.
- 43.99U.901 Severability—2008 c 179.
- 43.99U.902 Effective date—2008 c 179.

43.99U.010 Flood hazard mitigation—Bond issue. For the purpose of providing state funds for federally matched flood hazard mitigation and other projects throughout the Chehalis river basin, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of fifty million dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2008 c 179 § 101.]

43.99U.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99U.010 shall be deposited in the state building construction account created by RCW 43.83.020. If the state finance committee deems it necessary to issue taxable bonds in order to comply with federal internal revenue service rules and regulations

pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposits otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. These proceeds shall be used exclusively for the purposes specified in RCW 43.99U.010 and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management subject to legislative appropriation. [2008 c 179 § 102.]

43.99U.030 Retirement of bonds. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99U.010.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2008 c 179 § 103.]

43.99U.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99U.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2008 c 179 § 104.]

43.99U.050 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99U.010, and RCW 43.99U.030 shall not be deemed to provide an exclusive method for the payment. [2008 c 179 § 105.]

43.99U.060 Bonds legal investment for public funds. The bonds authorized in RCW 43.99U.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2008 c 179 § 106.]

43.99U.900 Part headings not law—2008 c 179. See RCW 28A.527.900.

43.99U.901 Severability—2008 c 179. See RCW 28A.527.901.

43.99U.902 Effective date—2008 c 179. See RCW 28A.527.902.

Chapter 43.99V RCW

SCHOOL CONSTRUCTION ASSISTANCE GRANT PROGRAM

Sections

43.99V.010	School construction assistance grant program—Bond issue.
43.99V.020	Conditions and limitations.
43.99V.030	Retirement of bonds.
43.99V.040	Pledge and promise—Remedies.
43.99V.050	Payment of principal and interest—Additional means for raising money authorized.
43.99V.900	Effective date—2009 c 6.
43.99V.901	Effective date—2009 c 6.
43.99V.902	Severability—2009 c 6.

43.99V.010 School construction assistance grant program—Bond issue. For the purpose of providing funds to finance the school construction assistance grant program described and authorized by the legislature in the capital appropriations acts for the 2007-2009 and 2009-2011 fiscal biennia, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred thirty-three million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2009 c 6 § 1.]

43.99V.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99V.010 shall be deposited in the state building construction account created by RCW 43.83.020. If the state finance committee deems it necessary to issue taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposits otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2009 c 6 § 2.]

43.99V.030 Retirement of bonds. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in chapter 6, Laws of 2009.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retire-

ment and interest requirements on the bonds authorized in RCW 43.99V.010.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of chapter 6, Laws of 2009, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2009 c 6 § 3.]

43.99V.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99V.010 through 43.99V.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2009 c 6 § 4.]

43.99V.050 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99V.010, and RCW 43.99V.020 and 43.99V.030 shall not be deemed to provide an exclusive method for the payment. [2009 c 6 § 5.]

43.99V.900 Effective date—2009 c 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 18, 2009]. [2009 c 6 § 8.]

43.99V.901 Effective date—2009 c 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 18, 2009]. [2009 c 6 § 10.]

43.99V.902 Severability—2009 c 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2009 c 6 § 9.]

Chapter 43.99W RCW

**FINANCING FOR APPROPRIATIONS—
2007-2009 AND 2009-2011 BIENNIA**

Sections

- 43.99W.010 General obligation bonds for capital and operating appropriations acts.
- 43.99W.020 Conditions and limitations.
- 43.99W.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.99W.040 Pledge and promise—Remedies.

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43.99W.050 Payment of principal and interest—Additional means for raising money authorized.

43.99W.900 Effective date—2009 c 498.

43.99W.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 2007-2009 and 2009-2011 fiscal bienniums, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two billion two hundred nineteen million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2009 c 498 § 1.]

43.99W.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99W.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) One billion nine hundred forty-seven million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-seven million dollars to the outdoor recreation account created by RCW 79A.25.060;

(3) Twenty-seven million dollars to the habitat conservation account created by RCW 79A.15.020;

(4) Six million dollars to the riparian protection account created by RCW 79A.15.120;

(5) Ten million dollars to the farmlands preservation account created by RCW 79A.15.130;

(6) One hundred fifty-nine million dollars to the state taxable building construction account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary or advantageous to issue more than the amount specified in this subsection (6) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds or in order to reduce the total financing costs for bonds issued, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2009 c 498 § 2.]

43.99W.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retire-

ment account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99W.020 (1), (2), (3), (4), (5), and (6).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99W.020 (1), (2), (3), (4), (5), and (6).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99W.020 (1), (2), (3), (4), (5), and (6) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2009 c 498 § 3.]

43.99W.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99W.010 through 43.99W.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2009 c 498 § 4.]

43.99W.050 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99W.010, and RCW 43.99W.020 and 43.99W.030 shall not be deemed to provide an exclusive method for the payment. [2009 c 498 § 5.]

43.99W.900 Effective date—2009 c 498. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 15, 2009]. [2009 c 498 § 21.]

Chapter 43.101 RCW

CRIMINAL JUSTICE TRAINING COMMISSION— EDUCATION AND TRAINING STANDARDS BOARDS

Sections

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43.101.021	Policy.
43.101.030	Membership.
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43.101.050	Cessation of membership upon termination of office or employment.
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43.101.410	Racial profiling—Policies—Training—Complaint review process—Data collection and reporting.
43.101.415	Racial profiling—Reports to the legislature.
43.101.420	Personal crisis recognition and crisis intervention services—Training.
43.101.425	Communications to crisis referral services—Confidentiality of communications and records.
43.101.900	Severability—1974 ex.s. c 94.
43.101.901	Transfer of conference center.
43.101.902	Effective date—2001 c 167.

43.101.010 Definitions.

When used in this chapter:

(1) The term "commission" means the Washington state criminal justice training commission.

(2) The term "boards" means the education and training standards boards, the establishment of which are authorized by this chapter.

(3) The term "criminal justice personnel" means any person who serves in a county, city, state, or port commission agency engaged in crime prevention, crime reduction, or enforcement of the criminal law.

(4) The term "law enforcement personnel" means any public employee or volunteer having as a primary function the enforcement of criminal laws in general or any employee or volunteer of, or any individual commissioned by, any municipal, county, state, or combination thereof, agency having as its primary function the enforcement of criminal laws in general as distinguished from an agency possessing peace officer powers, the primary function of which is the implementation of specialized subject matter areas. For the purposes of this subsection "primary function" means that function to which the greater allocation of resources is made.

(5) The term "correctional personnel" means any employee or volunteer who by state, county, municipal, or combination thereof, statute has the responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling of those individuals whose civil rights have been limited in some way by legal sanction.

(6) "Chief for a day program" means a program in which commissioners and staff partner with local, state, and federal law enforcement agencies, hospitals, and the community to provide a day of special attention to chronically ill children. Each child is selected and sponsored by a law enforcement agency. The event, "chief for a day," occurs on one day, annually or every other year and may occur on the grounds and in the facilities of the commission. The program may include any appropriate honoring of the child as a "chief," such as a certificate swearing them in as a chief, a badge, a uniform, and donated gifts such as games, puzzles, and art supplies.

(7) A peace officer is "convicted" at the time a plea of guilty has been accepted, or a verdict of guilty or finding of guilt has been filed, notwithstanding the pendency of any future proceedings, including but not limited to sentencing, posttrial or postfact-finding motions and appeals. "Conviction" includes a deferral of sentence and also includes the equivalent disposition by a court in a jurisdiction other than the state of Washington.

(8) "Discharged for disqualifying misconduct" means terminated from employment for: (a) Conviction of (i) any crime committed under color of authority as a peace officer, (ii) any crime involving dishonesty or false statement within the meaning of Evidence Rule 609(a), (iii) the unlawful use or possession of a controlled substance, or (iv) any other crime the conviction of which disqualifies a Washington citizen from the legal right to possess a firearm under state or federal law; (b) conduct that would constitute any of the crimes addressed in (a) of this subsection; or (c) knowingly making materially false statements during disciplinary investigations, where the false statements are the sole basis for the termination.

(9) A peace officer is "discharged for disqualifying misconduct" within the meaning of subsection (8) of this section under the ordinary meaning of the term and when the totality of the circumstances support a finding that the officer resigned in anticipation of discipline, whether or not the misconduct was discovered at the time of resignation, and when such discipline, if carried forward, would more likely than not have led to discharge for disqualifying misconduct within the meaning of subsection (8) of this section.

(10) When used in context of proceedings referred to in this chapter, "final" means that the peace officer has exhausted all available civil service appeals, collective bargaining remedies, and all other such direct administrative appeals, and the officer has not been reinstated as the result of the action. Finality is not affected by the pendency or availability of state or federal administrative or court actions for discrimination, or by the pendency or availability of any remedies other than direct civil service and collective bargaining remedies.

(11) "Peace officer" means any law enforcement personnel subject to the basic law enforcement training requirement of RCW 43.101.200 and any other requirements of that sec-

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tion, notwithstanding any waiver or exemption granted by the commission, and notwithstanding the statutory exemption based on date of initial hire under RCW 43.101.200. Commissioned officers of the Washington state patrol, whether they have been or may be exempted by rule of the commission from the basic training requirement of RCW 43.101.200, are included as peace officers for purposes of this chapter. Fish and wildlife officers with enforcement powers for all criminal laws under RCW 77.15.075 are peace officers for purposes of this chapter. [2008 c 69 § 2; 2003 c 39 § 27; 2001 c 167 § 1; 1981 c 132 § 2; 1977 ex.s. c 212 § 1; 1974 ex.s. c 94 § 1.]

Finding—2008 c 69: "The legislature finds that the Washington state criminal justice commission's participation in charitable work, such as the "chief for a day" program that provides special attention to chronically ill children through recognition by various law enforcement agencies within the state, advances the overall purposes of the commission by promoting positive relationships between law enforcement and the citizens of the state of Washington." [2008 c 69 § 1.]

Civil rights

loss of: State Constitution Art. 6 § 3, RCW 29A.08.520.

restoration of: RCW 9.92.066, 9.94A.637, 9.94A.885, 9.95.260, chapter 9.96 RCW.

43.101.020 Commission created—Purpose. There is hereby created and established a state commission to be known and designated as the Washington state criminal justice training commission.

The purpose of such commission shall be to provide programs and standards for the training of criminal justice personnel. [1974 ex.s. c 94 § 2.]

43.101.021 Policy. It is the policy of the state of Washington that all commissioned, appointed, and elected law enforcement personnel comply with their oath of office and agency policies regarding the duty to be truthful and honest in the conduct of their official business. [2010 c 294 § 1.]

43.101.030 Membership. The commission shall consist of fourteen members, who shall be selected as follows:

(1) The governor shall appoint two incumbent sheriffs and two incumbent chiefs of police.

(2) The governor shall appoint one officer at or below the level of first line supervisor from a county law enforcement agency and one officer at or below the level of first line supervisor from a municipal law enforcement agency. Each appointee under this subsection (2) shall have at least ten years experience as a law enforcement officer.

(3) The governor shall appoint one person employed in a county correctional system and one person employed in the state correctional system.

(4) The governor shall appoint one incumbent county prosecuting attorney or municipal attorney.

(5) The governor shall appoint one elected official of a local government.

(6) The governor shall appoint one private citizen.

(7) The three remaining members shall be:

(a) The attorney general;

(b) The special agent in charge of the Seattle office of the federal bureau of investigation; and

(c) The chief of the state patrol. [1999 c 97 § 1; 1981 c 132 § 3; 1979 ex.s. c 55 § 1; 1974 ex.s. c 94 § 3.]

43.101.040 Terms of members—Vacancies. All members appointed to the commission by the governor shall be appointed for terms of six years, such terms to commence on July first, and expire on June thirtieth: PROVIDED, That of the members first appointed three shall be appointed for two year terms, three shall be appointed for four year terms, and three shall be appointed for six year terms: PROVIDED, FURTHER, That the terms of the two members appointed as incumbent police chiefs shall not expire in the same year nor shall the terms of the two members appointed as representing correctional systems expire in the same year nor shall the terms of the two members appointed as incumbent sheriffs expire in the same year. Any member chosen to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he or she is to succeed. Any member may be reappointed for additional terms. [2009 c 549 § 5167; 1974 ex.s. c 94 § 4.]

43.101.050 Cessation of membership upon termination of office or employment. Any member of the commission appointed pursuant to RCW 43.101.030 as an incumbent official or as an employee in a correctional system, as the case may be, shall immediately upon the termination of his or her holding of said office or employment, cease to be a member of the commission. [2009 c 549 § 5168; 1974 ex.s. c 94 § 5.]

43.101.060 Chair and vice chair—Quorum—Meetings. The commission shall elect a chair and a vice chair from among its members. Seven members of the commission shall constitute a quorum. The governor shall summon the commission to its first meeting.

Meetings may be called by the chair and shall be called by him or her upon the written request of six members. [1999 c 97 § 2; 1974 ex.s. c 94 § 6.]

43.101.070 Compensation—Reimbursement of travel expenses. Members of the commission shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. Attendance at meetings of the commission shall be deemed performance by a member of the duties of his or her employment. [2009 c 549 § 5169; 1984 c 287 § 85; 1975-'76 2nd ex.s. c 34 § 126; 1974 ex.s. c 94 § 7.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.101.080 Commission powers and duties—Rules and regulations. The commission shall have all of the following powers:

- (1) To meet at such times and places as it may deem proper;
- (2) To adopt any rules and regulations as it may deem necessary;
- (3) To contract for services as it deems necessary in order to carry out its duties and responsibilities;
- (4) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and

city government, and other commissions affected by or concerned with the business of the commission;

(5) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it;

(6) To select and employ an executive director, and to empower him to perform such duties and responsibilities as it may deem necessary;

(7) To assume legal, fiscal, and program responsibility for all training conducted by the commission;

(8) To establish, by rule and regulation, standards for the training of criminal justice personnel where such standards are not prescribed by statute;

(9) To own, establish, and operate, or to contract with other qualified institutions or organizations for the operation of, training and education programs for criminal justice personnel and to purchase, lease, or otherwise acquire, subject to the approval of the department of general administration, a training facility or facilities necessary to the conducting of such programs;

(10) To establish, by rule and regulation, minimum curriculum standards for all training programs conducted for employed criminal justice personnel;

(11) To review and approve or reject standards for instructors of training programs for criminal justice personnel, and to employ personnel on a temporary basis as instructors without any loss of employee benefits to those instructors;

(12) To direct the development of alternative, innovate, and interdisciplinary training techniques;

(13) To review and approve or reject training programs conducted for criminal justice personnel and rules establishing and prescribing minimum training and education standards recommended by the training standards and education boards;

(14) To allocate financial resources among training and education programs conducted by the commission;

(15) To allocate training facility space among training and education programs conducted by the commission;

(16) To issue diplomas certifying satisfactory completion of any training or education program conducted or approved by the commission to any person so completing such a program;

(17) To provide for the employment of such personnel as may be practical to serve as temporary replacements for any person engaged in a basic training program as defined by the commission;

(18) To establish rules and regulations recommended by the training standards and education boards prescribing minimum standards relating to physical, mental and moral fitness which shall govern the recruitment of criminal justice personnel where such standards are not prescribed by statute or constitutional provision;

(19) To require that each applicant that has been offered a conditional offer of employment as a fully commissioned peace officer or a fully commissioned reserve officer take and successfully pass a psychological examination and a polygraph test or similar assessment procedure as administered by county, city, or state law enforcement agencies as a condition of employment as a peace officer. The psychological examination and the polygraph examination shall be administered

in accordance with the requirements of RCW 43.101.095(2). The employing county, city, or state law enforcement agency may require that each peace officer or reserve officer who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or four hundred dollars, whichever is less. County, city, and state law enforcement agencies may establish a payment plan if they determine that the peace officer or reserve officer does not readily have the means to pay for his or her portion of the testing fee;

(20) To promote positive relationships between law enforcement and the citizens of the state of Washington by allowing commissioners and staff to participate in the "chief for a day program." The executive director shall designate staff who may participate. In furtherance of this purpose, the commission may accept grants of funds and gifts and may use its public facilities for such purpose. At all times, the participation of commissioners and staff shall comply with chapter 42.52 RCW and chapter 292-110 WAC.

All rules and regulations adopted by the commission shall be adopted and administered pursuant to the administrative procedure act, chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW. [2008 c 69 § 3; 2005 c 434 § 1; 2001 c 166 § 1; 1982 c 124 § 1; 1975-'76 2nd ex.s. c 17 § 3. Prior: 1975 1st ex.s. c 103 § 1; 1975 1st ex.s. c 82 § 1; 1974 ex.s. c 94 § 8.]

Finding—2008 c 69: See note following RCW 43.101.010.

43.101.085 Additional powers and duties. In addition to its other powers granted under this chapter, the commission has authority and power to:

(1) Adopt, amend, or repeal rules as necessary to carry out this chapter;

(2) Issue subpoenas and administer oaths in connection with investigations, hearings, or other proceedings held under this chapter;

(3) Take or cause to be taken depositions and other discovery procedures as needed in investigations, hearings, and other proceedings held under this chapter;

(4) Appoint members of a hearings board as provided under RCW 43.101.380;

(5) Enter into contracts for professional services determined by the commission to be necessary for adequate enforcement of this chapter;

(6) Grant, deny, or revoke certification of peace officers under the provisions of this chapter;

(7) Designate individuals authorized to sign subpoenas and statements of charges under the provisions of this chapter;

(8) Employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter; and

(9) To grant, deny, or revoke certification of tribal police officers whose tribal governments have agreed to participate in the tribal police officer certification process. [2006 c 22 § 1; 2001 c 167 § 7.]

Effective date—2006 c 22: "This act takes effect January 1, 2007." [2006 c 22 § 4.]

Severability—2006 c 22: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2006 c 22 § 5.]

(2010 Ed.)

43.101.095 Peace officer certification. (1) As a condition of continuing employment as peace officers, all Washington peace officers: (a) Shall timely obtain certification as peace officers, or timely obtain certification or exemption therefrom, by meeting all requirements of RCW 43.101.200, as that section is administered under the rules of the commission, as well by meeting any additional requirements under this chapter; and (b) shall maintain the basic certification as peace officers under this chapter.

(2)(a) As a condition of continuing employment for any applicant that has been offered a conditional offer of employment as a fully commissioned peace officer or a reserve officer after July 24, 2005, including any person whose certification has lapsed as a result of a break of more than twenty-four consecutive months in the officer's service as a fully commissioned peace officer or reserve officer, the applicant shall successfully pass a psychological examination and a polygraph or similar test as administered by the county, city, or state law enforcement agency that complies with the following requirements:

(i) The psychological examination shall be administered by a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW in compliance with standards established in rules of the commission.

(ii) The polygraph examination or similar assessment shall be administered by an experienced polygrapher who is a graduate of a polygraph school accredited by the American polygraph association.

(b) The employing county, city, or state law enforcement agency may require that each peace officer or reserve officer who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or four hundred dollars, whichever is less. County, city, and state law enforcement agencies may establish a payment plan if they determine that the peace officer or reserve officer does not readily have the means to pay for his or her portion of the testing fee.

(3) The commission shall certify peace officers who have satisfied, or have been exempted by statute or by rule from, the basic training requirements of RCW 43.101.200 on or before January 1, 2002. Thereafter, the commission may revoke certification pursuant to this chapter.

(4) The commission shall allow a peace officer to retain status as a certified peace officer as long as the officer: (a) Timely meets the basic law enforcement training requirements, or is exempted therefrom, in whole or in part, under RCW 43.101.200 or under rule of the commission; (b) meets or is exempted from any other requirements under this chapter as administered under the rules adopted by the commission; (c) is not denied certification by the commission under this chapter; and (d) has not had certification revoked by the commission.

(5) As a prerequisite to certification, as well as a prerequisite to pursuit of a hearing under RCW 43.101.155, a peace officer must, on a form devised or adopted by the commission, authorize the release to the commission of his or her personnel files, termination papers, criminal investigation files, or other files, papers, or information that are directly related to a certification matter or decertification matter before the commission.

(6) The commission is authorized to receive criminal history record information that includes nonconviction data for any purpose associated with employment by the commission or peace officer certification under this chapter. Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited.

(7) For a national criminal history records check, the commission shall require fingerprints be submitted and searched through the Washington state patrol identification and criminal history section. The Washington state patrol shall forward the fingerprints to the federal bureau of investigation. [2009 c 139 § 1; 2008 c 74 § 8; 2005 c 434 § 2; 2001 c 167 § 2.]

Finding—2008 c 74: See note following RCW 51.04.024.

43.101.105 Denial or revocation of peace officer certification. (1) Upon request by a peace officer's employer or on its own initiative, the commission may deny or revoke certification of any peace officer, after written notice and hearing, if a hearing is timely requested by the peace officer under RCW 43.101.155, based upon a finding of one or more of the following conditions:

(a) The peace officer has failed to timely meet all requirements for obtaining a certificate of basic law enforcement training, a certificate of basic law enforcement training equivalency, or a certificate of exemption from the training;

(b) The peace officer has knowingly falsified or omitted material information on an application for training or certification to the commission;

(c) The peace officer has been convicted at any time of a felony offense under the laws of this state or has been convicted of a federal or out-of-state offense comparable to a felony under the laws of this state; except that if a certified peace officer was convicted of a felony before being employed as a peace officer, and the circumstances of the prior felony conviction were fully disclosed to his or her employer before being hired, the commission may revoke certification only with the agreement of the employing law enforcement agency;

(d) The peace officer has been discharged for disqualifying misconduct, the discharge is final, and some or all of the acts or omissions forming the basis for the discharge proceedings occurred on or after January 1, 2002;

(e) The peace officer's certificate was previously issued by administrative error on the part of the commission; or

(f) The peace officer has interfered with an investigation or action for denial or revocation of certificate by: (i) Knowingly making a materially false statement to the commission; or (ii) in any matter under investigation by or otherwise before the commission, tampering with evidence or tampering with or intimidating any witness.

(2) After July 24, 2005, the commission shall deny certification to any applicant that has lost his or her certification as a result of a break in service of more than twenty-four consecutive months if that applicant failed to successfully pass the psychological examination and the polygraph test or similar assessment procedure required in RCW 43.101.095(2), as administered by county, city, or state law enforcement agencies. [2005 c 434 § 3; 2001 c 167 § 3.]

43.101.115 Denial or revocation of peace officer certification—Readmission to academy—Reinstatement. (1) A person denied a certification based upon dismissal or withdrawal from a basic law enforcement academy for any reason not also involving discharge for disqualifying misconduct is eligible for readmission and certification upon meeting standards established in rules of the commission, which rules may provide for probationary terms on readmission.

(2) A person whose certification is denied or revoked based upon prior administrative error of issuance, failure to cooperate, or interference with an investigation is eligible for certification upon meeting standards established in rules of the commission, rules which may provide for a probationary period of certification in the event of reinstatement of eligibility.

(3) A person whose certification is denied or revoked based upon a felony criminal conviction is not eligible for certification at any time.

(4) A peace officer whose certification is denied or revoked based upon discharge for disqualifying misconduct, but not also based upon a felony criminal conviction, may, five years after the revocation or denial, petition the commission for reinstatement of the certificate or for eligibility for reinstatement. The commission shall hold a hearing on the petition to consider reinstatement, and the commission may allow reinstatement based upon standards established in rules of the commission. If the certificate is reinstated or eligibility for certification is determined, the commission may establish a probationary period of certification.

(5) A peace officer whose certification is revoked based solely upon a criminal conviction may petition the commission for reinstatement immediately upon a final judicial reversal of the conviction. The commission shall hold a hearing on request to consider reinstatement, and the commission may allow reinstatement based on standards established in rules of the commission. If the certificate is reinstated or eligibility for certification is determined, the commission may establish a probationary period of certification. [2001 c 167 § 4.]

43.101.125 Lapsed peace officer certification—Reinstatement—Rules. A peace officer's certification lapses automatically when there is a break of more than twenty-four consecutive months in the officer's service as a full-time law enforcement officer. A break in full-time law enforcement service which is due solely to the pendency of direct review or appeal from a disciplinary discharge, or to the pendency of a work-related injury, does not cause a lapse in certification. The officer may petition the commission for reinstatement of certification. Upon receipt of a petition for reinstatement of a lapsed certificate, the commission shall determine under this chapter and any applicable rules of the commission if the peace officer's certification status is to be reinstated, and the commission shall also determine any requirements which the officer must meet for reinstatement. The commission may adopt rules establishing requirements for reinstatement. [2001 c 167 § 5.]

43.101.135 Termination of peace officer—Notification to commission. Upon termination of a peace officer for any reason, including resignation, the agency of termination

shall, within fifteen days of the termination, notify the commission on a personnel action report form provided by the commission. The agency of termination shall, upon request of the commission, provide such additional documentation or information as the commission deems necessary to determine whether the termination provides grounds for revocation under RCW 43.101.105. The commission shall maintain these notices in a permanent file, subject to RCW 43.101.400. [2001 c 167 § 6.]

43.101.145 Written complaint by law enforcement or law enforcement agency to deny or revoke peace officer certification—Immunity of complainant. A law enforcement officer or duly authorized representative of a law enforcement agency may submit a written complaint to the commission charging that a peace officer's certificate should be denied or revoked, and specifying the grounds for the charge. Filing a complaint does not make a complainant a party to the commission's action. The commission has sole discretion whether to investigate a complaint, and the commission has sole discretion whether to investigate matters relating to certification, denial of certification, or revocation of certification on any other basis, without restriction as to the source or the existence of a complaint. A person who files a complaint in good faith under this section is immune from suit or any civil action related to the filing or the contents of the complaint. [2001 c 167 § 8.]

43.101.155 Denial or revocation of peace officer certification—Statement of charges—Notice—Hearing. (1) If the commission determines, upon investigation, that there is probable cause to believe that a peace officer's certification should be denied or revoked under RCW 43.101.105, the commission must prepare and serve upon the officer a statement of charges. Service on the officer must be by mail or by personal service on the officer. Notice of the charges must also be mailed to or otherwise served upon the officer's agency of termination and any current law enforcement agency employer. The statement of charges must be accompanied by a notice that to receive a hearing on the denial or revocation, the officer must, within sixty days of communication of the statement of charges, request a hearing before the hearings board appointed under RCW 43.101.380. Failure of the officer to request a hearing within the sixty-day period constitutes a default, whereupon the commission may enter an order under RCW 34.05.440.

(2) If a hearing is requested, the date of the hearing must be scheduled not earlier than ninety days nor later than one hundred eighty days after communication of the statement of charges to the officer; the one hundred eighty-day period may be extended on mutual agreement of the parties or for good cause. The commission shall give written notice of hearing at least twenty days prior to the hearing, specifying the time, date, and place of hearing. [2001 c 167 § 9.]

43.101.157 Tribal police officer certification. (1) Tribal governments may voluntarily request certification for their police officers. Tribal governments requesting certification for their police officers must enter into a written agreement with the commission. The agreement must require the

tribal law enforcement agency and its officers to comply with all of the requirements for granting, denying, and revoking certification as those requirements are applied to peace officers certified under this chapter and the rules of the commission.

(2) Officers making application for certification as tribal police officers shall meet the requirements of this chapter and the rules of the commission as those requirements are applied to certification of peace officers. Application for certification as a tribal police officer shall be accepted and processed in the same manner as those for certification of peace officers.

(3) For purposes of certification, "tribal police officer" means any person employed and commissioned by a tribal government to enforce the criminal laws of that government. [2006 c 22 § 2.]

Effective date—Severability—2006 c 22: See notes following RCW 43.101.085.

43.101.170 Training and education obtained at approved existing institutions. In establishing standards for training and education, the commission may, so far as consistent with the purposes of *RCW 43.101.160, permit required training and education of any criminal justice personnel to be obtained at existing institutions approved for such training by the commission. [1974 ex.s. c 94 § 17.]

***Reviser's note:** RCW 43.101.160 was repealed by 1983 c 197 § 55, effective June 30, 1987.

43.101.180 Priorities. The first priority of the commission shall be to provide for basic law enforcement training, corrections training, and education programs. In addition, the commission shall provide training programs for other criminal justice personnel. [1981 c 136 § 27; 1974 ex.s. c 94 § 18.]

Additional notes found at www.leg.wa.gov

43.101.190 Receipt of grants, funds or gifts authorized—Administration—Utilization of federal funds. The commission, or the executive director acting on its behalf, is authorized to accept, receive, disburse, and administer grants or other funds or gifts from any source, including private individuals or agencies, the federal government, and other public agencies, for the purpose of carrying out the provisions of this chapter.

The services provided by the state through the establishment and maintenance of the programs of the commission are primarily intended for the benefit of the criminal justice agencies of the counties, cities, and towns of this state. To the extent that funds available to the state under the Crime Control Act of 1973 are utilized by the commission, it is the determination of the legislature that, to the maximum extent permitted by federal law, such funds as are so utilized shall be charged against that portion of United States law enforcement assistance administration funds which the state is required to make available to units of local government pursuant to section 303(a)(2) of Part C of the Crime Control Act of 1973. [1974 ex.s. c 94 § 19.]

43.101.200 Law enforcement personnel—Basic law enforcement training required—Commission to provide. (1) All law enforcement personnel, except volunteers, and

reserve officers whether paid or unpaid, initially employed on or after January 1, 1978, shall engage in basic law enforcement training which complies with standards adopted by the commission pursuant to RCW 43.101.080. For personnel initially employed before January 1, 1990, such training shall be successfully completed during the first fifteen months of employment of such personnel unless otherwise extended or waived by the commission and shall be requisite to the continuation of such employment. Personnel initially employed on or after January 1, 1990, shall commence basic training during the first six months of employment unless the basic training requirement is otherwise waived or extended by the commission. Successful completion of basic training is requisite to the continuation of employment of such personnel initially employed on or after January 1, 1990.

(2) Except as otherwise provided in this chapter, the commission shall provide the aforementioned training together with necessary facilities, supplies, materials, and the board and room of noncommuting attendees for seven days per week. Additionally, to the extent funds are provided for this purpose, the commission shall reimburse to participating law enforcement agencies with ten or less full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training: PROVIDED, That such reimbursement shall include only the actual cost of temporary replacement not to exceed the total amount of salary and benefits received by the replaced officer during his or her training period. [1997 c 351 § 13. Prior: 1993 sp.s. c 24 § 920; 1993 sp.s. c 21 § 5; 1989 c 299 § 2; 1977 ex.s. c 212 § 2.]

Additional notes found at www.leg.wa.gov

43.101.220 Training for corrections personnel. (1) The corrections personnel of the state and all counties and municipal corporations initially employed on or after January 1, 1982, shall engage in basic corrections training which complies with standards adopted by the commission. The training shall be successfully completed during the first six months of employment of the personnel, unless otherwise extended or waived by the commission, and shall be requisite to the continuation of employment.

(2) The commission shall provide the training required in this section, together with facilities, supplies, materials, and the room and board for noncommuting attendees.

(3)(a) Subsections (1) and (2) of this section do not apply to the Washington state department of corrections prisons division. The Washington state department of corrections is responsible for identifying training standards, designing curricula and programs, and providing the training for those corrections personnel employed by it. In doing so, the secretary of the department of corrections shall consult with staff development experts and correctional professionals both inside and outside of the agency, to include soliciting input from labor organizations.

(b) The commission and the department of corrections share the responsibility of developing and defining training standards and providing training for community corrections officers employed within the community corrections division of the department of corrections. [2009 c 146 § 2; 2007 c 382 § 1; 1981 c 136 § 26.]

[Title 43 RCW—page 528]

Intent—2009 c 146: "The intent of the legislature is that all corrections personnel employed by the Washington department of corrections are prepared to carry out the demands of their position that they are likely to encounter during their daily duties. The protection of the public, department employees, and inmates are a primary reason to ensure that everyone is adequately trained and knowledgeable in routine and emergency procedures.

To best carry out this mission it is necessary for the Washington state department of corrections to have the authority, discretion, and ability to design and conduct mandatory training that best meets the needs of its changing offender population." [2009 c 146 § 1.]

Additional notes found at www.leg.wa.gov

43.101.221 Training for corrections personnel—Core training requirements. (1) All new corrections personnel employed by the Washington state department of corrections shall, within a period to be determined by the secretary of the department of corrections, successfully complete core training requirements prescribed or obtain a waiver or extension of the core training requirements from the secretary.

(2) Within a period to be determined by the secretary of the Washington state department of corrections after completion of the core training requirements of this section, corrections personnel employed by the department shall successfully complete all remaining requirements for career level certification prescribed by the secretary applicable to their position or rank, or obtain a waiver or extension of the career level training requirements from the secretary.

(3) The secretary of the department of corrections is responsible for assuring that the training needs of the corrections personnel are met by the department's training program. Once a year, the secretary is responsible for conducting an assessment of the training programs for the corrections personnel employed by the department. [2009 c 146 § 3.]

Reviser's note: 2009 c 146 directed that this section be codified in chapter 43.10 RCW. This section has been added to chapter 43.101 RCW, which relates to criminal justice training.

43.101.222 Training for students enrolled at institutions of higher education. The commission may provide basic law enforcement training to students who are enrolled in criminal justice courses of study at four-year institutions of higher education, if the training is provided during the summers following the students' junior and senior years and so long as the students bear the full cost of the training. [1996 c 203 § 3.]

Additional notes found at www.leg.wa.gov

43.101.224 Training for persons investigating child sexual abuse. (1) On-going specialized training shall be provided for persons responsible for investigating child sexual abuse. Training participants shall have the opportunity to practice interview skills and receive feedback from instructors.

(2) The commission, the department of social and health services, the Washington association of sheriffs and police chiefs, and the Washington association of prosecuting attorneys shall design and implement statewide training that contains consistent elements for persons engaged in the interviewing of children for child sexual abuse cases, including law enforcement, prosecution, and child protective services.

(3) The training shall: (a) Be based on research-based practices and standards; (b) minimize the trauma of all per-

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sons who are interviewed during abuse investigations; (c) provide methods of reducing the number of investigative interviews necessary whenever possible; (d) assure, to the extent possible, that investigative interviews are thorough, objective, and complete; (e) recognize needs of special populations, such as persons with developmental disabilities; (f) recognize the nature and consequences of victimization; (g) require investigative interviews to be conducted in a manner most likely to permit the interviewed persons the maximum emotional comfort under the circumstances; (h) address record retention and retrieval; and (i) documentation of investigative interviews. [1999 c 389 § 2.]

43.101.225 Training on vehicular pursuits. (1) By June 30, 2006, every new full-time law enforcement officer employed, after July 27, 2003, by a state, county, or municipal law enforcement agency shall be trained on vehicular pursuits.

(2) Beginning July 1, 2006, every new full-time law enforcement officer employed by a state, county, or municipal law enforcement agency shall be trained on vehicular pursuits, within six months of employment.

(3) Nothing in chapter 37, Laws of 2003 requires training on vehicular pursuit of any law enforcement officer who is employed in a state, county, or city law enforcement agency on July 27, 2003, beyond that which he or she has received prior to July 27, 2003. [2003 c 37 § 3.]

Intent—2003 c 37: "The legislature intends to improve the safety of law enforcement officers and the public by providing consistent education and training for officers in the matter of vehicle pursuit. The legislature recognizes there are a multitude of factors which enter into the determination of pursuit and intends that the criminal justice training commission be given the responsibility of identifying those factors and developing appropriate standards for training of law enforcement officers in this area." [2003 c 37 § 1.]

43.101.226 Vehicular pursuits—Model policy. (1) By December 1, 2003, the Washington state criminal justice training commission, the Washington state patrol, the Washington association of sheriffs and police chiefs, and organizations representing state and local law enforcement officers shall develop a written model policy on vehicular pursuits.

(2) The model policy must meet all of the following minimum standards:

(a) Provide for supervisory control, if available, of the pursuit;

(b) Provide procedures for designating the primary pursuit vehicle and for determining the total number of vehicles to be permitted to participate at one time in the pursuit;

(c) Provide procedures for coordinating operations with other jurisdictions; and

(d) Provide guidelines for determining when the interests of public safety and effective law enforcement justify a vehicular pursuit and when a vehicular pursuit should not be initiated or should be terminated.

(3) By June 1, 2004, every state, county, and municipal law enforcement agency shall adopt and implement a written vehicular pursuit policy. The policy adopted may, but need not, be the model policy developed under subsections (1) and (2) of this section. However, any policy adopted must address the minimum requirements specified in subsection (2) of this section. [2003 c 37 § 2.]

Intent—2003 c 37: See note following RCW 43.101.225.

43.101.227 Training for interaction with persons with a developmental disability or mental illness. (1) The commission must offer a training session on law enforcement interaction with persons with a developmental disability or mental illness. The training must be developed by the commission in consultation with appropriate self advocate and family advocate groups and with appropriate community, local, and state organizations and agencies that have expertise in the area of working with persons with a developmental disability or mental illness. In developing the course, the commission must also examine existing courses certified by the commission that relate to persons with a developmental disability or mental illness.

(2) The training must consist of classroom instruction or internet instruction and shall replicate likely field situations to the maximum extent possible. The training should include, at a minimum, core instruction in all of the following:

(a) The cause and nature of mental illnesses and developmental disabilities;

(b) How to identify indicators of mental illness and developmental disability and how to respond appropriately in a variety of common situations;

(c) Conflict resolution and de-escalation techniques for potentially dangerous situations involving persons with a developmental disability or mental illness;

(d) Appropriate language usage when interacting with persons with a developmental disability or mental illness;

(e) Alternatives to lethal force when interacting with potentially dangerous persons with a developmental disability or mental illness; and

(f) Community and state resources available to serve persons with a developmental disability or mental illness and how these resources can be best used by law enforcement to benefit persons with a developmental disability or mental illness in their communities.

(3) The training shall be made available to law enforcement agencies, through electronic means, for use at their convenience and determined by the internal training needs and resources of each agency.

(4) The commission shall make all reasonable efforts to secure private and nonstate public funds to implement this section. [2003 c 270 § 1.]

43.101.230 Training for Indian tribe officers and employees authorized—Conditions. Indian tribe officers and employees who are engaged in law enforcement activities and who do not qualify as "criminal justice personnel" or "law enforcement personnel" under RCW 43.101.010, as now law or hereafter amended, may be provided training under this chapter if: (a) The tribe is recognized by the federal government, and (b) the tribe pays to the commission the full cost of providing such training. The commission shall place all money received under this section into the criminal justice training account. [1981 c 134 § 1.]

43.101.240 Community-police partnership. (1) The criminal justice training commission in cooperation with the United States department of justice department of community relations (region X) shall conduct an assessment of successful community-police partnerships throughout the United

States. The commission shall develop training for local law enforcement agencies targeted toward those communities where there has been a substantial increase in drug crimes. The purpose of the training is to facilitate cooperative community-police efforts and enhanced community protection to reduce drug abuse and related crimes. The training shall include but not be limited to conflict management, ethnic sensitivity, cultural awareness, and effective community policing.

(2) Local law enforcement agencies are encouraged to form community-police partnerships in all neighborhoods and particularly areas with high rates of criminal activity. These partnerships are encouraged to organize citizen-police task forces which meet on a regular basis to promote greater citizen involvement in combatting drug abuse and to reduce tension between police and citizens. Partnerships that are formed are encouraged to report to the criminal justice training commission of their formation and progress. [1994 sp.s. c 7 § 311; 1989 c 271 § 423.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

43.101.250 Firearms certificate program for *private detectives. The commission shall establish a program for issuing firearms certificates to *private detectives for the purposes of obtaining armed *private detective licenses. The commission shall adopt rules establishing the fees, training requirements, and procedures for obtaining and annually renewing firearms certificates. The fees charged by the commission shall recover the costs incurred by the commission in administering the firearms certificate program.

(1) Firearms training must be provided by an organization or trainer approved by the commission and must consist of at least eight hours of classes and proficiency training.

(2) Applications for firearms certificates shall be filed with the commission on a form provided by the commission. The commission may require any information and documentation that reasonably relates to the need to determine whether the applicant qualifies for a firearms certificate. Applicants must:

- (a) Be at least twenty-one years of age;
- (b) Possess a current *private detective license; and
- (c) Present a written request from the owner or qualifying agent of a licensed *private detective agency that the applicant be issued a firearms certificate.

(3) The commission shall consult with the private security industry and law enforcement before adopting or amending the training requirements of this section.

(4) The commission may adopt rules that are reasonable and necessary for the effective implementation and administration of this section consistent with chapter 34.05 RCW. [1991 c 328 § 28.]

***Reviser's note:** "Private detective" redesignated "private investigator" by 1995 c 277.

Additional notes found at www.leg.wa.gov

43.101.260 Firearms certificate program for security guards. The commission shall establish a program for issuing firearms certificates to security guards for the purposes of obtaining armed security guard licenses. The commission

shall adopt rules establishing the fees, training requirements, and procedures for obtaining and annually renewing firearms certificates. The fees charged by the commission shall recover the costs incurred by the commission in administering the firearms certificate program.

(1) Firearms training must be provided by an organization or trainer approved by the commission and must consist of at least eight hours of classes and proficiency training.

(2) Applications for firearms certificates shall be filed with the commission on a form provided by the commission. The commission may require any information and documentation that reasonably relates to the need to determine whether the applicant qualifies for a firearms certificate. Applicants must:

- (a) Be at least twenty-one years of age;
- (b) Possess a current private security guard license; and
- (c) Present a written request from the owner or qualifying agent of a licensed private security company that the applicant be issued a firearms certificate.

(3) The commission shall consult with the private security industry and law enforcement before adopting or amending the training requirements of this section.

(4) The commission may adopt rules that are reasonable and necessary for the effective implementation and administration of this section consistent with chapter 34.05 RCW. [1991 c 334 § 29.]

Additional notes found at www.leg.wa.gov

43.101.270 Sexual assault—Training for investigating and prosecuting. (1) Each year the criminal justice training commission shall offer an intensive, integrated training session on investigating and prosecuting sexual assault cases. The training shall place particular emphasis on the development of professionalism and sensitivity towards the victim and the victim's family.

(2) The commission shall seek advice from the Washington association of prosecuting attorneys, the Washington defender association, the Washington association of sheriffs and police chiefs, and the Washington coalition of sexual assault programs.

(3) The training shall be an integrated approach to sexual assault cases so that prosecutors, law enforcement, defenders, and victim advocates can all benefit from the training.

(4) The training shall be self-supporting through fees charged to the participants of the training. [1991 c 267 § 2.]

Findings—1991 c 267: "The safety of all children is enhanced when sexual assault cases are properly investigated and prosecuted. The victim of the sexual assault and the victim's family have a right to be treated with sensitivity and professionalism, which also increases the likelihood of their continued cooperation with the investigation and prosecution of the case. The legislature finds the sexual assault cases, particularly those involving victims who are children, are difficult to prosecute successfully. The cooperation of a victim and the victim's family through the investigation and prosecution of the sexual assault case is enhanced and the trauma associated with the investigation and prosecution is reduced when trained victim advocates assist the victim and the victim's family through the investigation and prosecution of the case. Trained victim advocates also assist law enforcement, prosecutors, and defense attorneys, by relieving some of the burden of explaining the investigation and prosecution process and possible delays to the victim and accompanying the victim during interviews by the police, prosecutor, and defense attorney, and accompanying the victim during hearings and the trial.

The legislature finds that counties should give priority to the successful prosecution of sexual assault cases, especially those that involve children, by ensuring that prosecutors, investigators, defense attorneys, and victim advo-

ates are properly trained and available. Therefore, the legislature intends to establish a mechanism to provide the necessary training of prosecutors, law enforcement investigators, defense attorneys, and victim advocates and ensure the availability of victim advocates for victims of sexual assault and their families." [1991 c 267 § 1.]

Additional notes found at www.leg.wa.gov

43.101.280 Ethnic and cultural diversity—Development of curriculum for understanding—Training. The criminal justice training commission shall develop, in consultation with the administrative office of the courts and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be developed by October 1, 1993. The commission shall ensure that ethnic and diversity training becomes an integral part of the training of law enforcement personnel so as to incorporate cultural sensitivity and awareness into the daily activities of law enforcement personnel. [2005 c 282 § 46; 1993 c 415 § 4.]

Intent—1993 c 415: See note following RCW 2.56.031.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030.

43.101.290 Training in crimes of malicious harassment. The criminal justice training commission shall provide training for law enforcement officers in identifying, responding to, and reporting all violations of RCW 9A.36.080 and any other crimes of bigotry or bias. [1993 c 127 § 5.]

Additional notes found at www.leg.wa.gov

43.101.300 Juvenile runaways—Policy manual. The criminal justice training commission shall ensure that every law enforcement agency in the state has an accurate and up-to-date policy manual describing the statutes relating to juvenile runaways. [1994 sp.s. c 7 § 509.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.101.350 Core training requirements. (1) All law enforcement personnel initially hired to, transferred to, or promoted to a supervisory or management position on or after January 1, 1999, and all corrections personnel of the state and all counties and municipal corporations transferred or promoted to a supervisory or management position on or after January 1, 1982, shall, within the first six months of entry into the position, successfully complete the core training requirements prescribed by rule of the commission for the position, or obtain a waiver or extension of the core training requirements from the commission.

(2) Within one year after completion of the core training requirements of this section, all law enforcement personnel and corrections personnel shall successfully complete all remaining requirements for career level certification prescribed by rule of the commission applicable to their position or rank, or obtain a waiver or extension of the career level training requirements from the commission.

(3) The commission shall provide the training required in this section, together with facilities, supplies, materials, and

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the room and board for attendees who do not live within fifty miles of the training center. The training shall be delivered in the least disruptive manner to local law enforcement or corrections agencies, and will include but not be limited to regional on-site training, interactive training, and credit for training given by the home department.

(4) Nothing in this section affects or impairs the employment status of an employee whose employer does not provide the opportunity to engage in the required training. [2007 c 382 § 2; 1997 c 351 § 10.]

Additional notes found at www.leg.wa.gov

43.101.360 Report to the legislature. By January 1st of every odd-numbered year, the commission shall provide a written report to the legislature addressing the following items: (1) Status and satisfaction of service to its clients; (2) detailed analysis of how it will maintain and update adequate state-of-the-art training models and their delivery in the most cost-effective and efficient manner; and (3) fiscal data projecting its current and future funding requirements. [1997 c 351 § 11.]

Additional notes found at www.leg.wa.gov

43.101.365 Child abuse and neglect—Development of curriculum. (1) The commission, in consultation with the department of social and health services, the Washington association of sheriffs and police chiefs, and the Washington association of prosecuting attorneys, shall develop a curriculum related to child abuse and neglect to be included in the basic law enforcement training that must be successfully completed within the first fifteen months of employment of all law enforcement personnel.

(2) The curriculum must be incorporated into the basic law enforcement training program by July 1, 2008. [2007 c 410 § 4.]

Short title—2007 c 410: See note following RCW 13.34.138.

43.101.370 Child abuse and neglect—Intensive training. Each year the criminal justice training commission shall offer an intensive training session on investigation of child abuse and neglect. The training shall focus on the investigative duties of law enforcement established under chapter 26.44 RCW with particular emphasis placed on child interview techniques to increase the accuracy of statements taken from children and decrease the need for additional interviews. [1997 c 351 § 12.]

Additional notes found at www.leg.wa.gov

43.101.380 Hearings—Standard of proof—Appeals—Judicial review. (1) The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the administrative procedure act, govern hearings before the commission and govern all other actions before the commission unless otherwise provided in this chapter. The standard of proof in actions before the commission is clear, cogent, and convincing evidence.

(2) In all hearings requested under RCW 43.101.155, a five-member hearings panel shall both hear the case and make the commission's final administrative decision. Members of the commission may, but need not, be appointed to the

hearings panels. The commission shall appoint as follows two or more panels to hear appeals from certification actions:

(a) When a hearing is requested in relation to a certification action of a Washington peace officer who is not a peace officer of the Washington state patrol, the commission shall appoint to the panel: (i) One police chief; (ii) one sheriff; (iii) two certified Washington peace officers who are at or below the level of first line supervisor, one of whom is from a city or county law enforcement agency, and who have at least ten years' experience as peace officers; and (iv) one person who is not currently a peace officer and who represents a community college or four-year college or university.

(b) When a hearing is requested in relation to a certification action of a peace officer of the Washington state patrol, the commission shall appoint to the panel: (i) Either one police chief or one sheriff; (ii) one administrator of the state patrol; (iii) one certified Washington peace officer who is at or below the level of first line supervisor, who is not a state patrol officer, and who has at least ten years' experience as a peace officer; (iv) one state patrol officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; and (v) one person who is not currently a peace officer and who represents a community college or four-year college or university.

(c) When a hearing is requested in relation to a certification action of a tribal police officer, the commission shall appoint to the panel (i) either one police chief or one sheriff; (ii) one tribal police chief; (iii) one certified Washington peace officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; (iv) one tribal police officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; and (v) one person who is not currently a peace officer and who represents a community college or four-year college or university.

(d) Persons appointed to hearings panels by the commission shall, in relation to any certification action on which they sit, have the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular commission members.

(3) Where the charge upon which revocation or denial is based is that a peace officer was "discharged for disqualifying misconduct," and the discharge is "final," within the meaning of RCW 43.101.105(1)(d), and the officer received a civil service hearing or arbitration hearing culminating in an affirming decision following separation from service by the employer, the hearings panel may revoke or deny certification if the hearings panel determines that the discharge occurred and was based on disqualifying misconduct; the hearings panel need not redetermine the underlying facts but may make this determination based solely on review of the records and decision relating to the employment separation proceeding. However, the hearings panel may, in its discretion, consider additional evidence to determine whether such a discharge occurred and was based on such disqualifying misconduct. The hearings panel shall, upon written request by the subject peace officer, allow the peace officer to present additional evidence of extenuating circumstances.

Where the charge upon which revocation or denial of certification is based is that a peace officer "has been con-

victed at any time of a felony offense" within the meaning of RCW 43.101.105(1)(c), the hearings panel shall revoke or deny certification if it determines that the peace officer was convicted of a felony. The hearings panel need not redetermine the underlying facts but may make this determination based solely on review of the records and decision relating to the criminal proceeding. However, the hearings panel shall, upon the panel's determination of relevancy, consider additional evidence to determine whether the peace officer was convicted of a felony.

Where the charge upon which revocation or denial is based is under RCW 43.101.105(1) (a), (b), (e), or (f), the hearings panel shall determine the underlying facts relating to the charge upon which revocation or denial of certification is based.

(4) The commission's final administrative decision is subject to judicial review under RCW 34.05.510 through 34.05.598. [2010 1st sp.s. c 7 § 14; 2009 c 25 § 1; 2006 c 22 § 3; 2001 c 167 § 10.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective date—Severability—2006 c 22: See notes following RCW 43.101.085.

43.101.390 Immunity of commission and boards.

The commission, its boards, and individuals acting on behalf of the commission and its boards are immune from suit in any civil or criminal action contesting or based upon proceedings or other official acts performed in the course of their duties in the administration and enforcement of this chapter. [2001 c 167 § 11.]

43.101.400 Confidentiality of records. (1) Except as provided under subsection (2) of this section, the following records of the commission are confidential and exempt from public disclosure: (a) The contents of personnel action reports filed under RCW 43.101.135; (b) all files, papers, and other information obtained by the commission pursuant to *RCW 43.101.095(3); and (c) all investigative files of the commission compiled in carrying out the responsibilities of the commission under this chapter. Such records are not subject to public disclosure, subpoena, or discovery proceedings in any civil action, except as provided in subsection (5) of this section.

(2) Records which are otherwise confidential and exempt under subsection (1) of this section may be reviewed and copied: (a) By the officer involved or the officer's counsel or authorized representative, who may review the officer's file and may submit any additional exculpatory or explanatory evidence, statements, or other information, any of which must be included in the file; (b) by a duly authorized representative of (i) the agency of termination, or (ii) a current employing law enforcement agency, which may review and copy its employee-officer's file; or (c) by a representative of or investigator for the commission.

(3) Records which are otherwise confidential and exempt under subsection (1) of this section may also be inspected at the offices of the commission by a duly authorized representative of a law enforcement agency considering an application for employment by a person who is the subject of a record. A copy of records which are otherwise confiden-

tial and exempt under subsection (1) of this section may later be obtained by an agency after it hires the applicant. In all other cases under this subsection, the agency may not obtain a copy of the record.

(4) Upon a determination that a complaint is without merit, that a personnel action report filed under RCW 43.101.135 does not merit action by the commission, or that a matter otherwise investigated by the commission does not merit action, the commission shall purge records addressed in subsection (1) of this section.

(5) The hearings, but not the deliberations, of the hearings board are open to the public. The transcripts, admitted evidence, and written decisions of the hearings board on behalf of the commission are not confidential or exempt from public disclosure, and are subject to subpoena and discovery proceedings in civil actions.

(6) Every individual, legal entity, and agency of federal, state, or local government is immune from civil liability, whether direct or derivative, for providing information to the commission in good faith. [2001 c 167 § 12.]

*Reviser's note: RCW 43.101.095 was amended by 2005 c 434 § 2, changing subsection (3) to subsection (5).

43.101.410 Racial profiling—Policies—Training—Complaint review process—Data collection and reporting. (1) Local law enforcement agencies shall comply with the recommendations of the Washington association of sheriffs and police chiefs regarding racial profiling, as set forth under (a) through (f) of this subsection. Local law enforcement agencies shall:

(a) Adopt a written policy designed to condemn and prevent racial profiling;

(b) Review and audit their existing procedures, practices, and training to ensure that they do not enable or foster the practice of racial profiling;

(c) Continue training to address the issues related to racial profiling. Officers should be trained in how to better interact with persons they stop so that legitimate police actions are not misperceived as racial profiling;

(d) Ensure that they have in place a citizen complaint review process that can adequately address instances of racial profiling. The process must be accessible to citizens and must be fair. Officers found to be engaged in racial profiling must be held accountable through the appropriate disciplinary procedures within each department;

(e) Work with the minority groups in their community to appropriately address the issue of racial profiling; and

(f) Within fiscal constraints, collect demographic data on traffic stops and analyze that data to ensure that racial profiling is not occurring.

(2) The Washington association of sheriffs and police chiefs shall coordinate with the criminal justice training commission to ensure that issues related to racial profiling are addressed in basic law enforcement training and offered in regional training for in-service law enforcement officers at all levels.

(3) Local law enforcement agencies shall report all information required under this section to the Washington association of sheriffs and police chiefs. [2002 c 14 § 2.]

Declaration—Findings—2002 c 14: "(1) The legislature declares that racial profiling is the illegal use of race or ethnicity as a factor in deciding to

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stop and question, take enforcement action, arrest, or search a person or vehicle with or without a legal basis under the United States Constitution or Washington state Constitution.

(2) The legislature recognizes that the president of the United States has issued an executive order stating that stopping or searching individuals on the basis of race is not an effective law enforcement policy, that it is inconsistent with democratic ideals, especially the commitment to equal protection under the law for all persons, and that it is neither legitimate nor defensible as a strategy for public protection. The order also instructs the law enforcement agencies within the departments of justice, treasury, and interior to collect race, ethnicity, and gender data on the people they stop or arrest.

(3) The legislature finds that the Washington state patrol has been in the process of collecting data on traffic stops and analyzing the data to determine if the patrol has any areas in its enforcement of traffic laws where minorities are being treated in a discriminatory manner. The legislature further finds that the Washington association of sheriffs and police chiefs has recently passed a resolution condemning racial profiling and has reaffirmed local law enforcement agencies' commitment to ensuring the public safety and the protection of civil liberties for all persons. The association also restated its goal of implementing policing procedures that are fair, equitable, and constitutional." [2002 c 14 § 1.]

43.101.415 Racial profiling—Reports to the legislature. The Washington association of sheriffs and police chiefs, in cooperation with the criminal justice training commission, shall report to the legislature by December 31, 2002, and each December 31st thereafter, on the progress and accomplishments of each local law enforcement agency in the state in meeting the requirements and goals set forth in RCW 43.101.410. [2002 c 14 § 3.]

Declaration—Findings—2002 c 14: See note following RCW 43.101.410.

43.101.420 Personal crisis recognition and crisis intervention services—Training. (1) The commission shall offer a training session on personal crisis recognition and crisis intervention services to criminal justice, correctional personnel, and other public safety employees. The training shall be implemented by the commission in consultation with appropriate public and private organizations that have expertise in crisis referral services and in the underlying conditions leading to the need for crisis referral.

(2) The training shall consist of a minimum of one hour of classroom or internet instruction, and shall include instruction on the following subjects:

(a) The description and underlying causes of problems that may have an impact on the personal and professional lives of public safety employees, including mental health issues, chemical dependency, domestic violence, financial problems, and other personal crises;

(b) Techniques by which public safety employees may recognize the conditions listed in (a) of this subsection and understand the need to seek assistance and obtain a referral for consultation and possible treatment; and

(c) A listing of examples of public and private crisis referral agencies available to public safety employees.

(3) The training developed by the commission shall be made available by the commission to all employees of state and local agencies that perform public safety duties. The commission may charge a reasonable fee to defer the cost of making the training available. [2009 c 19 § 1.]

43.101.425 Communications to crisis referral services—Confidentiality of communications and records.

(1) All communications to crisis referral services by employees and volunteers of law enforcement, correctional, fire-fighting, and emergency services agencies, and all records related to the communications, shall be confidential. Crisis referral services include all public or private organizations that advise employees and volunteers of such agencies about sources of consultation and treatment for personal problems including mental health issues, chemical dependency, domestic violence, gambling, financial problems, and other personal crises.

(2) A crisis referral service may reveal information related to crisis referral services to prevent reasonably certain death, substantial bodily harm, or commission of a crime. [2009 c 19 § 2.]

43.101.900 Severability—1974 ex.s. c 94. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 94 § 20.]

43.101.901 Transfer of conference center. The legislature authorizes the department of general administration to transfer the Washington state training and conference center located at 19010 First Avenue, Burien, Washington, 98148, to the criminal justice training commission. [2001 c 166 § 2.]

43.101.902 Effective date—2001 c 167. This act takes effect January 1, 2002. [2001 c 167 § 14.]

Chapter 43.103 RCW

WASHINGTON STATE FORENSIC INVESTIGATIONS COUNCIL

Sections

43.103.010	Purposes.
43.103.020	Definitions.
43.103.030	Council created—Powers and duties.
43.103.040	Membership of council—Appointment.
43.103.050	Terms of members—Vacancies.
43.103.060	Qualification for continued membership.
43.103.070	Chair—Quorum—Meetings.
43.103.080	Travel expenses.
43.103.090	Powers.
43.103.100	Sudden infant death syndrome—Training—Protocols.
43.103.110	Training modules for missing persons protocols.
43.103.900	Severability—1983 1st ex.s. c 16.
43.103.901	Effective date—1983 1st ex.s. c 16.

Jury source list—Master jury list—Creation—Adoption of rules for implementation of methodology and standards by agencies: RCW 2.36.054 and 2.36.0571.

43.103.010 Purposes. The purposes of chapter 16, Laws of 1983 1st ex. sess. are declared by the legislature to be as follows:

(1) To preserve and enhance the state crime laboratory and state toxicology laboratory, which are essential parts of the criminal justice and death investigation systems in the state of Washington;

(2) To fund the death investigation system and to make related state and local institutions more efficient;

(3) To provide resources necessary for the performance, by qualified pathologists, of autopsies which are also essen-

tial to the criminal justice and death investigation systems of this state and its counties;

(4) To improve the performance of death investigations and the criminal justice system through the formal training of county coroners and county medical examiners;

(5) To establish and maintain a dental identification system; and

(6) To provide flexibility so that any county may establish a county morgue when it serves the public interest. [1999 c 40 § 2; 1995 c 398 § 2; 1983 1st ex.s. c 16 § 1.]

Additional notes found at www.leg.wa.gov

43.103.020 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Council" means the Washington state forensic investigations council.

(2) "Crime laboratory" means the Washington state patrol crime laboratory system created in RCW 43.43.670 and under the bureau of forensic laboratory services of the Washington state patrol.

(3) "State toxicology laboratory" means the Washington state toxicology laboratory and under the bureau of forensic laboratory services of the Washington state patrol. [1999 c 40 § 3; 1995 c 398 § 3; 1983 1st ex.s. c 16 § 2.]

Additional notes found at www.leg.wa.gov

43.103.030 Council created—Powers and duties. There is created the Washington state forensic investigations council. The council shall oversee the bureau of forensic laboratory services and, in consultation with the chief of the Washington state patrol or the chief's designee, control the operation and establish policies of the bureau of forensic laboratory services. The council may also study and recommend cost-efficient improvements to the death investigation system in Washington and report its findings to the legislature.

The forensic investigations council shall be responsible for the oversight of any state forensic pathology program authorized by the legislature.

The forensic investigations council shall be actively involved in the preparation of the bureau of forensic laboratory services budget and shall approve the bureau of forensic laboratory services budget prior to its formal submission to the office of financial management pursuant to RCW 43.88.030. [2005 c 166 § 2; 1999 c 40 § 4; 1995 c 398 § 4; 1991 c 176 § 2; 1983 1st ex.s. c 16 § 3.]

Additional notes found at www.leg.wa.gov

43.103.040 Membership of council—Appointment. The council shall consist of thirteen members who shall be selected as follows: One county coroner; one county prosecutor; one county prosecutor who also serves as ex officio county coroner; one county medical examiner; one county sheriff; one chief of police; the chief of the state patrol; two members of a county legislative authority; one pathologist who is currently in private practice; two members of a city legislative authority; and one attorney whose practice of law includes significant experience representing clients charged with criminal offenses.

The governor shall appoint members to the council from among the nominees submitted for each position as follows: The Washington association of county officials shall submit two nominees each for the coroner position and the medical examiner position; the Washington state association of counties shall submit two nominees each for the two county legislative authority positions; the association of Washington cities shall submit two nominees each for the two city legislative authority positions; the Washington association of prosecuting attorneys shall submit two nominees each for the county prosecutor-ex officio county coroner and for the county prosecutor position; the Washington association of sheriffs and police chiefs shall submit two nominees each for the county sheriff position and the chief of police position; the Washington association of pathologists shall submit two nominees for the private pathologist position; and the Washington association of criminal defense lawyers and the Washington defender association shall jointly submit two nominees for the criminal defense attorney position, one of whom must actively manage or have significant experience in managing a public or private criminal defense agency or association, the other must have experience in cases involving DNA or other forensic evidence. [2010 c 143 § 1; 1995 c 398 § 5; 1983 1st ex.s. c 16 § 4.]

43.103.050 Terms of members—Vacancies. All members of the council are appointed for terms of four years, commencing on July 1 and expiring on June 30. However, of the members appointed to the council, five shall be appointed for two-year terms and six shall be appointed for four-year terms. A person chosen to fill a vacancy created other than by the natural expiration of a member's term shall be nominated and appointed as provided in RCW 43.103.040 for the unexpired term of the member he or she is to succeed. Any member may be reappointed for additional terms. [1995 c 398 § 6; 1983 1st ex.s. c 16 § 5.]

43.103.060 Qualification for continued membership. Any member of the council shall immediately cease to be a member if he or she ceases to hold the particular office or employment which was the basis of his or her appointment under RCW 43.103.040. [1983 1st ex.s. c 16 § 6.]

43.103.070 Chair—Quorum—Meetings. The council shall elect a chair and a vice chair from among its members. The chair shall not vote except in case of a tie vote. Seven members of the council shall constitute a quorum. The governor shall summon the council to its first meeting. Otherwise, meetings may be called by the chair and shall be called by him or her upon the written request of five members of the council. Conference calls by telephone are a proper form of meeting. [1995 c 398 § 7; 1983 1st ex.s. c 16 § 7.]

43.103.080 Travel expenses. (1) Members of the council shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(2) Attendance at meetings of the council shall constitute performance by a council member of the duties of his or her employment or office. [1983 1st ex.s. c 16 § 8.]

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43.103.090 Powers. (1) The council may:

(a) Meet at such times and places as may be designated by a majority vote of the council members or, if a majority cannot agree, by the chair;

(b) Adopt rules governing the council and the conduct of its meetings;

(c) Require reports from the chief of the Washington state patrol on matters pertaining to the bureau of forensic laboratory services;

(d) Authorize the expenditure of up to two hundred fifty thousand dollars per biennium from the council's death investigations account appropriation for the purpose of assisting local jurisdictions in the investigation of multiple deaths involving unanticipated, extraordinary, and catastrophic events, or involving multiple jurisdictions. The council shall adopt rules consistent with this subsection for the purposes of authorizing expenditure of the funds;

(e) Authorize the expenditure of up to twenty-five thousand dollars per biennium from the council's death investigations account appropriation for the purpose of assisting local jurisdictions to secure forensic anthropology services or other testing, to determine the identity of human remains upon a showing of financial need. The council shall adopt rules consistent with this subsection for the purposes of authorizing expenditure of the funds;

(f) Do anything, necessary or convenient, which enables the council to perform its duties and to exercise its powers; and

(g) Be actively involved in the preparation of the bureau of forensic laboratory services budget and approve the bureau of forensic laboratory services budget prior to formal submission to the office of financial management pursuant to RCW 43.88.030.

(2) The council shall:

(a) Prescribe qualifications for the position of director of the bureau of forensic laboratory services, after consulting with the chief of the Washington state patrol. The council shall submit to the chief of the Washington state patrol a list containing the names of up to three persons who the council believes meet its qualifications to serve as director of the bureau of forensic laboratory services. Minimum qualifications for the director of the bureau of forensic laboratory services must include successful completion of a background investigation and polygraph examination. If requested by the chief of the Washington state patrol, the forensic investigations council shall submit one additional list of up to three persons who the forensic investigations council believes meet its qualifications. The appointment must be from one of the lists of persons submitted by the forensic investigations council, and the director of the bureau of forensic laboratory services shall report to the office of the chief of the Washington state patrol;

(b) After consulting with the chief of the Washington state patrol and the director of the bureau of forensic laboratory services, the council shall appoint a toxicologist as state toxicologist, who shall report to the director of the bureau of forensic laboratory services. The appointee shall meet the minimum standards for employment with the Washington state patrol including successful completion of a background investigation and polygraph examination;

(c) Establish, after consulting with the chief of the Washington state patrol, the policies, objectives, and priorities of the bureau of forensic laboratory services, to be implemented and administered within constraints established by budgeted resources by the director of the bureau of forensic laboratory services;

(d) Set the salary for the director of the bureau of forensic laboratory services; and

(e) Set the salary for the state toxicologist. [2007 c 200 § 1. Prior: 1999 c 142 § 1; 1999 c 40 § 5; 1995 c 398 § 8; 1983 1st ex.s. c 16 § 9.]

Additional notes found at www.leg.wa.gov

43.103.100 Sudden infant death syndrome—Training—Protocols. (1) The council shall research and develop an appropriate training component on the subject of sudden, unexplained child death, including but not limited to sudden infant death syndrome. The training component shall include, at a minimum:

(a) Medical information on sudden, unexplained child death for first responders, including awareness and sensitivity in dealing with families and child care providers, and the importance of forensically competent death scene investigation;

(b) Information on community resources and support groups available to assist families who have lost a child to sudden, unexplained death, including sudden infant death syndrome; and

(c) The value of timely communication between the county coroner or medical examiner and the public health department, when a sudden, unexplained child death occurs, in order to achieve a better understanding of such deaths, and connecting families to various community and public health support systems to enhance recovery from grief.

(2) The council shall work with volunteer groups with expertise in the area of sudden, unexplained child death, including but not limited to the SIDS foundation of Washington and the Washington association of county officials.

(3) Basic training for death investigators offered by the Washington association of coroners and medical examiners and the criminal justice training commission shall include a module which specifically addresses the investigations of the sudden unexplained deaths of children under the age of three. The training module shall include a scene investigation protocol endorsed or developed by the council. A similar training curriculum shall be required for city and county law enforcement officers and emergency medical personnel certified by the department of health as part of their basic training through the criminal justice training commission or the department of health emergency medical training certification program.

(4) Each county shall use a protocol that has been endorsed or developed by the council for scene investigations of the sudden unexplained deaths of children under the age of three. The council may utilize guidelines from the center for disease control and other appropriate resources.

(5) The council shall develop a protocol for autopsies of children under the age of three whose deaths are sudden and unexplained. This protocol shall be used by pathologists who are not certified by the American board of pathology in foren-

sic pathology, and who are providing autopsy services to coroners and medical examiners. [2001 c 82 § 1; 1991 c 176 § 6.]

Finding—Declaration—1991 c 176: "The legislature finds and declares that sudden and unexplained child deaths are a leading cause of death for children under age three. The public interest is served by research and study of the potential causes and indications of such unexplained child deaths and the prevention of inaccurate and inappropriate designation of sudden infant death syndrome (SIDS) as a cause of death. The legislature further finds and declares that law enforcement officers, firefighters, emergency medical technicians, and other first responders in emergency situations are not adequately informed regarding sudden, unexplained death in young children including but not limited to sudden infant death syndrome, its signs and typical history, and as a result may compound the family and child care provider's grief through conveyed suspicions of a criminal act. Coroners, investigators, and prosecuting attorneys are also in need of updated training on the identification of unexplained death in children under the age of three, including but not limited to sudden infant death syndrome awareness and sensitivity and the establishment of a statewide uniform protocol in cases of sudden, unexplained child death." [1991 c 176 § 5.]

43.103.110 Training modules for missing persons protocols. The Washington state forensic investigations council, in cooperation with the Washington association of coroners and medical examiners and other interested agencies, shall develop training modules that are essential to the effective implementation and use of missing persons protocols using funds provided in RCW 43.79.445. The training commission shall make the training modules available to small departments or those at remote locations with the least disruption. The modules shall include, but not be limited to: The reporting process, the use of forms and protocols, the effective use of resources, the collection and importance of evidence and preservation of biological evidence, and risk assessment of the individuals reported missing. [2007 c 10 § 2; 2006 c 102 § 3.]

Intent—2007 c 10: "It is the intent of this act to build upon the research and findings of the Washington state missing persons task force, assembled by the state attorney general in 2003, the United States department of justice, and the initiative taken in chapter 102, Laws of 2006, by the legislature to aid in recovery of missing persons and the identification of human remains." [2007 c 10 § 1.]

Finding—Intent—2006 c 102: See note following RCW 36.28A.100.

43.103.900 Severability—1983 1st ex.s. c 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 16 § 23.]

43.103.901 Effective date—1983 1st ex.s. c 16. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983. [1983 1st ex.s. c 16 § 24.]

Chapter 43.105 RCW

DEPARTMENT OF INFORMATION SERVICES

(Formerly: Data processing and communications systems)

Sections

43.105.005	Purpose.
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43.105.019	Enterprise-based strategy—Coordination with legislative and judicial branches.

43.105.020	Definitions.
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43.105.835	Education technology revolving fund.
43.105.900	Severability—1973 1st ex.s. c 219.
43.105.901	Severability—1987 c 504.
43.105.902	Effective date—1987 c 504.
43.105.903	Effective date—1999 c 285.
43.105.904	Actions of telecommunications oversight and policy commit- tee—Savings—1999 c 285.
43.105.905	Construction—2008 c 262.
43.105.906	Conflict with federal requirements—2009 c 509.

43.105.005 Purpose. It is a purpose of this chapter to provide for coordinated planning and management of state information services. The legislature recognizes that information systems, telecommunications, equipment, software, and services must satisfy the needs of end users and that many appropriate and cost-effective alternatives exist for meeting these needs, such as shared mainframe computing, shared voice, data, and video telecommunications services,

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local area networks, departmental minicomputers, and micro-computers. [1990 c 208 § 1; 1987 c 504 § 1.]

43.105.013 Finding—Intent. (1) The legislature finds that the provision of information technology in state government lacks strategic coordination, transparency, and meaningful enterprise-wide direction and oversight. It is no longer economically sustainable or technically feasible for state agencies to obtain and provide large-scale, commonly utilized information technology products and services on an individual, agency-by-agency basis without coordination. Instead, the state needs a strong, enterprise-based information technology strategy to ensure the public's needs are being met and the state is receiving the highest quality information technology products and services at the best price from public or private providers. Developing a strong enterprise-wide strategy also includes establishing clear lines of authority and accountability within state agencies so that those services unique to individual agencies receive the support required to effectively and efficiently provide services to citizens. To accomplish these objectives, the state needs to develop an open, transparent process for determining the total cost of ownership for the information technology products and services it provides, and to provide such information in an easily accessible, public fashion. It is in the state's interest to ensure that the wide range of disparate networks, systems, services, and structures across state government become more closely coordinated, organized, and structured. This type of coordinating effort is already underway in the area of higher education through the efforts of the higher education technology transformation task force and informally within other areas. When more transparent technical and financial information is readily available, the state can make sound policy decisions about what information technology services should be provided centrally on a shared services basis, and what products and services may be best suited for either contracting with private providers or for maintenance at the agency level. Furthermore, if attractive pricing models and service level agreements are developed for enterprise-based information technology services, the legislative and judicial branches will have an incentive to participate in those services as well.

(2) It is the intent of the legislature to organize, consolidate, and, where appropriate, contract with private providers for technology systems and resources in a strategic fashion that is based upon sound, objective, nonpolitical, and independent technical and financial criteria. The state needs to develop a clear, enterprise-based statewide strategy for information technology to ensure that there is transparency and accountability regarding how information technology resources are being allocated, how decisions are being made, and who is accountable for on-time, on-budget delivery. [2010 c 282 § 1.]

43.105.019 Enterprise-based strategy—Coordination with legislative and judicial branches. (1) The board, in consultation with the department and the office of financial management, shall develop an enterprise-based strategy for information technology in state government informed by

information technology expenditure information collected from state agencies pursuant to RCW 43.88.092.

(2) In developing an enterprise-based strategy for the state, the board is encouraged to consider the following strategies as possible opportunities for achieving greater efficiency:

(a) Developing personal computer replacement policies for the state, with consideration given to alternative models of personal computer usage for state government use, such as thin client, software as a service, browser-based functionality, mobile computing, and other models that are less dependent upon traditional computing;

(b) Pursuing shared services initiatives across functional areas, which may include services such as e-mail, telephony, and data storage;

(c) Pursuing pilot programs, such as a pilot to demonstrate the value of application management services, to identify opportunities to achieve operational efficiencies;

(d) Developing data storage policies and record retention requirements and schedules for state agencies, in consultation with the office of the secretary of state, the state archivist, and the state records committee, where appropriate;

(e) Reviewing existing software maintenance contracts to identify opportunities to renegotiate the price of those contracts or the level of service; and

(f) Partnering with private providers for commonly utilized information technology products and services.

(3) The legislative and judicial branches are encouraged to coordinate with, and participate in, shared services initiatives, pilot programs, and development of the enterprise-based strategy, where appropriate. [2010 c 282 § 10.]

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

(1) "Administrator" means the community technology opportunity program administrator designated by the department.

(2) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network.

(3) "Board" means the information services board.

(4) "Broadband" means a high-speed, high capacity transmission medium, using land-based, satellite, wireless, or any other mechanism, that can carry either signals or transmit data, or both, over long distances by using a wide range of frequencies.

(5) "Committee" means the state interoperability executive committee.

(6) "Common vendor registration and bid notification system" has the definition in RCW 39.29.006.

(7) "Community technology programs" means programs that are engaged in diffusing information and communications technology in local communities, particularly in unserved and underserved areas of the state. These programs may include, but are not limited to, programs that provide education and skill-building opportunities, hardware and

software, internet connectivity, digital media literacy, development of locally relevant content, and delivery of vital services through technology.

(8) "Council" means the advisory council on digital inclusion created in RCW 43.105.400.

(9) "Department" means the department of information services.

(10) "Director" means the director of the department.

(11) "Educational sectors" means those institutions of higher education, school districts, and educational service districts that use the network for distance education, data transmission, and other uses permitted by the *K-20 board.

(12) "Equipment" means the machines, devices, and transmission facilities used in information processing, such as computers, word processors, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment.

(13) "High-speed internet" means broadband.

(14) "Information" includes, but is not limited to, data, text, voice, and video.

(15) "Information processing" means the electronic capture, collection, storage, manipulation, transmission, retrieval, and presentation of information in the form of data, text, voice, or image and includes telecommunications and office automation functions.

(16) "Information services" means data processing, telecommunications, office automation, and computerized information systems.

(17) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments.

(18) "K-20 network" means the network established in RCW 43.105.820.

(19) "Local governments" includes all municipal and quasi municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately.

(20) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications.

(21) "Proprietary software" means that software offered for sale or license.

(22) "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary functions. This term includes, but is not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, telecommunications installation and maintenance, data entry, keypunch services, programming services, and computer time-sharing.

(23) "Small business" has the definition in RCW 39.29.006.

(24) "Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other means.

(25) "Video telecommunications" means the electronic interconnection of two or more sites for the purpose of transmitting and/or receiving visual and associated audio information. Video telecommunications shall not include existing public television broadcast stations as currently designated

by the department of commerce under chapter 43.330 RCW. [2010 1st sp.s. c 7 § 64. Prior: 2009 c 565 § 32; 2009 c 509 § 7; 2009 c 486 § 14; 2003 c 18 § 2; prior: 1999 c 285 § 1; 1999 c 80 § 1; 1993 c 280 § 78; 1990 c 208 § 3; 1987 c 504 § 3; 1973 1st ex.s. c 219 § 3; 1967 ex.s. c 115 § 2.]

***Reviser's note:** RCW 43.105.800, which created the K-20 board, was repealed by 2010 1st sp.s. c 7 § 63.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.105.370.

Conflict with federal requirements—2009 c 486: See note following RCW 28B.30.530.

Intent—2009 c 486: See note following RCW 39.29.006.

Intent—Finding—2003 c 18: "It is the intent of the legislature to ensure that the state's considerable investment in radio communications facilities, and the radio spectrum that is licensed to government entities in the state, are managed in a way that promotes to the maximum extent the health and safety of the state's citizens and the economic efficiencies of coordinated planning, development, management, maintenance, accountability, and performance. The legislature finds that such coordination is essential for disaster preparedness, emergency management, and public safety, and that such coordination will result in more cost-effective use of state resources and improved government services." [2003 c 18 § 1.]

Effective date—2003 c 18: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2003." [2003 c 18 § 6.]

Additional notes found at www.leg.wa.gov

43.105.032 Information services board—Members—Chairperson—Vacancies—Quorum—Compensation and travel expenses. There is hereby created the Washington state information services board. The board shall be composed of fifteen members. Eight members shall be appointed by the governor, one of whom shall be a representative of higher education, one of whom shall be a representative of an agency under a statewide elected official other than the governor, one of whom must have direct experience using the software projects overseen by the board or reasonably expects to use the new software developed under the oversight of the board, and two of whom shall be representatives of the private sector. One member shall represent the judicial branch and be appointed by the chief justice of the supreme court. One member shall be the superintendent of public instruction or shall be appointed by the superintendent of public instruction. Two members shall represent the house of representatives and shall be selected by the speaker of the house of representatives with one representative chosen from each caucus of the house of representatives; two members shall represent the senate and shall be appointed by the president of the senate with one representative chosen from each caucus of the senate. One member shall be the director who shall be a voting member of the board. These members shall constitute the membership of the board with full voting rights. Members of the board shall serve at the pleasure of the appointing authority. The board shall select a chairperson from among its members.

Vacancies shall be filled in the same manner that the original appointments were made.

A majority of the members of the board shall constitute a quorum for the transaction of business.

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Members of the board shall be compensated for service on the board in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. [2007 c 158 § 1; 1999 c 241 § 2; 1996 c 137 § 10; 1992 c 20 § 8; 1987 c 504 § 4; 1984 c 287 § 86; 1975-'76 2nd ex.s. c 34 § 128; 1973 1st ex.s. c 219 § 5.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Development of health care data standards: RCW 43.70.054.

Additional notes found at www.leg.wa.gov

43.105.041 Powers and duties of board. (1) The board shall have the following powers and duties related to information services:

(a) To develop standards and procedures governing the acquisition and disposition of equipment, proprietary software and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data;

(b) To purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services: PROVIDED, That, agencies and institutions of state government are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. The acquisition and disposition of equipment, proprietary software, and purchased services is exempt from RCW 43.19.1919 and, as provided in RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200, except that the board, the department, and state agencies, as delegated, must post notices of technology procurement bids on the state's common vendor registration and bid notification system. This subsection (1)(b) does not apply to the legislative branch;

(c) To develop statewide or interagency technical policies, standards, and procedures;

(d) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services, and to assure the cost-effective development and incremental implementation of a statewide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(e) To provide direction concerning strategic planning goals and objectives for the state. The board shall seek input from the legislature and the judiciary;

(f) To develop and implement a process for the resolution of appeals by:

(i) Vendors concerning the conduct of an acquisition process by an agency or the department; or

(ii) A customer agency concerning the provision of services by the department or by other state agency providers;

(g) To establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education; and

(iii) Project management;

(h) To set its meeting schedules and convene at scheduled times, or meet at the request of a majority of its members, the chair, or the director;

(i) To review and approve that portion of the department's budget requests that provides for support to the board; and

(j) To develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments.

(2) Statewide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The board shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems. Local governments are strongly encouraged to follow the standards established by the board; and

(b) Require agencies to consider electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the board is encouraged to include the state library, state archives, and appropriate representatives of state and local government.

(3)(a) The board has the duty to govern, operate, and oversee the technical design, implementation, and operation of the K-20 network including, but not limited to, the following duties: Establishment and implementation of K-20 network technical policy, including technical standards and conditions of use; review and approval of network design; procurement of shared network services and equipment; and resolving user/provider disputes concerning technical matters. The board shall delegate general operational and technical oversight to the department as appropriate.

(b) The board has the authority to adopt rules under chapter 34.05 RCW to implement the provisions regarding the technical operations and conditions of use of the K-20 network. [2010 1st sp.s. c 7 § 65; 2009 c 486 § 13; 2003 c 18 § 3; 1999 c 285 § 5. Prior: 1996 c 171 § 8; 1996 c 137 § 12; (1996 c 171 § 7, 1996 c 137 § 11, and 1995 2nd sp.s. c 14 § 512 expired June 30, 1997); 1990 c 208 § 6; 1987 c 504 § 5; 1983 c 3 § 115; 1973 1st ex.s. c 219 § 6.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Intent—2009 c 486: See note following RCW 39.29.006.

Conflict with federal requirements—2009 c 486: See note following RCW 28B.30.530.

Intent—Finding—Effective date—2003 c 18: See notes following RCW 43.105.020.

Additional notes found at www.leg.wa.gov

43.105.047 Department created—Appointment of director—Director's duties. There is created the department of information services. The department shall be headed by a director appointed by the governor with the consent of the senate. The director shall serve at the governor's pleasure and shall receive such salary as determined by the governor. The director shall:

(1) Appoint a confidential secretary and such deputy and assistant directors as needed to administer the department;

(2) Maintain and fund a strategic planning and policy component separate from the services component of the department;

(3) Appoint, after consulting with the board, the assistant or deputy director for the planning component;

(4) Appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed by this chapter;

(5) Report to the governor and the board any matters relating to abuses and evasions of this chapter; and

(6) Recommend statutory changes to the governor and the board. [1999 c 80 § 5; 1992 c 20 § 9; 1987 c 504 § 6.]

Civil service exemptions: RCW 41.06.094.

Additional notes found at www.leg.wa.gov

43.105.052 Powers and duties of department. The department shall:

(1) Perform all duties and responsibilities the board delegates to the department, including but not limited to:

(a) The review of agency information technology portfolios and related requests; and

(b) Implementation of statewide and interagency policies, standards, and guidelines;

(2) Make available information services to state agencies and local governments and public benefit nonprofit corporations on a full cost-recovery basis. For the purposes of this section "public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03.005 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or political subdivision of another state. These services may include, but are not limited to:

(a) Telecommunications services for voice, data, and video;

(b) Mainframe computing services;

(c) Support for departmental and microcomputer evaluation, installation, and use;

(d) Equipment acquisition assistance, including leasing, brokering, and establishing master contracts;

(e) Facilities management services for information technology equipment, equipment repair, and maintenance services;

(f) Negotiation with local cable companies and local governments to provide for connection to local cable services to allow for access to these public and educational channels in the state;

(g) Office automation services;

(h) System development services; and

(i) Training.

These services are for discretionary use by customers and customers may elect other alternatives for service if those alternatives are more cost-effective or provide better service.

Agencies may be required to use the backbone network portions of the telecommunications services during an initial start-up period not to exceed three years;

(3) Establish rates and fees for services provided by the department to assure that the services component of the department is self-supporting. A billing rate plan shall be developed for a two-year period to coincide with the budgeting process. The rate plan shall be subject to review at least annually by the office of financial management. The rate plan shall show the proposed rates by each cost center and will show the components of the rate structure as mutually determined by the department and the office of financial management. The same rate structure will apply to all user agencies of each cost center. The rate plan and any adjustments to rates shall be approved by the office of financial management. The services component shall not subsidize the operations of the strategic planning and policy component;

(4) With the advice of the information services board and agencies, develop a state strategic information technology plan and performance reports as required under RCW 43.105.160;

(5) Develop plans for the department's achievement of statewide goals and objectives set forth in the state strategic information technology plan required under RCW 43.105.160. These plans shall address such services as telecommunications, central and distributed computing, local area networks, office automation, and end user computing. The department shall seek the advice of the board in the development of these plans;

(6) Under direction of the information services board and in collaboration with the department of personnel, and other agencies as may be appropriate, develop training plans and coordinate training programs that are responsive to the needs of agencies;

(7) Identify opportunities for the effective use of information services and coordinate appropriate responses to those opportunities;

(8) Assess agencies' projects, acquisitions, plans, information technology portfolios, or overall information processing performance as requested by the board, agencies, the director of financial management, or the legislature. Agencies may be required to reimburse the department for agency-requested reviews;

(9) Develop planning, budgeting, and expenditure reporting requirements, in conjunction with the office of financial management, for agencies to follow;

(10) Assist the office of financial management with budgetary and policy review of agency plans for information services;

(11) Provide staff support from the strategic planning and policy component to the board for:

- (a) Meeting preparation, notices, and minutes;
- (b) Promulgation of policies, standards, and guidelines adopted by the board;
- (c) Supervision of studies and reports requested by the board;
- (d) Conducting reviews and assessments as directed by the board;

(12) Be the lead agency in coordinating video telecommunications services for all state agencies and develop, pursuant to board policies, standards and common specifications

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for leased and purchased telecommunications equipment. The department shall not evaluate the merits of school curriculum, higher education course offerings, or other education and training programs proposed for transmission and/or reception using video telecommunications resources. Nothing in this section shall abrogate or abridge the legal responsibilities of licensees of telecommunications facilities as licensed by the federal communication commission on March 27, 1990; and

(13) Perform all other matters and things necessary to carry out the purposes and provisions of this chapter. [2010 1st sp.s. c 7 § 16; 2000 c 180 § 1; 1999 c 80 § 6; 1993 c 281 § 53; 1992 c 20 § 10; 1990 c 208 § 7; 1987 c 504 § 8.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Additional notes found at www.leg.wa.gov

43.105.057 Rule-making authority. The department of information services and the information services board, respectively, shall adopt rules as necessary under chapter 34.05 RCW to implement the provisions of this chapter. [1992 c 20 § 11; 1990 c 208 § 13.]

Additional notes found at www.leg.wa.gov

43.105.060 Contracts by state and local agencies with department. State and local government agencies are authorized to enter into any contracts with the department or its successor which may be necessary or desirable to effectuate the purposes and policies of this chapter or for maximum utilization of facilities and services which are the subject of this chapter. [1987 c 504 § 10; 1973 1st ex.s. c 219 § 9; 1967 ex.s. c 115 § 6.]

Additional notes found at www.leg.wa.gov

43.105.070 Confidential or privileged information. This chapter shall in no way affect or impair any confidence or privilege imposed by law. Confidential or privileged information shall not be subject to submittal to the common data bank: PROVIDED, That where statistical information can be derived from such classified material without violating any such confidence, the submittal of such statistical material may be required. [1969 ex.s. c 212 § 4.]

43.105.080 Data processing revolving fund—Created—Use. There is created a revolving fund to be known as the data processing revolving fund in the custody of the state treasurer. The revolving fund shall be used for the acquisition of equipment, software, supplies, and services and the payment of salaries, wages, and other costs incidental to the acquisition, development, operation, and administration of information services, telecommunications, systems, software, supplies and equipment, including the payment of principal and interest on bonds issued for capital projects, by the department, Washington State University's computer services center, the department of personnel's personnel information systems division, the office of financial management's financial systems management group, and other users as jointly determined by the department and the office of financial management. The revolving fund is subject to the allotment procedure provided under chapter 43.88 RCW.

Disbursements from the revolving fund for the services component of the department are not subject to appropriation. Disbursements for the strategic planning and policy component of the department are subject to appropriation. All disbursements from the fund are subject to the allotment procedures provided under chapter 43.88 RCW. The department shall establish and implement a billing structure to assure all agencies pay an equitable share of the costs.

During the 2009-2011 fiscal biennium, the legislature may transfer from the data processing revolving account to the state general fund such amounts as reflect the excess fund balance associated with the information technology pool.

As used in this section, the word "supplies" shall not be interpreted to delegate or abrogate the division of purchasing's responsibilities and authority to purchase supplies as described in RCW 43.19.190 and 43.19.200. [2010 1st sp.s. c 37 § 931; 1999 c 80 § 8; 1992 c 235 § 6; 1987 c 504 § 11; 1983 c 3 § 116; 1974 ex.s. c 129 § 1.]

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

43.105.095 Management and oversight structure. (1)

Under the direction of the board, the department shall develop policies and procedures to implement a management and oversight structure based on the use of information technology portfolios.

(2) These policies and procedures shall support and conform to:

(a) The state strategic information technology plan developed under RCW 43.105.160(1) and *43.105.172; and

(b) Technology standards established by the board. [1999 c 80 § 3.]

***Reviser's note:** The reference to RCW 43.105.172 appears to be erroneous because it concerns information technology portfolios.

43.105.105 Information technology decisions and plans. An agency information technology portfolio shall serve as the basis for making information technology decisions and plans including:

(1) System refurbishment, acquisitions, and development efforts;

(2) Setting goals and objectives for using information technology;

(3) Assessments of information processing performance, resources, and capabilities;

(4) Ensuring the appropriate transfer of technological expertise for the operation of new systems developed using external resources; and

(5) Progress toward providing electronic access to public information. [1999 c 80 § 4.]

43.105.160 Strategic information technology plan—Biennial state performance report on information technology. (1) The department shall prepare a state strategic information technology plan which shall establish a statewide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information, and services. The plan shall be developed in accordance with the standards and policies established by the board and shall be submitted to the board for review, modification as necessary, and approval. The depart-

ment shall seek the advice of the board in the development of this plan.

The plan approved under this section shall be updated as necessary and submitted to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives.

(2) The department shall prepare a biennial state performance report on information technology based on agency performance reports required under RCW 43.105.170 and other information deemed appropriate by the department. The report shall include, but not be limited to:

(a) An analysis, based upon agency portfolios, of the state's information technology infrastructure, including its value, condition, and capacity;

(b) An evaluation of performance relating to information technology;

(c) An assessment of progress made toward implementing the state strategic information technology plan, including progress toward electronic access to public information and enabling citizens to have two-way access to public records, information, and services;

(d) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under RCW 43.105.190. At a minimum, the portion of the report regarding major technology projects must include:

(i) Final total cost of ownership budget data for the entire life-cycle of the project, including capital and operational costs, broken down by staffing costs, contracted service, hardware purchase or lease, software purchase or lease, travel, and training. The original budget must also be shown for comparison;

(ii) The original proposed project schedule and the final actual project schedule;

(iii) Data regarding progress towards meeting the original goals and performance measures of the project, particularly as it relates to operating budget savings;

(iv) Discussion of lessons learned on the project, performance of any contractors used, and reasons for project delays or cost increases; and

(v) Identification of benefits, cost avoidance, and cost savings generated by major information technology projects developed under RCW 43.105.190; and

(e) An inventory of state information services, equipment, and proprietary software.

Copies of the report shall be distributed biennially to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives. The major technology section of the report must examine major information technology projects completed in the previous biennium to determine the performance of the implementing agency, cost and value effectiveness, and timeliness and other performance metrics necessary to assess the quality and value of the investment. The report must also examine projects two years after completion for progress toward meeting performance goals and operating budget savings. The first report is due December 15, 2011, and every two years thereafter. [2010 c 282 § 9; 2005 c 319 § 110; 1999 c 80 § 9; 1998 c 177 § 3; 1996 c 171 § 9; 1992 c 20 § 1.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Additional notes found at www.leg.wa.gov

43.105.170 Information technology portfolios—Contents—Performance reports. (1) Each agency shall develop an information technology portfolio consistent with *RCW 43.105.095. The superintendent of public instruction shall develop its portfolio in conjunction with educational service districts and statewide or regional providers of K-12 education information technology services.

(2) Agency portfolios shall include, but not be limited to, the following:

(a) A baseline assessment of the agency's information technology resources and capabilities that will serve as the benchmark for subsequent planning and performance measures;

(b) A statement of the agency's mission, goals, and objectives for information technology, including goals and objectives for achieving electronic access to agency records, information, and services;

(c) An explanation of how the agency's mission, goals, and objectives for information technology support and conform to the state strategic information technology plan developed under RCW 43.105.160;

(d) An implementation strategy to provide electronic access to public records and information. This implementation strategy must be assembled to include:

(i) Compliance with Title 40 RCW;

(ii) Adequate public notice and opportunity for comment;

(iii) Consideration of a variety of electronic technologies, including those that help transcend geographic locations, standard business hours, economic conditions of users, and disabilities;

(iv) Methods to educate both state employees and the public in the effective use of access technologies;

(e) Projects and resources required to meet the objectives of the portfolio; and

(f) Where feasible, estimated schedules and funding required to implement identified projects.

(3) Portfolios developed under subsection (1) of this section shall be submitted to the department for review and forwarded along with the department's recommendations to the board for review and approval. The board may reject, require modification to, or approve portfolios as deemed appropriate by the board. Portfolios submitted under this subsection shall be updated and submitted for review and approval as necessary.

(4) Each agency shall prepare and submit to the department a biennial performance report that evaluates progress toward the objectives articulated in its information technology portfolio. The superintendent of public instruction shall develop its portfolio in conjunction with educational service districts and statewide or regional providers of K-12 education information technology services. The report shall include:

(a) An evaluation of the agency's performance relating to information technology;

(b) An assessment of progress made toward implementing the agency information technology portfolio;

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(c) Progress toward electronic access to public information and enabling citizens to have two-way interaction for obtaining information and services from agencies; and

(d) An inventory of agency information services, equipment, and proprietary software.

(5) The department, with the approval of the board, shall establish standards, elements, form, and format for plans and reports developed under this section.

(6) Agency activities to increase electronic access to public records and information, as required by this section, must be implemented within available resources and existing agency planning processes.

(7) The board may exempt any agency from any or all of the requirements of this section. [1999 c 80 § 10. Prior: 1996 c 171 § 10; 1996 c 137 § 13; 1992 c 20 § 2.]

***Reviser's note:** The reference to RCW 43.105.095 appears to be erroneous. RCW 43.105.172 was apparently intended.

Additional notes found at www.leg.wa.gov

43.105.172 Information technology portfolios. Information technology portfolios shall reflect (1) links among an agency's objectives, business plan, and technology; (2) analysis of the effect of an agency's proposed new technology investments on its existing infrastructure and business functions; and (3) analysis of the effect of proposed information technology investments on the state's information technology infrastructure. [1999 c 80 § 2.]

43.105.178 Information technology assets—Inventory. (1) The department, in collaboration with state agencies, shall conduct an inventory from existing data sets of information technology assets owned or leased by state agencies. This inventory must be used to inform the development of a state information technology asset management process. Prior to implementation of any state information technology asset management process, the department must submit its recommended approach, including an estimate of the associated implementation costs, to the board for approval.

(2) For the purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official, and offices in the legislative and judicial branches of state government, notwithstanding the provisions of RCW 44.68.105. [2010 c 282 § 12.]

43.105.180 Evaluation of budget requests for information technology projects. (1) The department, in coordination with the information services board and the office of financial management, shall evaluate agency budget requests for major information technology projects identified under RCW 43.105.190, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The department shall submit recommendations for funding all or part of such requests to the office of financial management and to the chairs, ranking minority members, and staff coordinators of the appropriations committees of the senate and house of representatives. The department shall also submit recommenda-

tions regarding consolidation of similar proposals or other efficiencies it finds in reviewing proposals.

(2) The department, with the advice and approval of the office of financial management and the information services board, shall establish criteria, consistent with portfolio-based information technology management, for the evaluation of agency budget requests under this section. These budget requests shall be made in the context of an agency's information technology portfolio; technology initiatives underlying budget requests are subject to board review. Criteria shall include, but not be limited to: Feasibility of the proposed projects, consistency with the state strategic information technology plan, consistency with information technology portfolios, appropriate provision for public electronic access to information, evidence of business process streamlining and gathering of business and technical requirements, and services, costs, and benefits.

(3) For the purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official. [2010 c 282 § 6; 1999 c 80 § 11. Prior: 1996 c 171 § 11; 1996 c 137 § 14; 1992 c 20 § 3.]

Additional notes found at www.leg.wa.gov

43.105.190 Major information technology projects standards and policies—Project evaluation and reporting. (1) The department, with the approval of the board, shall establish standards and policies governing the planning, implementation, and evaluation of major information technology projects, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The standards and policies shall:

(a) Establish criteria to identify projects which are subject to this section. Such criteria shall include, but not be limited to, significant anticipated cost, complexity, or statewide significance of the project; and

(b) Establish a model process and procedures which agencies shall follow in developing and implementing projects within their information technology portfolios. Agencies may propose, for approval by the department, a process and procedures unique to the agency. The department may accept or require modification of such agency proposals or the department may reject such agency proposals and require use of the model process and procedures established under this subsection. Any process and procedures developed under this subsection shall require (i) distinct and identifiable phases upon which funding may be based, (ii) user validation of products through system demonstrations and testing of prototypes and deliverables, and (iii) other elements identified by the board.

The director may terminate a major project if the director determines that the project is not meeting or is not expected to meet anticipated performance standards.

(2) The office of financial management shall establish policies and standards consistent with portfolio-based information technology management to govern the funding of

projects developed under this section. The policies and standards shall provide for:

(a) Funding of a project under terms and conditions mutually agreed to by the director, the director of financial management, and the head of the agency proposing the project. However, the office of financial management may require incremental funding of a project on a phase-by-phase basis whereby funds for a given phase of a project may be released only when the office of financial management determines, with the advice of the department, that the previous phase is satisfactorily completed;

(b) Acceptance testing of products to assure that products perform satisfactorily before they are accepted and final payment is made; and

(c) Other elements deemed necessary by the office of financial management.

(3) The department shall evaluate projects based on the demonstrated business needs and benefits; cost; technology scope and feasibility; impact on the agency's information technology portfolio and on the statewide infrastructure; and final project implementation plan based upon available funding.

Copies of project evaluations conducted under this subsection shall be submitted to the office of financial management and the chairs, ranking minority members, and staff coordinators of the appropriations committees of the senate and house of representatives.

If there are projects that receive funding from a transportation fund or account, copies of those projects' evaluations conducted under this subsection must be submitted to the chairs and ranking minority members of the transportation committees of the senate and the house of representatives. [2005 c 319 § 111; 1999 c 80 § 12; 1998 c 177 § 4; 1996 c 137 § 15; 1992 c 20 § 4.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Additional notes found at www.leg.wa.gov

43.105.200 Application to institutions of higher education. In the case of institutions of higher education, the provisions of chapter 20, Laws of 1992, apply to business and administrative applications but do not apply to academic and research applications. [1992 c 20 § 5.]

Additional notes found at www.leg.wa.gov

43.105.210 Data processing expenditures—Authorization—Penalties. No state agency may expend any moneys for major information technology projects subject to review by the department of information services under RCW 43.105.190 unless specifically authorized by the legislature. An intentional or negligent violation of this section constitutes a violation of RCW 43.88.290 and shall subject the head of the agency to forfeiture of office and other civil penalties as provided under RCW 43.88.300.

If the director of information services intentionally or negligently approved an expenditure in violation of this section, then all sanctions described in this section and RCW 43.88.300 shall also apply to the director of information services. [1993 sp.s. c 1 § 903.]

Additional notes found at www.leg.wa.gov

43.105.250 Electronic access to public records—Findings—Intent. Based upon the recommendations of the public information access policy task force, the legislature finds that government records and information are a vital resource to both government operations and to the public that government serves. Broad public access to state and local government records and information has potential for expanding citizen access to that information and for improving government services. Electronic methods for locating and transferring information can improve linkages between and among citizens, organizations, businesses, and governments. Information must be managed with great care to meet the objectives of citizens and their governments.

It is the intent of the legislature to encourage state and local governments to develop, store, and manage their public records and information in electronic formats to meet their missions and objectives. Further, it is the intent of the legislature for state and local governments to set priorities for making public records widely available electronically to the public. [1996 c 171 § 1.]

Additional notes found at www.leg.wa.gov

43.105.260 Electronic access to public records—Definitions. Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Local government" means every county, city, town, and every other municipal or quasi-municipal corporation.

(2) "Public record" means as defined in *RCW 42.17.020 and chapter 40.14 RCW, and includes legislative records and court records that are available for public inspection.

(3) "State agency" includes every state office, department, division, bureau, board, and commission of the state, and each state elected official who is a member of the executive department. [1996 c 171 § 2.]

*Reviser's note: RCW 42.17.020 was recodified as RCW 42.17A.005 pursuant to 2010 c 204 § 1102, effective January 1, 2012.

Additional notes found at www.leg.wa.gov

43.105.270 Electronic access to public records—Planning. Within existing resources, state agencies shall plan for and implement processes for making information available electronically. Public demand and agencies' missions and goals shall drive the selection and priorities for government information to be made available electronically. When planning for increased public electronic access, agencies should determine what information the public wants and needs most. Widespread public electronic access does not mean that all government information is able to be made available electronically.

(1) In planning for and implementing electronic access, state agencies shall:

(a) Where appropriate, plan for electronic public access and two-way electronic interaction when acquiring, redesigning, or rebuilding information systems;

(b) Focus on providing electronic access to current information, leaving archival material to be made available digitally as resources allow or as a need arises;

(c) Coordinate technology planning across agency boundaries in order to facilitate electronic access to vital public information;

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(d) Develop processes to determine which information the public most wants and needs;

(e) Develop and employ methods to readily withhold or mask nondisclosable data.

(2) In planning or implementing electronic access and two-way electronic interaction and delivery technologies, state agencies and local governments are encouraged to:

(a) Increase their capabilities to receive information electronically from the public and to transmit forms, applications, and other communications and transactions electronically;

(b) Use technologies allowing public access throughout the state that allow continuous access twenty-four hours a day, seven days per week, involve little or no cost to access, and are capable of being used by persons without extensive technological ability; and

(c) Consider and incorporate wherever possible ease of access to electronic technologies by persons with disabilities. In planning and implementing new public electronic access projects, agencies should consult with people who have disabilities, with disability access experts, and the general public.

(3) The final report of the public information access policy task force, "Encouraging Widespread Public Electronic Access to Public Records and Information Held by State and Local Governments," shall serve as a major resource for state agencies and local governments in planning and providing increased access to electronic public records and information. [1996 c 171 § 5.]

Additional notes found at www.leg.wa.gov

43.105.280 Electronic access to public records—Costs and fees. Funding to meet the costs of providing access, including the building of the necessary information systems, the digitizing of information, developing the ability to mask nondisclosable information, and maintenance and upgrade of information access systems should come primarily from state and local appropriations, federal dollars, grants, private funds, cooperative ventures among governments, nonexclusive licensing, and public/private partnerships. Agencies should not offer customized electronic access services as the primary way of responding to requests or as a primary source of revenue. Fees for staff time to respond to requests, and other direct costs may be included in costs of providing customized access.

Agencies and local governments are encouraged to pool resources and to form cooperative ventures to provide electronic access to government records and information. State agencies are encouraged to seek federal and private grants for projects that provide increased efficiency and improve government delivery of information and services. [1996 c 171 § 12.]

Additional notes found at www.leg.wa.gov

43.105.290 Electronic access to public records—Government information locator service pilot project. The state library, with the assistance of the department of information services and the state archives, shall establish a pilot project to design and test an electronic information locator system, allowing members of the public to locate and access

electronic public records. In designing the system, the following factors shall be considered: (1) Ease of operation by citizens; (2) access through multiple technologies, such as direct dial and toll-free numbers, kiosks, and the internet; (3) compatibility with private online services; and (4) capability of expanding the electronic public records included in the system. The pilot project may restrict the type and quality of electronic public records that are included in the system to test the feasibility of making electronic public records and information widely available to the public. [1996 c 171 § 13.]

Additional notes found at www.leg.wa.gov

43.105.300 Education in use of technology encouraged. State agencies and local governments are encouraged to provide education for their employees in the use and implementation of electronic technologies. State agencies are encouraged to make maximum use of the provisions of RCW 28B.15.558, and training offered by the state department of personnel, to maximize employee education in the creation, design, maintenance, and use of electronic information systems and improved customer service delivery. [1996 c 171 § 14.]

Additional notes found at www.leg.wa.gov

43.105.310 Accuracy, integrity, and privacy of records and information. State agencies and local governments that collect and enter information concerning individuals into electronic records and information systems that will be widely accessible by the public under *RCW 42.17.020 shall ensure the accuracy of this information to the extent possible. To the extent possible, information must be collected directly from, and with the consent of, the individual who is the subject of the data. Agencies shall establish procedures for correcting inaccurate information, including establishing mechanisms for individuals to review information about themselves and recommend changes in information they believe to be inaccurate. The inclusion of personal information in electronic public records that is widely available to the public should include information on the date when the database was created or most recently updated. If personally identifiable information is included in electronic public records that are made widely available to the public, agencies must follow retention and archival schedules in accordance with chapter 40.14 RCW, retaining personally identifiable information only as long as needed to carry out the purpose for which it was collected. [1996 c 171 § 15.]

***Reviser's note:** RCW 42.17.020 was recodified as RCW 42.17A.005 pursuant to 2010 c 204 § 1102, effective January 1, 2012.

Additional notes found at www.leg.wa.gov

43.105.320 Departmental authority as certification authority for electronic authentication. The department of information services may become a licensed certification authority, under chapter 19.34 RCW, for the purpose of providing services to agencies, local governments, and other entities and persons for purposes of official state business. The department is not subject to RCW 19.34.100(1)(a). The department shall only issue certificates, as defined in RCW 19.34.020, in which the subscriber is:

(1) The state of Washington or a department, office, or agency of the state;

(2) A city, county, district, or other municipal corporation, or a department, office, or agency of the city, county, district, or municipal corporation;

(3) An agent or employee of an entity described by subsection (1) or (2) of this section, for purposes of official public business;

(4) Any other person or entity engaged in matters of official public business, however, such certificates shall be limited only to matters of official public business. The department may issue certificates to such persons or entities only if after issuing a request for proposals from certification authorities licensed under chapter 19.34 RCW and review of the submitted proposals, makes a determination that such private services are not sufficient to meet the department's published requirements. The department must set forth in writing the basis of any such determination and provide procedures for challenge of the determination as provided by the state procurement requirements; or

(5) An applicant for a license as a certification authority for the purpose of compliance with RCW 19.34.100(1)(a). [1999 c 287 § 18; 1997 c 27 § 29.]

Additional notes found at www.leg.wa.gov

43.105.330 State interoperability executive committee. (1) The board shall appoint a state interoperability executive committee, the membership of which must include, but not be limited to, representatives of the military department, the Washington state patrol, the department of transportation, the department of information services, the department of natural resources, city and county governments, state and local fire chiefs, police chiefs, and sheriffs, and state and local emergency management directors. The chair and legislative members of the board will serve as nonvoting ex officio members of the committee. Voting membership may not exceed fifteen members.

(2) The chair of the board shall appoint the chair of the committee from among the voting members of the committee.

(3) The state interoperability executive committee has the following responsibilities:

(a) Develop policies and make recommendations to the board for technical standards for state wireless radio communications systems, including emergency communications systems. The standards must address, among other things, the interoperability of systems, taking into account both existing and future systems and technologies;

(b) Coordinate and manage on behalf of the board the licensing and use of state-designated and state-licensed radio frequencies, including the spectrum used for public safety and emergency communications, and serve as the point of contact with the federal communications commission on matters relating to allocation, use, and licensing of radio spectrum;

(c) Coordinate the purchasing of all state wireless radio communications system equipment to ensure that:

(i) After the transition from a radio over internet protocol network, any new trunked system shall be, at a minimum, project-25;

- (ii) Any new system that requires advanced digital features shall be, at a minimum, project-25; and
- (iii) Any new system or equipment purchases shall be, at a minimum, upgradeable to project-25;
- (d) Seek support, including possible federal or other funding, for state-sponsored wireless communications systems;
- (e) Develop recommendations for legislation that may be required to promote interoperability of state wireless communications systems;
- (f) Foster cooperation and coordination among public safety and emergency response organizations;
- (g) Work with wireless communications groups and associations to ensure interoperability among all public safety and emergency response wireless communications systems; and
- (h) Perform such other duties as may be assigned by the board to promote interoperability of wireless communications systems. [2006 c 76 § 2; 2003 c 18 § 4.]

Finding—Intent—2006 c 76: "The legislature finds that local governments need to have interoperable communications to ensure the public safety and welfare of all citizens in the state of Washington. In light of recent catastrophic events around the world, including in the United States, it is now more important than ever that all responders be able to communicate clearly and without interference or malfunction.

The legislature has learned that numerous states, the federal government, and some international governments have adopted the project-25 standard for interoperable communications. Local governments in Washington have started to purchase the project-25 interoperable communication[s] standard equipment. In order to ensure that local governments continue to make smart purchasing decisions, they need certainty that the purchases will be interoperable with state equipment and that the state will adopt the national project-25 standards. It is the intent of this act to provide certainty to local governments that a statewide project-25 interoperable communications system will be in place throughout Washington in the near future, and the investments they are making are advantageous to the original intent of interoperable communications, thus ensuring the safety and welfare of Washington's citizens." [2006 c 76 § 1.]

Inventory—Statewide public safety communications plan—2003 c 18: "(1) The state interoperability executive committee shall take inventory of and evaluate all state and local government-owned public safety communications systems, and prepare a statewide public safety communications plan. The plan must set forth recommendations for executive and legislative action to insure that public safety communications systems can communicate with one another and conform to federal law and regulations governing emergency communications systems and spectrum allocation. The plan must include specific goals for improving interoperability of public safety communications systems and identifiable benchmarks for achieving those goals.

(2) The committee shall present the inventory and plan required in subsection (1) of this section to the board and appropriate legislative committees as follows:

- (a) By December 31, 2003, an inventory of state government-operated public safety communications systems;
- (b) By July 31, 2004, an inventory of all public safety communications systems in the state;
- (c) By March 31, 2004, an interim statewide public safety communications plan; and
- (d) By December 31, 2004, a final statewide public safety communications plan.

(3) The committee shall consult regularly with the joint legislative audit and review committee and the legislative evaluation and accounting program committee while developing the inventory and plan under this section." [2003 c 18 § 5.]

Intent—Finding—Effective date—2003 c 18: See notes following RCW 43.105.020.

43.105.340 Consumer protection web site. (1) The department shall coordinate among state agencies to develop

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a consumer protection web site. The web site shall serve as a one-stop web site for consumer information. At a minimum, the web site must provide links to information on:

(a) Insurance information provided by the office of the insurance commissioner, including information on how to file consumer complaints against insurance companies, how to look up authorized insurers, and how to learn more about health insurance benefits;

(b) Child care information provided by the department of early learning, including how to select a child care provider, how child care providers are rated, and information about product recalls;

(c) Financial information provided by the department of financial institutions, including consumer information on financial fraud, investing, credit, and enforcement actions;

(d) Health care information provided by the department of health, including health care provider listings and quality assurance information;

(e) Home care information provided by the home care quality authority, including information to assist consumers in finding an in-home provider;

(f) Licensing information provided by the department of licensing, including information regarding business, vehicle, and professional licensing; and

(g) Other information available on existing state agency web sites that could be a helpful resource for consumers.

(2) By July 1, 2008, state agencies shall report to the department on whether they maintain resources for consumers that could be made available through the consumer protection web site.

(3) By September 1, 2008, the department shall make the consumer protection web site available to the public.

(4) After September 1, 2008, the department, in coordination with other state agencies, shall develop a plan on how to build upon the consumer protection web site to create a consumer protection portal. The plan must also include an examination of the feasibility of developing a toll-free information line to support the consumer protection portal. The plan must be submitted to the governor and the appropriate committees of the legislature by December 1, 2008. [2008 c 151 § 2.]

Findings—2008 c 151: "The legislature finds that in an era of consumer product recalls, increasing state emphasis on quality ratings and accountability, and decreasing resources at the federal level for consumer protection, there may be a gap in outreach to consumers in the state. The legislature further finds that many state agencies provide helpful information to consumers, but consumers may not always know where to look to find such information. To remedy this potential information gap, the legislature declares that a "one-stop" consumer protection web site should be created so that consumers in Washington state have access to clear and appropriate information regarding consumer services that are available to them across state government." [2008 c 151 § 1.]

43.105.360 Web directory—Public community technology programs. (1) By January 1, 2009, the department, in consultation with Washington State University, shall identify and make publicly available a web directory of public facilities that provide community technology programs throughout the state.

(2) For the purposes of this section, "community technology program" has the same meaning as in *RCW 28B.32.020. [2008 c 262 § 5.]

***Reviser's note:** RCW 28B.32.020 was repealed by 2009 c 509 § 14.

Findings—Intent—2008 c 262: "(1) The legislature finds and declares the following:

(a) The deployment and adoption of high-speed internet services and information technology has resulted in enhanced economic development and public safety for the state's communities, improved health care and educational opportunities, and a better quality of life for the state's residents;

(b) Continued progress in the deployment and adoption of high-speed internet services and other advanced telecommunications services, both land-based and wireless, is vital to ensuring Washington remains competitive and continues to create business and job growth; and

(c) That the state must encourage and support strategic partnerships of public, private, nonprofit, and community-based sectors in the continued growth and development of high-speed internet services and information technology for state residents and businesses.

(2) Therefore, in order to begin advancing the state towards further growth and development of high-speed internet in the state, and to ensure a better quality of life for all state residents, it is the legislature's intent to conduct a statewide needs assessment of broadband internet resources through an open dialogue with all interested parties, including providers, unions, businesses, community organizations, local governments, and state agencies. The legislature intends to use this needs assessment in guiding future plans on how to ensure that every resident in Washington state may gain access to high-speed internet services and, as part of this effort, to address digital literacy and technology training needs of low-income and technology underserved residents of the state through state support of community technology programs." [2008 c 262 § 1.]

43.105.370 Broadband mapping account—Federal broadband data improvement act funding—Coordination of broadband mapping activities.

(1) The broadband mapping account is established in the custody of the state treasurer. The department shall deposit into the account such funds received from legislative appropriation, federal grants authorized under the federal broadband data improvement act, P.L. 110-385, Title I, and donated funds from private and public sources. Expenditures from the account may be used only for the purposes of RCW 43.105.372 through 43.105.376. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The department of information services is the single eligible entity in the state for purposes of the federal broadband data improvement act, P.L. 110-385, Title I.

(3) Funding received by the department under the federal broadband data improvement act, P.L. 110-385, Title I, must be used in accordance with the requirements of that act and, subject to those requirements, may be distributed by the department on a competitive basis to other entities in the state to achieve the purposes of that act.

(4) The department of information services shall consult with the *department of community, trade, and economic development or its successor agency, the office of financial management, and the utilities and transportation commission in coordinating broadband mapping activities. In carrying out any broadband mapping activities, the provisions of P.L. 110-385, Title I, regarding trade secrets, commercial or financial information, and privileged or confidential information submitted by the federal communications commission or a broadband provider are deemed to encompass the consulted agencies. [2009 c 509 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Intent—Purpose—2009 c 509: "(1) The legislature finds that the deployment and adoption of high-speed internet services and technology advancements enhance economic development and public safety for the state's communities. Such deployment also offers improved health care, access to consumer and legal services, increased educational and civic participation opportunities, and a better quality of life for the state's residents. The legislature further finds that improvements in the deployment and adoption of high-speed internet services and the strategic inclusion of technology advancements and technology education are critical to ensuring that Washington remains competitive and continues to provide a skilled workforce, attract businesses, and stimulate job growth.

(2) The legislature intends to support strategic partnerships of public, private, nonprofit, and community-based sectors in the continued growth and development of high-speed internet services and information technology. The legislature further intends to ensure that all Washington citizens, businesses, schools, and organizations are able to obtain and utilize broadband fully, regardless of location, economic status, literacy level, age, disability, structure, or size. In addition, the legislature intends that a statewide assessment of the availability, location, service levels, and other characteristics of high-speed internet services and other advanced telecommunications services in the state be conducted.

(3) In recognition of the importance of broadband deployment and adoption to the economy, health, safety, and welfare of the people of Washington, it is the purpose of this act to make high-speed internet service more readily available throughout the state, especially in areas and for populations with a low utilization rate." [2009 c 509 § 1.]

Effective date—2009 c 509: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2009." [2009 c 509 § 16.]

43.105.372 Reporting availability of high-speed internet—Survey of high-speed internet infrastructure owned or leased by state agencies—Geographic information system map—Rules.

(1) Subject to the availability of federal or state funding, the department may:

(a) Develop an interactive web site to allow residents to self-report whether high-speed internet is available at their home or residence and at what speed; and

(b) Conduct a detailed survey of all high-speed internet infrastructure owned or leased by state agencies and creating [create] a geographic information system map of all high-speed internet infrastructure owned or leased by the state.

(2) State agencies responding to a survey request from the department under subsection (1)(b) of this section shall respond in a reasonable and timely manner, not to exceed one hundred twenty days. The department shall request of state agencies, at a minimum:

(a) The total bandwidth of high-speed internet infrastructure owned or leased;

(b) The cost of maintaining that high-speed internet infrastructure, if owned, or the price paid for the high-speed internet infrastructure, if leased; and

(c) The leasing entity, if applicable.

(3) The department may adopt rules as necessary to carry out the provisions of this section.

(4) For purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency. [2009 c 509 § 3.]

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.105.370.

43.105.374 Procurement of geographic information system map—Accountability and oversight structure—Application of public records act.

(1) The department is authorized, through a competitive bidding process, to procure

on behalf of the state a geographic information system map detailing high-speed internet infrastructure, service availability, and adoption. This geographic information system map may include adoption information, availability information, type of high-speed internet deployment technology, and available speed tiers for high-speed internet based on any publicly available data.

(2) The department may procure this map either by:

(a) Contracting for and purchasing a completed map from a third party; or

(b) Working directly with the federal communications commission to accept publicly available data.

(3) The department shall establish an accountability and oversight structure to ensure that there is transparency in the bidding and contracting process and full financial and technical accountability for any information or actions taken by a third-party contractor creating this map.

(4) In contracting for purchase of the map in subsection (2)(a) of this section, the department may take no action, nor impose any condition on the third party, that causes any record submitted by a public or private broadband service provider to the third party to meet the standard of a public record as defined in RCW 42.56.010. This prohibition does not apply to any records delivered to the department by the third party as a component of the completed map. For the purpose of *RCW 42.56.010(2), the purchase by the department of a completed map may not be deemed use or ownership by the department of the underlying information used by the third party to complete the map.

(5) Data or information that is publicly available as of July 1, 2009, will not cease to be publicly available due to any provision of chapter 509, Laws of 2009. [2009 c 509 § 4.]

***Reviser's note:** RCW 42.56.010 was amended by 2010 c 204 § 1005, changing subsection (2) to subsection (3), effective January 1, 2012.

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.105.370.

43.105.376 Broadband mapping, deployment, and adoption—Reports. (1) The department, in coordination with the *department of community, trade, and economic development and the utilities and transportation commission, and such advisors as the department chooses, may prepare regular reports that identify the following:

(a) The geographic areas of greatest priority for the deployment of advanced telecommunications infrastructure in the state;

(b) A detailed explanation of how any amount of funding received from the federal government for the purposes of broadband mapping, deployment, and adoption will be or have been used; and

(c) A determination of how nonfederal sources may be utilized to achieve the purposes of broadband mapping, deployment, and adoption activities in the state.

(2) To the greatest extent possible, the initial report should be based upon the information identified in the geographic system maps developed under the requirements of this chapter.

(3) The initial report should be delivered to the appropriate committees of the legislature as soon as feasible, but no later than January 18, 2010.

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(4) Future reports based upon the requirements of subsection (1) of this section should be delivered to the appropriate committees of the legislature by January 15th of each year. [2009 c 509 § 5.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.105.370.

43.105.380 Community technology opportunity program—Administration—Grant program. The community technology opportunity program is created to support the efforts of community technology programs throughout the state. The community technology opportunity program must be administered by the department of information services. The department may contract for services in order to carry out the department's obligations under this section.

(1) In implementing the community technology opportunity program the administrator must, to the extent funds are appropriated for this purpose:

(a) Provide organizational and capacity building support to community technology programs throughout the state, and identify and facilitate the availability of other public and private sources of funds to enhance the purposes of the program and the work of community technology programs. No more than fifteen percent of funds received by the administrator for the program may be expended on these functions;

(b) Establish a competitive grant program and provide grants to community technology programs to provide training and skill-building opportunities; access to hardware and software; internet connectivity; digital media literacy; assistance in the adoption of information and communication technologies in low-income and underserved areas of the state; and development of locally relevant content and delivery of vital services through technology.

(2) Grant applicants must:

(a) Provide evidence that the applicant is a nonprofit entity or a public entity that is working in partnership with a nonprofit entity;

(b) Define the geographic area or population to be served;

(c) Include in the application the results of a needs assessment addressing, in the geographic area or among the population to be served: The impact of inadequacies in technology access or knowledge, barriers faced, and services needed;

(d) Explain in detail the strategy for addressing the needs identified and an implementation plan including objectives, tasks, and benchmarks for the applicant and the role that other organizations will play in assisting the applicant's efforts;

(e) Provide evidence of matching funds and resources, which are equivalent to at least one-quarter of the grant amount committed to the applicant's strategy;

(f) Provide evidence that funds applied for, if received, will be used to provide effective delivery of community technology services in alignment with the goals of this program and to increase the applicant's level of effort beyond the current level; and

(g) Comply with such other requirements as the administrator establishes.

(3) The administrator may use no more than ten percent of funds received for the community technology opportunity program to cover administrative expenses.

(4) The administrator must establish expected program outcomes for each grant recipient and must require grant recipients to provide an annual accounting of program outcomes. [2009 c 509 § 6; 2008 c 262 § 6. Formerly RCW 28B.32.010.]

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.105.370.

43.105.382 Washington community technology opportunity account. The Washington community technology opportunity account is established in the state treasury. The governor or the governor's designee and the director or the director's designee shall deposit into the account federal grants to the state authorized under Division B, Title VI of the American recovery and reinvestment act of 2009, legislative appropriations, and donated funds from private and public sources for purposes related to broadband deployment and adoption, including matching funds required by the act. Donated funds from private and public sources may be deposited into the account. Expenditures from the account may be used only as matching funds for federal and other grants to fund the operation of the community technology opportunity program under this chapter and to fund other activities authorized in chapter 509, Laws of 2009. Only the director or the director's designee may authorize expenditures from the account. [2009 c 509 § 8; 2008 c 262 § 8. Formerly RCW 28B.32.030.]

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.105.370.

43.105.390 Broadband deployment and adoption—Governor's actions—Oversight and implementation by the department. (1) The governor may take all appropriate steps to carry out the purposes of Division B, Title VI of the American recovery and reinvestment act of 2009, P.L. 111-5, and maximize investment in broadband deployment and adoption in the state of Washington consistent with chapter 509, Laws of 2009. Such steps may include the designation of a broadband deployment and adoption coordinator; review and prioritization of grant applications by public and private entities as directed by the national telecommunications and information administration, the rural utility services, and the federal communications commission; disbursement of block grant funding; and direction to state agencies to provide staffing as necessary to carry out this section. The authority for overseeing broadband adoption and deployment efforts on behalf of the state is vested in the department.

(2) The department may apply for federal funds and other grants or donations, may deposit such funds in the Washington community technology opportunity account created in RCW 43.105.382, may oversee implementation of federally funded or mandated broadband programs for the state and may adopt rules to administer the programs. These programs may include but are not limited to the following:

(a) Engaging in periodic statewide surveys of residents, businesses, and nonprofit organizations concerning their use and adoption of high-speed internet, computer, and related

information technology for the purpose of identifying barriers to adoption;

(b) Working with communities to identify barriers to the adoption of broadband service and related information technology services by individuals, nonprofit organizations, and businesses;

(c) Identifying broadband demand opportunities in communities by working cooperatively with local organizations, government agencies, and businesses;

(d) Creating, implementing, and administering programs to improve computer ownership, technology literacy, digital media literacy, and high-speed internet access for populations not currently served or underserved in the state. This may include programs to provide low-income families, community-based nonprofit organizations, nonprofit entities, and public entities that work in partnership with nonprofit entities to provide increased access to computers and broadband, with reduced cost internet access;

(e) Administering the community technology opportunity program under RCW 43.105.380 and 43.105.382;

(f) Creating additional programs to spur the development of high-speed internet resources in the state;

(g) Establishing technology literacy and digital inclusion programs and establishing low-cost hardware, software, and internet purchasing programs that may include allowing participation by community technology programs in state purchasing programs; and

(h) Developing technology loan programs targeting small businesses or businesses located in unserved and underserved areas. [2009 c 509 § 9.]

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.105.370.

43.105.400 Advisory council on digital inclusion—Annual report. (1) Subject to the availability of federal or state funding, the department may reconvene the high-speed internet work group previously established by chapter 262, Laws of 2008. The work group is renamed the advisory council on digital inclusion, and is an advisory group to the department. The council must include, but is not limited to, volunteer representatives from community technology organizations, telecommunications providers, higher education institutions, K-12 education institutions, public health institutions, public housing entities, and local government and other governmental entities that are engaged in community technology activities.

(2) The council shall prepare a report by January 15th of each year and submit it to the department, the governor, and the appropriate committees of the legislature. The report must contain:

(a) An analysis of how support from public and private sector partnerships, the philanthropic community, and other not-for-profit organizations in the community, along with strong relationships with the state board for community and technical colleges, the higher education coordinating board, and higher education institutions, could establish a variety of high-speed internet access alternatives for citizens;

(b) Proposed strategies for continued broadband deployment and adoption efforts, as well as further development of advanced telecommunications applications;

(c) Recommendations on methods for maximizing the state's research and development capacity at universities and in the private sector for developing advanced telecommunications applications and services, and recommendations on incentives to stimulate the demand for and development of these applications and services;

(d) An identification of barriers that hinder the advancement of technology entrepreneurship in the state; and

(e) An evaluation of programs designed to advance digital literacy and computer access that are made available by the federal government, local agencies, telecommunications providers, and business and charitable entities. [2009 c 509 § 10.]

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.105.370.

43.105.410 Purchase of wireless devices or services.

(1) State agencies that are purchasing wireless devices or services must make such purchases through the state master contract, unless the state agency provides to the office of financial management evidence that the state agency is securing its wireless devices or services from another source for a lower cost than through participation in the state master contract.

(2) For the purposes of this section, "state agency" means any office, department, board, commission, or other unit of state government, but does not include a unit of state government headed by a statewide elected official, an institution of higher education as defined in RCW 28B.10.016, the higher education coordinating board, the state board for community and technical colleges, or agencies of the legislative or judicial branches of state government. [2010 c 282 § 2.]

43.105.805 Information services board—Powers and duties.

(1) In cooperation with the educational sectors and other interested parties, to establish goals and measurable objectives for the network;

(2) To ensure that the goals and measurable objectives of the network are the basis for any decisions or recommendations regarding the technical development and operation of the network;

(3) To adopt, modify, and implement policies to facilitate network development, operation, and expansion. Such policies may include but need not be limited to the following issues: Quality of educational services; access to the network by recognized organizations and accredited institutions that deliver educational programming, including public libraries; prioritization of programming within limited resources; prioritization of access to the system and the sharing of technological advances; network security; identification and evaluation of emerging technologies for delivery of educational programs; future expansion or redirection of the system; network fee structures; and costs for the development and operation of the network;

(4) To prepare and submit to the governor and the legislature a coordinated budget for network development, operation, and expansion. The budget shall include the recommendations of the board on (a) any state funding requested for network transport and equipment, distance education facilities and hardware or software specific to the use of the net-

work, and proposed new network end sites, (b) annual copayments to be charged to public educational sector institutions and other public entities connected to the network, and (c) charges to nongovernmental entities connected to the network;

(5) To adopt and monitor the implementation of a methodology to evaluate the effectiveness of the network in achieving the educational goals and measurable objectives;

(6) To establish by rule acceptable use policies governing user eligibility for participation in the K-20 network, acceptable uses of network resources, and procedures for enforcement of such policies. The board shall set forth appropriate procedures for enforcement of acceptable use policies, that may include suspension of network connections and removal of shared equipment for violations of network conditions or policies. The board shall have sole responsibility for the implementation of enforcement procedures relating to technical conditions of use. [2010 1st sp.s. c 9 § 1; 2010 1st sp.s. c 7 § 66; 1999 c 285 § 3.]

Reviser's note: This section was amended by 2010 1st sp.s. c 7 § 66 and by 2010 1st sp.s. c 9 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective date—2010 1st sp.s. c 9: "This act takes effect July 1, 2010." [2010 1st sp.s. c 9 § 11.]

43.105.815 K-20 operations cooperative—Ongoing management. The department shall maintain, in consultation with the network users and the board, the K-20 operations cooperative, which shall be responsible for day-to-day network management, technical network status monitoring, technical problem response coordination, and other duties as agreed to by the department, the educational sectors, and the information services board. Funding for the K-20 operations cooperative shall be provided from the K-20 revolving fund under RCW 43.105.835. [1999 c 285 § 8.]

43.105.820 K-20 telecommunication system—Technical plan. The information services board shall prepare a technical plan for the design and construction of the K-20 telecommunication system. The board shall ensure that the technical plan adheres to the goals and objectives established under RCW 43.105.041. The board shall provide formal project approval and oversight during the development and implementation of the K-20 telecommunications network. In approving the plan, the board shall conduct a request for proposal process. The technical plan shall be developed in phases as follows:

(1) Phase one shall provide a telecommunication backbone connecting educational service districts, the main campuses of public baccalaureate institutions, the branch campuses of public research institutions, and the main campuses of community colleges and technical colleges.

(2) Phase two shall provide for (a) connection to the network by entities that include, but need not be limited to: School districts, public higher education off-campus and extension centers, and branch campuses of community colleges and technical colleges, as prioritized by the K-20 telecommunications oversight and policy committee, or as mod-

ified by the board; (b) distance education facilities and components for entities listed in subsections (1) and (2) of this section; and (c) connection for independent nonprofit institutions of higher education, provided that:

(i) The board and each independent nonprofit institution of higher education to be connected agree in writing to terms and conditions of connectivity. The terms and conditions shall ensure, among other things, that the provision of K-20 services does not violate Article VIII, section 5 of the state Constitution and that the institution shall adhere to network policies; and

(ii) The board determines that inclusion of the independent nonprofit institutions of higher education will not significantly affect the network's eligibility for federal universal service fund discounts or subsidies.

(3) Subsequent phases may include, but need not be limited to, connections to public libraries, state and local governments, community resource centers, and the private sector. [2010 1st sp.s. c 7 § 67; 1999 c 285 § 11; 1996 c 137 § 8. Formerly RCW 28D.02.070.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Additional notes found at www.leg.wa.gov

43.105.825 K-20 network—Oversight—Coordination of telecommunications planning. (1) In overseeing the technical aspects of the K-20 network, the information services board is not intended to duplicate the statutory responsibilities of the higher education coordinating board, the superintendent of public instruction, the information services board, the state librarian, or the governing boards of the institutions of higher education.

(2) The board may not interfere in any curriculum or legally offered programming offered over the network.

(3) The responsibility to review and approve standards and common specifications for the network remains the responsibility of the information services board under RCW 43.105.041.

(4) The coordination of telecommunications planning for the common schools remains the responsibility of the superintendent of public instruction. Except as set forth in RCW 43.105.041(1)(d), the board may recommend, but not require, revisions to the superintendent's telecommunications plans. [2004 c 275 § 62; 1999 c 285 § 7.]

Part headings not law—2004 c 275: See note following RCW 28B.76.030.

43.105.835 Education technology revolving fund. (1) The education technology revolving fund is created in the custody of the state treasurer. All receipts from billings under subsection (2) of this section must be deposited in the revolving fund. Only the director of the department of information services or the director's designee may authorize expenditures from the fund. The revolving fund shall be used to pay for network operations, transport, equipment, software, supplies, and services, maintenance and depreciation of on-site data, and shared infrastructure, and other costs incidental to the development, operation, and administration of shared educational information technology services, telecommunications, and systems. The revolving fund shall not be used for the acquisition, maintenance, or operations of

local telecommunications infrastructure or the maintenance or depreciation of on-premises video equipment specific to a particular institution or group of institutions.

(2) The revolving fund and all disbursements from the revolving fund are subject to the allotment procedure under chapter 43.88 RCW, but an appropriation is not required for expenditures. The department of information services shall, in consultation with entities connected to the network under RCW 43.105.820 and subject to the review and approval of the office of financial management, establish and implement a billing structure for network services identified in subsection (1) of this section.

(3) The department shall charge those public entities connected to the K-20 telecommunications [telecommunication system] under RCW 43.105.820 an annual copayment per unit of transport connection as determined by the legislature after consideration of the *K-20 board's recommendations. This copayment shall be deposited into the revolving fund to be used for the purposes in subsection (1) of this section. It is the intent of the legislature to appropriate to the revolving fund such moneys as necessary to cover the costs for transport, maintenance, and depreciation of data equipment located at the individual public institutions, maintenance and depreciation of the network backbone, and services provided to the network under RCW 43.105.815.

(4) During the 2003-05 biennium, the legislature may transfer moneys from the education technology revolving fund to the state general fund and the data processing revolving fund such amounts as reflect the excess fund balance of the account. [2004 c 276 § 910; 1999 c 285 § 10; 1997 c 180 § 1. Formerly RCW 28D.02.065.]

***Reviser's note:** RCW 43.105.800, which created the K-20 board, was repealed by 2010 1st sp.s. c 7 § 63.

Severability—Effective date—2004 c 276: See notes following RCW 43.330.167.

Additional notes found at www.leg.wa.gov

43.105.900 Severability—1973 1st ex.s. c 219. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 219 § 10.]

43.105.901 Severability—1987 c 504. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 504 § 25.]

43.105.902 Effective date—1987 c 504. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987. [1987 c 504 § 26.]

43.105.903 Effective date—1999 c 285. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1999. [1999 c 285 § 14.]

43.105.904 Actions of telecommunications oversight and policy committee—Savings—1999 c 285. Actions of the telecommunications oversight and policy committee in effect on June 30, 1999, shall remain in effect thereafter unless modified or repealed by the *K-20 board. [1999 c 285 § 4.]

***Reviser's note:** RCW 43.105.800, which created the K-20 board, was repealed by 2010 1st sp.s. c 7 § 63.

43.105.905 Construction—2008 c 262. Nothing in this act may be construed as giving the department of information services or any other entities any additional authority, regulatory or otherwise, over providers of telecommunications and information technology. [2008 c 262 § 4.]

Findings—Intent—2008 c 262: See note following RCW 43.105.360.

43.105.906 Conflict with federal requirements—2009 c 509. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [2009 c 509 § 11.]

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.105.370.

Chapter 43.110 RCW

MUNICIPAL RESEARCH COUNCIL

Sections

- 43.110.020 Transmission of funds to council from general fund for allocation—Contracts—Purposes.
- 43.110.030 Municipal research and services.
- 43.110.050 County research services account.
- 43.110.060 City and town research services account.
- 43.110.080 Research and services to special purpose districts.

43.110.020 Transmission of funds to council from general fund for allocation—Contracts—Purposes. See RCW 82.44.160.

43.110.030 Municipal research and services. (1) The department of commerce shall contract for the provision of municipal research and services to cities, towns, and counties. Contracts for municipal research and services shall be made with state agencies, educational institutions, or private consulting firms, that in the judgment of the department are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the department are qualified to provide such support.

(2) Municipal research and services shall consist of:

(a) Studying and researching city, town, and county government and issues relating to city, town, and county government;

(b) Acquiring, preparing, and distributing publications related to city, town, and county government and issues relating to city, town, and county government;

(2010 Ed.)

(c) Providing educational conferences relating to city, town, and county government and issues relating to city, town, and county government; and

(d) Furnishing legal, technical, consultative, and field services to cities, towns, and counties concerning planning, public health, utility services, fire protection, law enforcement, public works, and other issues relating to city, town, and county government.

(3) Requests for legal services by county officials shall be sent to the office of the county prosecuting attorney. Responses by the department of commerce to county requests for legal services shall be provided to the requesting official and the county prosecuting attorney.

(4) The department of commerce shall coordinate with the association of Washington cities and the Washington state association of counties in carrying out the activities in this section. Services to cities and towns shall be based upon the moneys appropriated to the department from the city and town research services account under RCW 43.110.060. Services to counties shall be based upon the moneys appropriated to the department from the county research services account under RCW 43.110.050. [2010 c 271 § 701; 2000 c 227 § 3; 1997 c 437 § 2; 1990 c 104 § 2.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Effective date—2000 c 227: See note following RCW 43.110.060.

Additional notes found at www.leg.wa.gov

43.110.050 County research services account. (1) A special account is created in the state treasury to be known as the county research services account. The account shall consist of all money transferred to the account under RCW 82.08.170 or otherwise transferred or appropriated to the account by the legislature. Moneys in the account may be spent only after appropriation. The account is subject to the allotment process under chapter 43.88 RCW.

Moneys in the county research services account may be expended only to finance the costs of county research.

(2) All unobligated moneys remaining in the account at the end of the fiscal biennium shall be distributed by the treasurer to the counties of the state in the same manner as the distribution under RCW 82.08.170(1)(a). [2002 c 38 § 1; 1997 c 437 § 3.]

Additional notes found at www.leg.wa.gov

43.110.060 City and town research services account. The city and town research services account is created in the state treasury. Moneys in the account shall consist of amounts transferred under RCW 66.08.190(2) and any other transfers or appropriations to the account. Moneys in the account may be spent only after an appropriation. Expenditures from the account may be used only for city and town research.

All unobligated moneys remaining in the account at the end of the fiscal biennium shall be distributed by the treasurer to the incorporated cities and towns of the state in the same manner as the distribution under RCW 66.08.190(1)(b)(iii).

Payments to public agencies may be made in advance of actual work contracted for, at the discretion of the department

of commerce. [2010 c 271 § 702; 2002 c 38 § 4; 2000 c 227 § 1.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Effective date—2000 c 227: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2000." [2000 c 227 § 5.]

43.110.080 Research and services to special purpose districts. (1) The department of commerce shall contract for the provision of research and services to special purpose districts. A contract shall be made with a state agency, educational institution, or private consulting firm, that in the judgment of the department is qualified to provide such research and services.

(2) Research and services to special purpose districts shall consist of:

(a) Studying and researching issues relating to special purpose district government;

(b) Acquiring, preparing, and distributing publications related to special purpose districts; and

(c) Furnishing legal, technical, consultative, and field services to special purpose districts concerning issues relating to special purpose district government.

(3) The department of commerce shall coordinate with the associations representing the various special purpose districts with respect to carrying out the activities in this section. Services to special purpose districts shall be based upon the moneys appropriated to the department of commerce from the special purpose district research services account under *RCW 43.110.090. [2010 c 271 § 703; 2006 c 328 § 1.]

*Reviser's note: RCW 43.110.090 was repealed by 2010 1st sp.s. c 9 § 8.

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Chapter 43.113 RCW

COMMISSION ON AFRICAN-AMERICAN AFFAIRS

Sections

43.113.005	Legislative declaration.
43.113.010	Commission created.
43.113.020	Membership—Terms—Vacancies—Quorum—Expenses.
43.113.030	Powers and duties.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030 and 43.101.280.

43.113.005 Legislative declaration. The legislature declares that it is the public policy of this state to insure equal opportunity for all of its citizens. The legislature finds that, for economic, social, and historical reasons, a disproportionate number of African-Americans find themselves disadvantaged or isolated from the benefits of equal opportunity. The legislature believes that it is the duty of this state to improve the well-being of African-Americans by enabling them to participate fully in all fields of endeavor and by assisting them in obtaining governmental services. The legislature further finds that the development of public policy and the delivery of governmental services to meet the special needs of African-Americans can be improved by establishing a focal point in state government for the interests of African-

American citizens. Therefore, the legislature deems it necessary to establish in statute the commission on African-American affairs to further these purposes. [1992 c 96 § 1.]

43.113.010 Commission created. The Washington state commission on African-American affairs is created. The commission shall be administered by an executive director, who shall be appointed by, and serve at the pleasure of, the governor. The governor shall set the salary of the executive director. The executive director shall employ the staff of the commission. [1992 c 96 § 2.]

43.113.020 Membership—Terms—Vacancies—Quorum—Expenses. The commission shall consist of nine members, appointed by the governor. The commission shall make recommendations to the governor on appointment of the chair of the commission. The governor shall appoint the chair of the commission. To the extent practicable, appointments to the commission shall be made to achieve a balanced representation based on African-American population distribution within the state, geographic considerations, sex, age, and occupation. Members shall serve three-year terms. However, of the initial appointees, one-third shall serve three-year terms, one-third shall serve two-year terms, and one-third shall serve a one-year term. In the case of a vacancy, appointment shall be for the remainder of the unexpired term. No member shall serve more than two full consecutive terms. Members shall be reimbursed for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. Five members shall constitute a quorum for the purposes of conducting business. [1992 c 96 § 3.]

43.113.030 Powers and duties. The commission shall have the following powers and duties:

(1) Examine and define issues pertaining to the rights and needs of African-Americans, and make recommendations to the governor and state agencies for changes in programs and laws.

(2) Advise the governor and state agencies on the development and implementation of policies, plans, and programs that relate to the special needs of African-Americans.

(3) Acting in concert with the governor, advise the legislature on issues of concern to the African-American community.

(4) Establish relationships with state agencies, local governments, and private sector organizations that promote equal opportunity and benefits for African-Americans.

(5) Receive gifts, grants, and endowments from public or private sources that are made for the use or benefit of the commission and expend, without appropriation, the same or any income from the gifts, grants, or endowments according to their terms. [1992 c 96 § 4.]

Chapter 43.115 RCW

STATE COMMISSION ON HISPANIC AFFAIRS

Sections

43.115.010	Legislative declaration.
43.115.020	Commission created.

- 43.115.030 Membership—Terms—Vacancies—Travel expenses—Quorum.
 43.115.040 Officers and employees—Rules and regulations.
 43.115.045 Executive director.
 43.115.060 Relationships with local government and private industry.
 43.115.900 Severability—1971 ex.s. c 34.

Reviser's note—Sunset Act application: The Washington state commission on Hispanic affairs is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.341. RCW 43.115.010 through 43.115.060 and 43.115.900 are scheduled for future repeal under RCW 43.131.342.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030 and 43.101.280.

43.115.010 Legislative declaration. The legislature declares that the public policy of this state is to insure equal opportunity for all of its citizens. The legislature believes that it is the duty of the state to improve the well-being of Hispanics by enabling them to participate fully in all fields of endeavor and assisting them in obtaining governmental services. The legislature further finds that the development of public policy and the delivery of governmental services to meet the special needs of Hispanics can be improved by establishing a focal point in state government for the interests of Hispanics. Therefore the legislature deems it necessary to create a commission to carry out the purposes of this chapter. [1993 c 261 § 1; 1987 c 249 § 1; 1971 ex.s. c 34 § 1.]

Sunset Act application: See note following chapter digest.

43.115.020 Commission created. There is created a Washington state commission on Hispanic affairs. [1987 c 249 § 2; 1971 ex.s. c 34 § 2.]

Sunset Act application: See note following chapter digest.

43.115.030 Membership—Terms—Vacancies—Travel expenses—Quorum. (1) The commission shall consist of eleven members of Hispanic origin appointed by the governor. To the extent practicable, appointments to the commission shall be made to achieve a balanced representation based on the Hispanic population distribution within the state, geographic considerations, sex, age, and occupation. Members shall serve three-year terms. No member shall serve more than two full consecutive terms. Vacancies shall be filled in the same manner as the original appointments.

(2) Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(3) Six members of the commission shall constitute a quorum for the purpose of conducting business. [1993 c 261 § 2; 1987 c 249 § 3; 1981 c 338 § 15; 1975-'76 2nd ex.s. c 34 § 130; 1971 ex.s. c 34 § 3.]

Sunset Act application: See note following chapter digest.

Additional notes found at www.leg.wa.gov

43.115.040 Officers and employees—Rules and regulations. The commission shall have the following powers and duties:

(1) Elect one of its members to serve as chair;

(2) Adopt rules and regulations pursuant to chapter 34.05 RCW;

(2010 Ed.)

(3) Examine and define issues pertaining to the rights and needs of Hispanics, and make recommendations to the governor and state agencies for changes in programs and laws;

(4) Advise the governor and state agencies on the development and implementation of policies, plans, and programs that relate to the special needs of Hispanics;

(5) Advise the legislature on issues of concern to the Hispanic community;

(6) Establish relationships with state agencies, local governments, and private sector organizations that promote equal opportunity and benefits for Hispanics; and

(7) Receive gifts, grants, and endowments from public or private sources that are made for the use or benefit of the commission and expend, without appropriation, the same or any income from the gifts, grants, or endowments according to their terms. [2009 c 549 § 5170; 1993 c 261 § 3; 1987 c 249 § 4; 1971 ex.s. c 34 § 4.]

Sunset Act application: See note following chapter digest.

43.115.045 Executive director. (1) The commission shall be administered by an executive director, who shall be appointed by and serve at the pleasure of the governor. The governor shall base the appointment of the executive director on recommendations of the commission. The salary of the executive director shall be set by the governor.

(2) The executive director shall employ a staff, who shall be state employees pursuant to Title 41 RCW. The executive director shall prescribe the duties of the staff as may be necessary to implement the purposes of this chapter. [1993 c 261 § 4.]

43.115.060 Relationships with local government and private industry. In carrying out its duties the commission may establish such relationships with local governments and private industry as may be needed to promote equal opportunity for Hispanics in government, education and employment. [1987 c 249 § 6; 1971 ex.s. c 34 § 6.]

Sunset Act application: See note following chapter digest.

43.115.900 Severability—1971 ex.s. c 34. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 34 § 7.]

Sunset Act application: See note following chapter digest.

Chapter 43.117 RCW

STATE COMMISSION ON ASIAN PACIFIC AMERICAN AFFAIRS

(Formerly: State commission on Asian-American affairs)

Sections

- 43.117.010 Legislative declaration.
 43.117.020 Definitions.
 43.117.030 Commission established.
 43.117.040 Membership—Terms—Vacancies—Travel expenses—Quorum—Executive director.
 43.117.050 Officers—Rules and regulations—Meetings.
 43.117.060 Staff.
 43.117.070 Duties of commission—State agencies to give assistance.
 43.117.080 Promotion of equal opportunity and benefits.
 43.117.090 Hearings—Information to be furnished to commission.

- 43.117.100 Gifts, grants and endowments—Receipt and expenditure.
 43.117.110 Asian Pacific American heritage month.
 43.117.900 Severability—1974 ex.s. c 140.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030 and 43.101.280.

43.117.010 Legislative declaration. The legislature declares that the public policy of this state is to insure equal opportunity for all of its citizens. The legislature finds that Asian Pacific Americans have unique and special problems. It is the purpose of this chapter to improve the well-being of Asian Pacific Americans by insuring their access to participation in the fields of government, business, education, and other areas. The legislature is particularly concerned with the plight of those Asian Pacific Americans who, for economic, linguistic, or cultural reasons, find themselves disadvantaged or isolated from American society and the benefits of equal opportunity. The legislature aims to help these and all Asian Pacific Americans achieve full equality and inclusion in American society. The legislature further finds that it is necessary to aid Asian Pacific Americans in obtaining governmental services in order to promote the health, safety, and welfare of all the residents of this state. Therefore the legislature deems it necessary to create a commission to carry out the purposes of this chapter. [2000 c 236 § 1; 1995 c 67 § 2; 1983 c 119 § 1; 1974 ex.s. c 140 § 1.]

Effective date—2000 c 236: "This act takes effect April 30, 2000." [2000 c 236 § 4.]

Additional notes found at www.leg.wa.gov

43.117.020 Definitions. As used in this chapter unless the context indicates otherwise:

(1) "Asian Pacific Americans" include persons of Japanese, Chinese, Filipino, Korean, Samoan, Guamanian, Thai, Vietnamese, Cambodian, Laotian, and other South East Asian, South Asian, and Pacific Island ancestry.

(2) "Commission" means the Washington state commission on Asian Pacific American affairs in the office of the governor. [1995 c 67 § 3; 1974 ex.s. c 140 § 2.]

43.117.030 Commission established. There is established a Washington state commission on Asian Pacific American affairs in the office of the governor. The now existing Asian-American advisory council shall become the commission upon enactment of this chapter. The council may transfer all office equipment, including files and records to the commission. [1995 c 67 § 4; 1974 ex.s. c 140 § 3.]

43.117.040 Membership—Terms—Vacancies—Travel expenses—Quorum—Executive director. (1) The commission shall consist of twelve members appointed by the governor. In making such appointments, the governor shall give due consideration to recommendations submitted to him or her by the commission. The governor may also consider nominations of members made by the various Asian-American organizations in the state. The governor shall consider nominations for membership based upon maintaining a balanced distribution of Asian-ethnic, geographic, sex, age, and occupational representation, where practicable.

(2) Appointments shall be for three years except in case of a vacancy, in which event appointment shall be only for

the remainder of the unexpired term for which the vacancy occurs. Vacancies shall be filled in the same manner as the original appointments.

(3) Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(4) Seven members shall constitute a quorum for the purpose of conducting business.

(5) The governor shall appoint an executive director based upon recommendations made by the council. [2009 c 549 § 5171; 1982 c 68 § 1; 1981 c 338 § 16; 1975-'76 2nd ex.s. c 34 § 131; 1974 ex.s. c 140 § 4.]

Additional notes found at www.leg.wa.gov

43.117.050 Officers—Rules and regulations—Meetings. The commission shall:

(1) Elect one of its members to serve as chair; and also such other officers as necessary to form an executive committee;

(2) Adopt rules and regulations pursuant to chapter 34.05 RCW;

(3) Meet at the call of the chair or the call of a majority of its members, but in no case less often than once during any three month period;

(4) Be authorized to appoint such citizen task force as it deems appropriate. [2009 c 549 § 5172; 1974 ex.s. c 140 § 5.]

43.117.060 Staff. The executive director shall employ a staff who shall be state employees pursuant to Title 41 RCW and prescribe their duties as may be necessary to implement the purposes of this chapter. [1974 ex.s. c 140 § 6.]

43.117.070 Duties of commission—State agencies to give assistance. (1) The commission shall examine and define issues pertaining to the rights and needs of Asian Pacific Americans, and make recommendations to the governor and state agencies with respect to desirable changes in program and law.

(2) The commission shall advise such state government agencies on the development and implementation of comprehensive and coordinated policies, plans, and programs focusing on the special problems and needs of Asian Pacific Americans.

(3) The commission shall coordinate and assist with statewide celebrations during the fourth week of Asian Pacific American Heritage Month that recognize the contributions to the state by Asian Pacific Americans in the arts, sciences, commerce, and education.

(4) The commission shall coordinate and assist educational institutions, public entities, and private organizations with celebrations of Korean-American day that recognize the contributions to the state by Korean-Americans in the arts, sciences, commerce, and education.

(5) Each state department and agency shall provide appropriate and reasonable assistance to the commission as needed in order that the commission may carry out the purposes of this chapter. [2007 c 19 § 3; 2000 c 236 § 3; 1995 c 67 § 5; 1974 ex.s. c 140 § 7.]

Findings—2007 c 19: See note following RCW 1.16.050.

Effective date—2000 c 236: See note following RCW 43.117.010.

43.117.080 Promotion of equal opportunity and benefits. In carrying out its duties, the commission may establish such relationships with local governments and private industry as may be needed to promote equal opportunity and benefits to Asian Pacific Americans in government, education, economic development, employment, and services. [1995 c 67 § 6; 1974 ex.s. c 140 § 8.]

43.117.090 Hearings—Information to be furnished to commission. (1) The commission may for the purpose of carrying out the purposes of this chapter hold such public hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the commission may deem advisable. The commission may administer oaths or affirmations to witnesses appearing before it. At least five members of the commission must be present to conduct a hearing.

(2) The commission may secure directly from any department or agency of the state information necessary to enable it to carry out the purposes of this chapter. Upon request of the chair of the commission, the head of such department or agency shall furnish such information to the commission. [2009 c 549 § 5173; 1974 ex.s. c 140 § 9.]

43.117.100 Gifts, grants and endowments—Receipt and expenditure. The commission shall have authority to receive such gifts, grants, and endowments from public or private sources as may be made from time to time in trust or otherwise for the use and benefit of the purposes of the commission and to expend the same or any income therefrom according to the terms of said gifts, grants, or endowments. [1974 ex.s. c 140 § 10.]

43.117.110 Asian Pacific American heritage month. The legislature declares that:

(1) May of each year will be known as Asian Pacific American heritage month;

(2) The fourth week of May is designated as a time for people of this state to celebrate the contributions to the state by Asian Pacific Americans in the arts, sciences, commerce, and education; and

(3) Educational institutions, public entities, and private organizations are encouraged to designate time for appropriate activities in commemoration of the lives, history, achievements, and contributions of Asian Pacific Americans. [2000 c 236 § 2.]

Effective date—2000 c 236: See note following RCW 43.117.010.

43.117.900 Severability—1974 ex.s. c 140. If any provision of this 1974 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 140 § 11.]

(2010 Ed.)

Chapter 43.121 RCW

COUNCIL FOR CHILDREN AND FAMILIES (Formerly: Council for the prevention of child abuse and neglect)

Sections

- 43.121.010 Legislative declaration, intent.
- 43.121.015 Definitions.
- 43.121.020 Council established—Members, chairperson—Appointment, qualifications, terms, vacancies.
- 43.121.030 Compensation and travel expenses of members.
- 43.121.040 Executive director, salary—Staff.
- 43.121.050 Council powers and duties—Generally—Rules.
- 43.121.060 Contracts for services—Scope of programs—Funding.
- 43.121.070 Contracts for services—Factors in awarding.
- 43.121.080 Contracts for services—Partial funding by administering organization, what constitutes.
- 43.121.100 Contributions, grants, gifts—Depository for and disbursement and expenditure control of moneys received—Children's trust fund.
- 43.121.110 Parenting skills—Legislative findings.
- 43.121.120 Community-based early parenting skills programs—Funding.
- 43.121.130 Decreased state funding of parenting skills programs—Evaluation.
- 43.121.140 Shaken baby syndrome—Outreach campaign.
- 43.121.150 Juvenile crime—Legislative findings.
- 43.121.160 Postpartum depression—Public information and communication outreach campaign.
- 43.121.185 Children's trust of Washington renamed.
- 43.121.910 Severability—1982 c 4.

43.121.010 Legislative declaration, intent. The legislature recognizes that child abuse and neglect is a threat to the family unit and imposes major expenses on society. The legislature further declares that there is a need to assist private and public agencies in identifying and establishing community based educational and service programs for the prevention of child abuse and neglect. It is the intent of the legislature that an increase in prevention programs will help reduce the breakdown in families and thus reduce the need for state intervention and state expense. It is further the intent of the legislature that prevention of child abuse and child neglect programs are partnerships between communities, citizens, and the state. [1982 c 4 § 1.]

43.121.015 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Child" means an unmarried person who is under eighteen years of age.

(2) "Council" means the council for children and families.

(3) "Primary prevention" of child abuse and neglect means any effort designed to inhibit or preclude the initial occurrence of child abuse and neglect, both by the promotion of positive parenting and family interaction, and the remediation of factors linked to causes of child maltreatment.

(4) "Secondary prevention" means services and programs that identify and assist families under such stress that abuse or neglect is likely or families display symptoms associated with child abuse or neglect. [2008 c 152 § 8; 1988 c 278 § 4; 1987 c 351 § 2.]

Findings—Intent—2008 c 152: See note following RCW 13.34.136.

Legislative findings—1987 c 351: See note following RCW 70.58.085.

43.121.020 Council established—Members, chairperson—Appointment, qualifications, terms, vacancies.

(1) There is established in the executive office of the gover-

nor a council for children and families subject to the jurisdiction of the governor.

(2) The council shall be composed of the chairperson and fourteen other members as follows:

(a) The chairperson and six other members shall be appointed by the governor and shall be selected for their interest and expertise in the prevention of child abuse. A minimum of four designees by the governor shall not be affiliated with governmental agencies. The appointments shall be made on a geographic basis to assure statewide representation. Members appointed by the governor shall serve for three-year terms. Vacancies shall be filled for any unexpired term by appointment in the same manner as the original appointments were made.

(b) The secretary of social and health services or the secretary's designee, the superintendent of public instruction or the superintendent's designee, the director of the department of early learning or the director's designee, and the secretary of the department of health or the secretary's designee shall serve as voting members of the council.

(c) In addition to the members of the council, four members of the legislature shall serve as nonvoting, ex officio members of the council, one from each political caucus of the house of representatives to be appointed by the speaker of the house of representatives and one from each political caucus of the senate to be appointed by the president of the senate. [2008 c 152 § 7; 2007 c 144 § 1; 1996 c 10 § 1; 1994 c 48 § 1; 1989 c 304 § 4; 1987 c 351 § 3; 1984 c 261 § 1; 1982 c 4 § 2.]

Findings—Intent—2008 c 152: See note following RCW 13.34.136.

Legislative findings—1987 c 351: See note following RCW 70.58.085.

Additional notes found at www.leg.wa.gov

43.121.030 Compensation and travel expenses of members. Council members shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Attendance at meetings of the council shall be deemed performance by a member of the duties of a member's employment. [1984 c 287 § 87; 1982 c 4 § 3.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.121.040 Executive director, salary—Staff. The governor may employ an executive director who shall be exempt from the provisions of chapter 41.06 RCW, and such other staff as are necessary to carry out the purposes of this chapter. The salary of the executive director shall be fixed by the governor pursuant to RCW 43.03.040. [1982 c 4 § 4.]

43.121.050 Council powers and duties—Generally—Rules. To carry out the purposes of this chapter, the council may:

(1) Contract with public or private nonprofit organizations, agencies, schools, or with qualified individuals for the establishment of community-based educational and service programs designed to:

(a) Reduce the occurrence of child abuse and neglect; and

(b) Provide for parenting skills which include: Consistency in parenting; providing children with positive discipline that provides firm order without hurting children physically or emotionally; and preserving and nurturing the family unit. Programs to provide these parenting skills may include the following:

(i) Programs to teach positive methods of disciplining children;

(ii) Programs to educate parents about the physical, mental, and emotional development of children;

(iii) Programs to enhance the skills of parents in providing for their children's learning and development; and

(iv) Learning experiences for children and parents to help prepare parents and children for the experiences in school. Contracts also may be awarded for research programs related to primary and secondary prevention of child abuse and neglect, and to develop and strengthen community child abuse and neglect prevention networks. Each contract entered into by the council shall contain a provision for the evaluation of services provided under the contract. Contracts for services to prevent child abuse and child neglect shall be awarded as demonstration projects with continuation based upon goal attainment. Contracts for services to prevent child abuse and child neglect shall be awarded on the basis of probability of success based in part upon sound research data.

(2) Facilitate the exchange of information between groups concerned with families and children.

(3) Consult with applicable state agencies, commissions, and boards to help determine the probable effectiveness, fiscal soundness, and need for proposed educational and service programs for the prevention of child abuse and neglect.

(4) Establish fee schedules to provide for the recipients of services to reimburse the state general fund for the cost of services received.

(5) Adopt its own bylaws.

(6) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter. [1988 c 278 § 5; 1987 c 351 § 4; 1982 c 4 § 5.]

Legislative findings—1987 c 351: See note following RCW 70.58.085.

43.121.060 Contracts for services—Scope of programs—Funding. Programs contracted for under this chapter are intended to provide primary child abuse and neglect prevention services. Such programs may include, but are not limited to:

(1) Community-based educational programs on prenatal care, perinatal bonding, child development, basic child care, care of children with special needs, and coping with family stress; and

(2) Community-based programs relating to crisis care, aid to parents, child-abuse counseling, support groups for abusive or potentially abusive parents and their children, and early identification of families where the potential for child abuse and neglect exists.

The council shall develop policies to determine whether programs will be demonstration or will receive continuous funding. Nothing in this chapter requires continued funding by the state. [1982 c 4 § 6.]

43.121.070 Contracts for services—Factors in awarding. In awarding contracts under RCW 43.121.060, consideration shall be given to factors such as need, diversity of geographic locations, coordination with or enhancement of existing services, and the extensive use of volunteers in the program. Further consideration shall be given to the extent to which contract proposals are based on prior research that indicates a probability of goal achievement. [1982 c 4 § 7.]

43.121.080 Contracts for services—Partial funding by administering organization, what constitutes. Twenty-five percent of the funding for programs under this chapter shall be provided by the organization administering the program. Contributions of materials, supplies, or physical facilities may be considered as all or part of the funding provided by the organization. [1982 c 4 § 8.]

43.121.100 Contributions, grants, gifts—Depository for and disbursement and expenditure control of moneys received—Children's trust fund. The council may accept contributions, grants, or gifts in cash or otherwise, including funds generated by the sale of "heirloom" birth certificates under chapter 70.58 RCW from persons, associations, or corporations and funds generated through the issuance of the "Keep Kids Safe" license plate under *chapter 46.16 RCW. All moneys received by the council or any employee thereof from contributions, grants, or gifts and not through appropriation by the legislature shall be deposited in a depository approved by the state treasurer to be known as the children's trust fund. Disbursements of such funds shall be on the authorization of the council or a duly authorized representative thereof and only for the purposes stated in RCW 43.121.050. In order to maintain an effective expenditure and revenue control, such funds shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditure of such funds. [2005 c 53 § 4; 1987 c 351 § 5; 1984 c 261 § 3; 1982 c 4 § 10.]

**Reviser's note:* "Keep Kids Safe" license plate and other special license plate provisions under chapter 46.16 RCW were repealed pursuant to 2010 c 161 § 438. For later enactment, see chapter 46.18 RCW.

Legislative findings—1987 c 351: See note following RCW 70.58.085.

Additional notes found at www.leg.wa.gov

43.121.110 Parenting skills—Legislative findings. The legislature believes that parents who have developed good early parenting skills provide homes where children are treated with dignity and respect and where closeness and trust among family members provide children with the basis for a productive adult life. The legislature also believes that children raised in this positive atmosphere will develop self esteem and are unlikely to become dependent upon the social service system or to be involved in the criminal justice system. The legislature further believes that teaching parents good early parenting skills can help eliminate physical and emotional abuse of children. [1988 c 278 § 1.]

43.121.120 Community-based early parenting skills programs—Funding. (1) In order to increase the knowledge of early parenting skills of parents in Washington state, voluntary community based programs on early parenting

skills shall be established. The council shall fund, within available funds, and monitor community-based early parenting skills programs in at least three geographically balanced areas around the state. Successful programs which the council and the national center on child abuse and neglect have funded or currently fund, may be used as models for the projects.

(2) The early parenting education program shall be designed to serve families with children ranging from infants through three years old and also to serve expectant parents. The projects may include the following:

- (a) Education for parents about the physical, mental, and emotional development of children;
- (b) Programs to enhance the skills of parents in providing for learning and development of their children;
- (c) Shared learning experiences for children and parents;
- (d) Activities designed to screen for children's physical, mental, emotional, or behavioral problems that may cause learning problems;
- (e) Resources for educational materials which may be borrowed for home use;
- (f) Information on related community resources;
- (g) Group support which may include counseling for parents under stress;
- (h) Emphasis to encourage participation by fathers; or
- (i) Other programs or activities consistent with this chapter.

(3) The programs shall be reviewed periodically to provide that the instruction and materials are not racially, culturally, or sexually biased.

(4) The services provided by the projects shall be coordinated with schools and social services provided in the community to avoid duplication of services.

(5) A sliding fee scale shall be utilized at the discretion of the council. [1988 c 278 § 2.]

43.121.130 Decreased state funding of parenting skills programs—Evaluation. (1) Funding shall be provided, as funds are available, in decreasing amounts over a two-year period, with the goal of having the programs become supported by local communities at the end of a two-year period. State funding may be continued in areas where local funding would be difficult to obtain due to local economic conditions to the extent funding is made available to the council.

(2) The council shall work with the projects in the program to evaluate the results of the projects. The council shall make recommendations on these projects and the program. A project agreeing to develop an evaluation component shall be considered for a three-year funding schedule. [1998 c 245 § 48; 1988 c 278 § 3.]

43.121.140 Shaken baby syndrome—Outreach campaign. The council shall conduct a proactive, public information and communication outreach campaign regarding the dangers of shaking infants and young children, and the causes and prevention of shaken baby syndrome.

The public information campaign shall include production and distribution of a readily understandable brochure

regarding shaken baby syndrome, explaining its medical effects upon infants and emphasizing preventive measures.

The brochure shall be distributed free of charge to the parents or guardians of each newborn, upon discharge from a hospital or other health facility. In the event of home birth attended by a licensed midwife, the midwife shall be responsible for presenting the brochure to the parents of the newborn.

The public information campaign may, within available funds, also include communication by electronic media, telephone hotlines, and existing parenting education events funded by the council. [1993 c 107 § 2.]

Finding—1993 c 107: "The legislature finds that shaken baby syndrome is a medically serious, sometimes fatal, usually unintentional matter affecting newborns and very young children.

Vigorous shaking of an infant can result in bleeding inside the head, causing irreversible brain damage, blindness, cerebral palsy, hearing loss, spinal cord injury, seizures, learning disabilities, or death. Many healthy, intelligent infants suffer from shaken baby syndrome because their caregivers were unaware of the dangers. The damage is preventable through education and awareness." [1993 c 107 § 1.]

43.121.150 Juvenile crime—Legislative findings.

The legislature of the state of Washington finds that community deterioration and family disintegration are increasing problems in our state. One clear indicator of this damage is juvenile crime and violence. The legislature further finds that prevention is one of the best methods of fighting juvenile crime. Building more facilities to house juvenile offenders can be at best only one part of any solution. Any increased spending on confining juvenile offenders must be closely linked to existing efforts to prevent juvenile crime. [1997 c 338 § 56.]

Finding—Evaluation—Report—1997 c 338: See note following RCW 13.40.0357.

Additional notes found at www.leg.wa.gov

43.121.160 Postpartum depression—Public information and communication outreach campaign. The council shall conduct a proactive, public information and communication outreach campaign concerning the significance, signs, and treatment of postpartum depression.

The public information campaign may, within available funds, include production and distribution of a brochure and communication by electronic media, telephone hotlines, and existing parenting education events funded by the council. [2005 c 347 § 2.]

Finding—2005 c 347: "The legislature finds that postpartum depression is a serious condition that affects women of all ages, economic status, and racial and ethnic backgrounds. Postpartum depression includes a range of physical and emotional changes that many mothers can have following the birth of a child, which can be treated with medication and counseling. If untreated, however, postpartum depression can lead to further depression, self-destructive behavior, or even suicide, as well as child abuse, neglect, or death of the infant or other siblings." [2005 c 347 § 1.]

43.121.185 Children's trust of Washington renamed.

To recognize the focus on home visitation services, the children's trust of Washington is hereby renamed the council for children and families. [2008 c 152 § 5; 2007 c 466 § 4.]

Findings—Intent—2008 c 152: See note following RCW 13.34.136.

43.121.910 Severability—1982 c 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1982 c 4 § 15.]

Chapter 43.130 RCW

ECONOMIC IMPACT ACT— CLOSING OF STATE FACILITIES

Sections

43.130.010	Purpose.
43.130.020	Definitions.
43.130.030	Excluded employment and employees.
43.130.040	Benefits.
43.130.050	Eligibility—Conditions.
43.130.060	Reimbursement of public employees' retirement system.
43.130.900	Severability—1973 2nd ex.s. c 37.
43.130.910	Emergency—Operative dates—Termination of benefits.

43.130.010 Purpose. When either for fiscal reasons, obsolescence or other extraordinary reasons, it becomes necessary to close a state facility, as defined by RCW 43.130.020(2), the state has a responsibility to provide certain benefits to affected employees.

It is the purpose of this chapter to establish an economic impact act for the state of Washington to meet the emergency situation now in existence for state employees affected by the closure of state facilities, as defined in RCW 43.130.020. [1973 2nd ex.s. c 37 § 1.]

43.130.020 Definitions. For purposes of this chapter:

(1) "Employees" includes those persons performing services for the state on a salaried or hourly basis including, but not limited to, persons in "classified service" as defined in RCW 41.06.020(3) and those persons defined as exempt from the state civil service laws pursuant to RCW 41.06.070.

(2) The term "closure of a state facility" means the termination of services being provided by a facility operated by the department of social and health services or in conjunction with the department of natural resources, when such facility is terminated for fiscal reasons, obsolescence, or other extraordinary reasons.

(3) "Classified employees" means those employees performing classified service as defined in RCW 41.06.020(3). [1973 2nd ex.s. c 37 § 2.]

43.130.030 Excluded employment and employees. Excluded employment and excluded employees under this chapter include, but are not limited to, the following:

(1) State employment related to a single project under a program separately financed by a grant of nonstate funds, federal funds or state funds, or by a combination of such funding, which is designed to provide training or employment opportunities, expertise or additional manpower related to the project or which, because of the nature of the project funding requirements, is not intended as a permanent program.

(2) Activities at least seventy-five percent federally funded by a categorical grant for a specific purpose and any other activities terminated because of actions taken by the federal government or other funding sources other than the

state of Washington in eliminating or substantially limiting funding sources, except to the extent that the federal government or such other funding sources may permit the use of nonstate funds to pay for any employee benefits authorized pursuant to this chapter.

(3) The following categories of employees are excluded from benefits under this chapter:

(a) employees refusing transfer to vacant positions in the same or a like job classification and at not more than one full range lower than the same salary range;

(b) classified employees having other than permanent status in the classified service;

(c) employees having less than three years' consecutive state service as an employee, except that such employees shall nonetheless be eligible for the benefits provided in subsections (1), (2), (4) and (5) of RCW 43.130.040.

(d) nothing in this chapter shall affect any other rights currently held by classified employees regarding reduction in force procedures and subsequent reemployment. [1973 2nd ex.s. c 37 § 3.]

43.130.040 Benefits. In order to carry out the purposes of this chapter, the state shall take every reasonable step at its disposal to provide alternative employment and to minimize the economic loss of state employees affected by the closure of state facilities. Affected state employees shall be paid benefits as specified in this section.

(1) Relocation expenses covering the movement of household goods, incurred by the necessity of an employee moving his or her domicile to be within reasonable commuting distance of a new job site, shall be paid by the state to employees transferring to other state employment by reason of the closure of a facility.

(2) Relocation leave shall be allowed up to five working days' leave with pay for the purpose of locating new residence in the area of employment.

(3) The state shall reimburse the transferring employee to the extent of any unavoidable financial loss suffered by an employee who sells his or her home at a price less than the true and fair market value as determined by the county assessor not exceeding three thousand dollars: PROVIDED, That this right of reimbursement must be exercised, and sale of the property must be accomplished, within a period of two years from the date other state employment is accepted.

(4) For employees in facilities which have been terminated who do not choose to participate in the transfer program set forth in the preceding subsections, the following terminal pay plan shall be available:

(a) For qualifying employees, for each one year of continuous state service, one week (five working days) of regular compensation shall be provided.

(b) Regular compensation as used in subsection (a) hereof shall include salary compensation at the rate being paid to the employees at the time operation of the facility is terminated.

(c) Terminal pay as set forth in subsections (a) and (b) hereof shall be paid to the employee at the termination of the employees last month of employment or within thirty days after *the effective date of this 1973 act, whichever is later: PROVIDED, That from the total amount of terminal pay, the average sum of unemployment compensation that the quali-

fying employee is eligible to receive multiplied by the total number of weeks of terminal pay minus one week shall be deducted.

(d) Those employees electing the early retirement benefits as stated in subsection (5) of this section shall not be eligible for the terminal pay provisions as set forth in this subsection.

(e) Those employees who are reemployed by the state during the period they are receiving terminal pay pursuant to subsections (a), (b) and (c) of this section shall reimburse the state for that portion of the terminal pay covered by the period of new employment.

(5) As an option to transferring to other state employment an employee may elect early retirement under the following conditions:

(a) Notwithstanding the age requirements of RCW 41.40.180, any affected employee under this chapter who has attained the age of fifty-five years, with at least five years creditable service, shall be immediately eligible to retire, with no actuarial reduction in the amount of his or her pension benefit.

(b) Notwithstanding the age requirements of RCW 41.40.180, any affected employee under this chapter who has attained the age of forty-five years, with at least five years creditable service, shall be immediately eligible to retire with an actuarial reduction in the amount of his or her pension benefit of three percent for each complete year that such employee is under fifty-five years of age.

(c) Employees who elect to retire pursuant to RCW 41.40.180 shall be eligible to retire while on authorized leave of absence not in excess of one hundred and twenty days.

(d) Employees who elect to retire under the provisions of this section shall not be eligible for any retirement benefit in a year following a year in which their employment income was in excess of six thousand dollars. This six thousand dollars base shall be adjusted annually beginning in 1974 by such cost of living adjustments as are applied by the public employees' retirement system to membership retirement benefits. The public employees retirement system board shall adopt necessary rules and regulations to implement the provisions of this subsection. [2009 c 549 § 5176; 1973 2nd ex.s. c 37 § 4.]

**Reviser's note:* The effective date of 1973 2nd ex.s. c 37 was September 26, 1973.

Public employees' retirement system: Chapter 41.40 RCW.

Termination date of benefits under subsection (3) of this section: RCW 43.130.910.

43.130.050 Eligibility—Conditions. Notwithstanding any other provision of this chapter employees affected by the closure of a state facility as defined in RCW 43.130.020(2) who were employed as of May 1, 1973 at such facility, and who are still in employment of the state or on an official leave of absence as of September 26, 1973, who would otherwise qualify for the enumerated benefits of this chapter are hereby declared eligible for such benefits under the following conditions:

(1) Such employee must be actively employed by the state of Washington or on an official leave of absence on September 26, 1973, and unless the early retirement or terminal pay provisions of this chapter are elected, continue to be

employed or to be available for employment in a same or like job classification at not less than one full range lower than the same salary range for a period of at least thirty days thereafter;

(2) Such employee must give written notice of his or her election to avail himself or herself of such benefits within thirty days after the *passage of this 1973 act or upon closure of the institution, whichever is later. [2009 c 549 § 5177; 1973 2nd ex.s. c 37 § 5.]

***Reviser's note:** The effective date of 1973 2nd ex.s. c 37 was September 26, 1973, due to the emergency clause contained in section 9, codified as RCW 43.130.910.

1973 2nd ex.s. c 37 (Engrossed Substitute Senate Bill No. 2603) passed the Senate September 14, 1973, passed the House September 13, 1973, and was approved by the governor September 26, 1973.

Employees to whom chapter is operative: RCW 43.130.910.

43.130.060 Reimbursement of public employees' retirement system. In order to reimburse the public employees' retirement system for any increased costs occasioned by the provisions of this chapter which affect the retirement system, the *public employees' retirement board shall, within thirty days of the date upon which any affected employee elects to take advantage of the retirement provisions of this chapter, determine the increased present and future cost to the retirement system of such employee's election. Upon the determination of the amount necessary to offset said increased cost, the *retirement board shall bill the department of personnel for the amount of the increased cost: PROVIDED, That such billing shall not exceed eight hundred sixty-one thousand dollars. Such billing shall be paid by the department as, and the same shall be, a proper charge against any moneys available or appropriated to the department for this purpose. [1973 2nd ex.s. c 37 § 6.]

***Reviser's note:** Powers, duties, and functions of the Washington public employees' retirement board were transferred to the director of retirement systems by RCW 41.40.022, which has been decodified. See Table of Disposition of Former RCW Sections, Volume 0.

43.130.900 Severability—1973 2nd ex.s. c 37. If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 2nd ex.s. c 37 § 8.]

43.130.910 Emergency—Operative dates—Termination of benefits. This 1973 act is necessary for the immediate preservation of the public peace, health and safety, the support of state government and its existing public institutions and shall take effect immediately: PROVIDED HOWEVER, That each of the provisions of this 1973 act shall be operative and in effect only for employees of those state facilities closed after May 1, 1973 and prior to September 14, 1974: PROVIDED FURTHER, That benefits under section 4(3) of this 1973 act shall be available until September 14, 1975. [1973 2nd ex.s. c 37 § 9.]

[Title 43 RCW—page 562]

Chapter 43.131 RCW WASHINGTON SUNSET ACT OF 1977

Sections

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- 43.131.010 Short title.
- 43.131.020 Findings.
- 43.131.030 Definitions.
- 43.131.040 Reestablishment of entity scheduled for termination—Review.
- 43.131.051 Program and fiscal review—Reports.
- 43.131.061 Sunset termination and review—Performance measures—Minimum period for sunset termination.
- 43.131.071 Scope of review—Recommendations to the legislature.
- 43.131.090 Termination of entity—Procedures—Employee transfers—Property disposition—Funds and moneys—Rules—Contracts.
- 43.131.100 Termination of entity—Pending business—Savings.
- 43.131.110 Committees—Reference to include successor.
- 43.131.130 Legislature—Powers unaffected by enactment of chapter.
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- 43.131.341 Washington state commission on Hispanic affairs—Termination.
- 43.131.342 Washington state commission on Hispanic affairs—Repeal.
- 43.131.393 Underground storage tank program—Termination.
- 43.131.394 Underground storage tank program—Repeal.
- 43.131.400 Program review—Rangeland damage.
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- 43.131.403 Prescription drug discount program—Termination.
- 43.131.404 Prescription drug discount program—Repeal.
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- 43.131.409 Manufacturing innovation and modernization extension service program—Termination.
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- 43.131.411 Sex offender policy board—Termination.
- 43.131.412 Sex offender policy board—Repeal.
- 43.131.413 Alternative process for awarding contracts—University buildings and facilities for critical patient care or specialized medical research—Termination.
- 43.131.414 Alternative process for awarding contracts—University buildings and facilities for critical patient care or specialized medical research—Repeal.
- 43.131.900 Expiration of RCW 43.131.010 through 43.131.150—Exception.
- 43.131.901 Severability—1977 ex.s. c 289.
- 43.131.910 Severability—1979 c 99.
- 43.131.911 Severability—2000 c 189.

Termination of tax preferences: Chapter 43.136 RCW.

GENERAL PROVISIONS

43.131.010 Short title. (Expires June 30, 2015.) This chapter may be known and cited as the Washington Sunset Act. [1990 c 297 § 1; 1977 ex.s. c 289 § 1.]

43.131.020 Findings. (Expires June 30, 2015.) The state legislature finds that state entities may fail to deliver services as effectively and efficiently as is expected by the general public and as originally contemplated by the legislature. It further finds that state government actions have produced a substantial increase in numbers of entities, growth of programs, and proliferation of rules, and that the entire process has evolved without sufficient legislative and executive oversight, regulatory accountability, or a system of checks and balances. The legislature further finds that by establishing a system for the termination, continuation, or modification of

state entities, coupled with a system of scheduled review of such entities, it will be in a better position to: Evaluate the need for the continued existence of existing and future state entities; assess the effectiveness and performance of agencies, boards, commissions, and programs; and ensure public accountability. The legislature recognizes that the executive branch shares in this duty and responsibility to assure that state government operates in an efficient, orderly, and responsive manner. [2000 c 189 § 1; 1977 ex.s. c 289 § 2.]

43.131.030 Definitions. (Expires June 30, 2015.) As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise.

(1) "Entity" includes every state office, department, board, commission, unit or subunit, and agency of the state, and where provided by law, programs and activities involving less than the full responsibility of a state agency. "Entity" also includes any part of the Revised Code of Washington scheduled for repeal, expiration, or program termination.

(2) "Person" includes every natural person, firm, partnership, corporation, association, or organization. [2000 c 189 § 2; 1983 1st ex.s. c 27 § 1; 1977 ex.s. c 289 § 3.]

43.131.040 Reestablishment of entity scheduled for termination—Review. (Expires June 30, 2015.) Any state entity scheduled for termination by the processes provided in this chapter may be reestablished by the legislature for a specified period of time or indefinitely. The legislature may again review the state entity in a manner consistent with the provisions of this chapter and reestablish, modify, or consolidate such state entity or allow it to be terminated. [2000 c 189 § 3; 1983 1st ex.s. c 27 § 2; 1977 ex.s. c 289 § 4.]

43.131.051 Program and fiscal review—Reports. (Expires June 30, 2015.) The joint legislative audit and review committee shall conduct a program and fiscal review of any entity scheduled for termination under this chapter. This program and fiscal review shall be completed and a preliminary report prepared during the calendar year prior to the date established for termination. These reports shall be prepared in the manner set forth in RCW 44.28.071 and 44.28.075. Upon completion of its preliminary report, the joint legislative audit and review committee shall transmit copies of the report to the office of financial management and any affected entity. The final report shall include the response, if any, of the affected entity and the office of financial management in the same manner as set forth in RCW 44.28.088, except the affected entity and the office of financial management shall have sixty days to respond to the report. The joint legislative audit and review committee shall transmit the final report to the legislature, to the state entity affected, to the governor, and to the state library. [2000 c 189 § 4.]

43.131.061 Sunset termination and review—Performance measures—Minimum period for sunset termination. (Expires June 30, 2015.) (1) Any entity may be scheduled for sunset termination and review under this chapter by law.

(2) An entity scheduled for sunset termination shall establish performance measures, as required under subsection (3) of this section, and must be evaluated, in part, in terms of the results. The entity has the burden of demonstrating the extent to which performance results have been achieved. The sunset termination legislation shall name a lead entity, if more than one entity is impacted by scheduled termination. The affected entity or lead entity has the responsibility for developing and implementing a data collection plan and submitting the resulting performance information to the joint legislative audit and review committee.

(3) An entity shall develop performance measures and a data collection plan and submit them for review and comment to the joint legislative audit and review committee within one year of the effective date of the legislation establishing the sunset termination.

(4) Unless specified otherwise, sunset terminations under this chapter shall be a minimum of seven years. The joint legislative audit and review committee shall complete its review in the year prior to the date of termination. [2000 c 189 § 5.]

43.131.071 Scope of review—Recommendations to the legislature. (Expires June 30, 2015.) (1) In conducting the review of an entity, the joint legislative audit and review committee shall determine the scope and objectives of the review and consider, but not be limited to, the following factors, if applicable:

(a) The extent to which the entity has complied with legislative intent;

(b) The extent to which the entity is operating in an efficient and economical manner which results in optimum performance;

(c) The extent to which the entity is operating in the public interest by controlling costs;

(d) The extent to which the entity duplicates the activities of other entities or of the private sector;

(e) The extent to which the entity is meeting the performance measures developed under RCW 43.131.061; and

(f) The possible impact of the termination or modification of the entity.

(2) After completing the review under subsection (1) of this section, the committee shall make its recommendations to the legislature. [2000 c 189 § 6.]

43.131.090 Termination of entity—Procedures—Employee transfers—Property disposition—Funds and moneys—Rules—Contracts. (Expires June 30, 2015.) Unless the legislature specifies a shorter period of time, a terminated entity shall continue in existence until June 30th of the next succeeding year for the purpose of concluding its affairs: PROVIDED, That the powers and authority of the entity shall not be reduced or otherwise limited during this period. Unless otherwise provided:

(1) All employees of terminated entities classified under chapter 41.06 RCW, the state civil service law, shall be transferred as appropriate or as otherwise provided in the procedures adopted by the director of personnel pursuant to RCW 41.06.150;

(2) All documents and papers, equipment, or other tangible property in the possession of the terminated entity shall be delivered to the custody of the entity assuming the responsibilities of the terminated entity or if such responsibilities have been eliminated, documents and papers shall be delivered to the state archivist and equipment or other tangible property to the department of general administration;

(3) All funds held by, or other moneys due to, the terminated entity shall revert to the fund from which they were appropriated, or if that fund is abolished to the general fund;

(4) Notwithstanding the provisions of RCW 34.05.020, all rules made by a terminated entity shall be repealed, without further action by the entity, at the end of the period provided in this section, unless assumed and reaffirmed by the entity assuming the related legal responsibilities of the terminated entity;

(5) All contractual rights and duties of an entity shall be assigned or delegated to the entity assuming the responsibilities of the terminated entity, or if there is none to such entity as the governor shall direct. [2002 c 354 § 230; 2000 c 189 § 7; 1993 c 281 § 54; 1983 1st ex.s. c 27 § 4; 1977 ex.s. c 289 § 9.]

Expiration date—2002 c 354 § 230: "Section 230 of this act expires June 30, 2015." [2002 c 354 § 412.]

Short title—Headings, captions not law—Severability—Effective dates—2002 c 354: See RCW 41.80.907 through 41.80.910.

Additional notes found at www.leg.wa.gov

43.131.100 Termination of entity—Pending business—Savings. (Expires June 30, 2015.) This chapter shall not affect the right to institute or prosecute any cause of action by or against an entity terminated pursuant to this chapter if the cause of action arose prior to the end of the period provided in RCW 43.131.090. Such causes of action may be instituted, prosecuted, or defended in the name of the state of Washington by the office of the attorney general. Any hearing or other proceeding pending before an entity to be terminated and not completed before the end of the period provided in RCW 43.131.090, may be completed by the entity assuming the responsibilities of the terminated entity. [2000 c 189 § 8; 1977 ex.s. c 289 § 10.]

43.131.110 Committees—Reference to include successor. (Expires June 30, 2015.) Any reference in this chapter to a committee of the legislature including the joint legislative audit and review committee shall also refer to the successor of that committee. [1996 c 288 § 47; 1977 ex.s. c 289 § 11.]

43.131.130 Legislature—Powers unaffected by enactment of chapter. (Expires June 30, 2015.) Nothing in this chapter or RCW 43.06.010 shall prevent the legislature from abolishing or modifying an entity scheduled for termination prior to the entity's established termination date or from abolishing or modifying any other entity. [2000 c 189 § 9; 1977 ex.s. c 289 § 13.]

43.131.150 Termination of entities—Review under Sunset Act. (Expires June 30, 2015.) The entities scheduled for termination under this chapter shall be subject to all of the

processes provided in this chapter. [2000 c 189 § 10; 1983 1st ex.s. c 27 § 8; 1979 c 99 § 1.]

ENTITIES SCHEDULED FOR SUNSET

43.131.341 Washington state commission on Hispanic affairs—Termination. The Washington state commission on Hispanic affairs and its powers and duties shall be terminated on June 30, 2021, as provided in RCW 43.131.342. [1993 c 261 § 5; 1987 c 249 § 8.]

43.131.342 Washington state commission on Hispanic affairs—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2022:

(1) Section 1, chapter 34, Laws of 1971 ex. sess., section 1, chapter 249, Laws of 1987, section 1, chapter 261, Laws of 1993 and RCW 43.115.010;

(2) Section 2, chapter 34, Laws of 1971 ex. sess., section 2, chapter 249, Laws of 1987 and RCW 43.115.020;

(3) Section 3, chapter 34, Laws of 1971 ex. sess., section 130, chapter 34, Laws of 1975-'76 2nd ex. sess., section 15, chapter 338, Laws of 1981, section 3, chapter 249, Laws of 1987, section 2, chapter 261, Laws of 1993, and RCW 43.115.030;

(4) Section 4, chapter 34, Laws of 1971 ex. sess., section 4, chapter 249, Laws of 1987, section 3, chapter 261, Laws of 1993 and RCW 43.115.040;

(5) Section 6, chapter 34, Laws of 1971 ex. sess., section 6, chapter 249, Laws of 1987 and RCW 43.115.060;

(6) Section 7, chapter 34, Laws of 1971 ex. sess. and RCW 43.115.900; and

(7) Section 4, chapter 261, Laws of 1993 and RCW 43.115.045. [1993 c 261 § 6; 1987 c 249 § 9.]

43.131.393 Underground storage tank program—Termination. The underground storage tank program shall be terminated on July 1, 2019, as provided in RCW 43.131.394. [2007 c 147 § 10; 1998 c 155 § 7.]

43.131.394 Underground storage tank program—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2020:

(1) RCW 90.76.005 and 2007 c 147 § 1 & 1989 c 346 § 1;

(2) RCW 90.76.010 and 2007 c 147 § 2, 1998 c 155 § 1, & 1989 c 346 § 2;

(3) RCW 90.76.020 and 2007 c 147 § 3, 1998 c 155 § 2, & 1989 c 346 § 3;

(4) RCW 90.76.040 and 1998 c 155 § 3 & 1989 c 346 § 5;

(5) RCW 90.76.050 and 2007 c 147 § 4, 1998 c 155 § 4, & 1989 c 346 § 6;

(6) RCW 90.76.060 and 1998 c 155 § 5 & 1989 c 346 § 7;

(7) RCW 90.76.070 and 2007 c 147 § 5 & 1989 c 346 § 8;

(8) RCW 90.76.080 and 2007 c 147 § 6, 1995 c 403 § 639, & 1989 c 346 § 9;

(9) RCW 90.76.090 and 2007 c 147 § 7, 1998 c 155 § 6, & 1989 c 346 § 10;

(10) RCW 90.76.100 and 1991 sp.s. c 13 § 72 & 1989 c 346 § 11;

(11) RCW 90.76.110 and 2007 c 147 § 8, 1991 c 83 § 1, & 1989 c 346 § 12;

(12) RCW 90.76.900 and 1989 c 346 § 15;

(13) RCW 90.76.901 and 1989 c 346 § 14; and

(14) RCW 90.76.902 and 1989 c 346 § 18. [2007 c 147 § 11; 1998 c 155 § 8.]

43.131.400 Program review—Rangeland damage.

The joint legislative audit and review committee must conduct a program review, as provided in this chapter, of the program to reimburse landowners for damage to rangeland used for grazing or browsing of domestic livestock caused by deer and elk, established in sections 1 through 3, chapter 274, Laws of 2001. The review must be completed by January 1, 2004. [2001 c 274 § 4.]

Effective date—2001 c 274: See note following RCW 77.36.010.

43.131.401 Office of regulatory assistance—Termination. The office of regulatory assistance established in RCW 43.42.010 and its powers and duties shall be terminated June 30, 2011, as provided in RCW 43.131.402. [2007 c 231 § 6; 2007 c 94 § 15; 2003 c 71 § 5; 2002 c 153 § 13.]

Findings—Recommendations—Reports encouraged—2007 c 231: See note following RCW 43.155.070.

Effective date—2007 c 94 § 15: "Section 15 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 18, 2007]." [2007 c 94 § 19.]

Review within existing resources—2002 c 153: "The joint legislative and audit review committee shall work within its existing resources in conducting the sunset review for the office of permit [regulatory] assistance." [2002 c 153 § 15.]

43.131.402 Office of regulatory assistance—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2012:

(1) RCW 43.42.005 and 2009 c 97 § 1, 2007 c 94 § 1, 2003 c 71 § 1, & 2002 c 153 § 1;

(2) RCW 43.42.010 and 2007 c 231 § 5, 2003 c 71 § 2, & 2002 c 153 § 2;

(3) RCW 43.42.020 and 2002 c 153 § 3;

(4) RCW 43.42.030 and 2003 c 71 § 3 & 2002 c 153 § 4;

(5) RCW 43.42.040 and 2003 c 71 § 4 & 2002 c 153 § 5;

(6) RCW 43.42.050 and 2002 c 153 § 6;

(7) RCW 43.42.060 and 2009 c 421 § 8 & 2002 c 153 § 7;

(8) RCW 43.42.070 and 2009 c 97 § 7, 2007 c 94 § 8, 2003 c 70 § 7, & 2002 c 153 § 8;

(9) RCW 43.42.900 and 2002 c 153 § 11; and

(10) RCW 43.42.901 and 2002 c 153 § 12. [2010 c 162 § 7. Prior: 2009 c 421 § 10; 2007 c 231 § 7; 2007 c 94 § 16; 2003 c 71 § 6; 2002 c 153 § 14.]

Effective date—2010 c 162: See note following RCW 43.42.090.

Effective date—2009 c 421: See note following RCW 43.157.005.

Findings—Recommendations—Reports encouraged—2007 c 231: See note following RCW 43.155.070.

(2010 Ed.)

43.131.403 Prescription drug discount program—Termination. The discount program under RCW 41.05.500 shall be terminated June 30, 2010, as provided in RCW 43.131.404. [2003 1st sp.s. c 29 § 12.]

Finding—Intent—Severability—Conflict with federal requirements—Effective date—2003 1st sp.s. c 29: See notes following RCW 74.09.650.

43.131.404 Prescription drug discount program—Repeal. RCW 41.05.500, as now existing or hereafter amended, is repealed effective June 30, 2011. [2003 1st sp.s. c 29 § 13.]

Finding—Intent—Severability—Conflict with federal requirements—Effective date—2003 1st sp.s. c 29: See notes following RCW 74.09.650.

43.131.405 Veterans innovations program—Termination. The veterans innovations program and its powers and duties shall be terminated on June 30, 2016, as provided in RCW 43.131.406. [2006 c 343 § 10.]

Findings—2006 c 343: See note following RCW 43.60A.160.

43.131.406 Veterans innovations program—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2017:

(1) 2006 c 343 § 1 (uncodified);

(2) RCW 43.60A.160 and 2006 c 343 § 3;

(3) RCW 43.60A.165 and 2006 c 343 § 4;

(4) RCW 43.60A.170 and 2010 1st sp.s. c 7 § 115 & 2006 c 343 § 5;

(5) RCW 43.60A.175 and 2006 c 343 § 6;

(6) *RCW 43.60A.180 and 2006 c 343 § 7; and

(7) RCW 43.60A.185 and 2010 1st sp.s. c 37 § 924 & 2006 c 343 § 8. [2010 1st sp.s. c 37 § 925; 2010 1st sp.s. c 7 § 116; 2006 c 343 § 11.]

Reviser's note: *(1) RCW 43.60A.180 was repealed by 2010 1st sp.s. c 7 § 118, effective June 30, 2010.

(2) This section was amended by 2010 1st sp.s. c 7 § 116 and by 2010 1st sp.s. c 37 § 925, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Findings—2006 c 343: See note following RCW 43.60A.160.

43.131.407 Alternative public works contracting procedures—Termination. The alternative [public] works contracting procedures under chapter 39.10 RCW shall be terminated June 30, 2013, as provided in RCW 43.131.408. [2007 c 494 § 506.]

Part headings and captions not law—Effective dates—Severability—2007 c 494: See RCW 39.10.903 through 39.10.905.

43.131.408 Alternative public works contracting procedures—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2014:

(1) RCW 39.10.200 and 2010 1st sp.s. c 21 § 2, 2007 c 494 § 1, & 1994 c 132 § 1;

(2) RCW 39.10.210 and 2007 c 494 § 101 & 2005 c 469 § 3;
 (3) RCW 39.10.220 and 2007 c 494 § 102 & 2005 c 377 § 1;
 (4) RCW 39.10.230 and 2010 1st sp.s. c 21 § 3, 2009 c 75 § 1, 2007 c 494 § 103, & 2005 c 377 § 2;
 (5) RCW 39.10.240 and 2007 c 494 § 104;
 (6) RCW 39.10.250 and 2007 c 494 § 105;
 (7) RCW 39.10.260 and 2007 c 494 § 106;
 (8) RCW 39.10.270 and 2007 c 494 § 107;
 (9) RCW 39.10.280 and 2007 c 494 § 108;
 (10) RCW 39.10.290 and 2007 c 494 § 109;
 (11) RCW 39.10.300 and 2007 c 494 § 201, 2003 c 352 § 2, 2003 c 300 § 4, 2002 c 46 § 1, & 2001 c 328 § 2;
 (12) RCW 39.10.320 and 2007 c 494 § 203 & 1994 c 132 § 7;
 (13) RCW 39.10.330 and 2007 c 494 § 204;
 (14) RCW 39.10.340 and 2007 c 494 § 301, 2003 c 352 § 3, 2003 c 300 § 5, 2002 c 46 § 2, & 2001 c 328 § 3;
 (15) RCW 39.10.350 and 2007 c 494 § 302;
 (16) RCW 39.10.360 and 2007 c 494 § 303;
 (17) RCW 39.10.370 and 2007 c 494 § 304;
 (18) RCW 39.10.380 and 2007 c 494 § 305;
 (19) RCW 39.10.390 and 2007 c 494 § 306;
 (20) RCW 39.10.400 and 2007 c 494 § 307;
 (21) RCW 39.10.410 and 2007 c 494 § 308;
 (22) RCW 39.10.420 and 2007 c 494 § 401 & 2003 c 301 § 1;
 (23) RCW 39.10.430 and 2007 c 494 § 402;
 (24) RCW 39.10.440 and 2007 c 494 § 403;
 (25) RCW 39.10.450 and 2007 c 494 § 404;
 (26) RCW 39.10.460 and 2007 c 494 § 405;
 (27) RCW 39.10.470 and 2005 c 274 § 275 & 1994 c 132 § 10;
 (28) RCW 39.10.480 and 1994 c 132 § 9;
 (29) RCW 39.10.490 and 2007 c 494 § 501 & 2001 c 328 § 5;
 (30) RCW 39.10.500 and 2007 c 494 § 502;
 (31) RCW 39.10.510 and 2007 c 494 § 503;
 (32) RCW 39.10.900 and 1994 c 132 § 13;
 (33) RCW 39.10.901 and 1994 c 132 § 14; and
 (34) RCW 39.10.903 and 2007 c 494 § 510. [2010 1st sp.s. c 21 § 5; 2007 c 494 § 507.]

Intent—2010 1st sp.s. c 21: See note following RCW 39.10.200.

Part headings and captions not law—Effective dates—Severability—2007 c 494: See RCW 39.10.903 through 39.10.905.

43.131.409 Manufacturing innovation and modernization extension service program—Termination. The Washington manufacturing innovation and modernization extension service program under chapter 43.338 RCW shall be terminated June 30, 2012, as provided in RCW 43.131.410. [2008 c 315 § 7.]

Severability—2008 c 315: See RCW 43.338.901.

43.131.410 Manufacturing innovation and modernization extension service program—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2013:

(1) RCW 43.338.005 and 2008 c 315 § 1;

(2) RCW 43.338.010 and 2008 c 315 § 2;
 (3) RCW 43.338.020 and 2008 c 315 § 3;
 (4) RCW 43.338.900 and 2008 c 315 § 4;
 (5) RCW 43.338.030 and 2008 c 315 § 5; and
 (6) RCW 43.338.040 and 2008 c 315 § 6. [2008 c 315 § 8.]

Severability—2008 c 315: See RCW 43.338.901.

43.131.411 Sex offender policy board—Termination. The sex offender policy board and its powers and duties shall be terminated on June 30, 2013, as provided in RCW 43.131.412. [2008 c 249 § 9.]

Captions not law—2008 c 249: See note following RCW 9.94A.8671.

43.131.412 Sex offender policy board—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2014:

(1) RCW 9.94A.8671 and 2008 c 249 § 1;
 (2) RCW 9.94A.8672 and 2008 c 249 § 2;
 (3) RCW 9.94A.8673 and 2008 c 249 § 3;
 (4) RCW 9.94A.8674 and 2008 c 249 § 4;
 (5) RCW 9.94A.8675 and 2008 c 249 § 5;
 (6) RCW 9.94A.8676 and 2008 c 249 § 6;
 (7) RCW 9.94A.8677 and 2008 c 249 § 7; and
 (8) RCW 9.94A.8678 and 2008 c 249 § 8. [2008 c 249 § 10.]

Captions not law—2008 c 249: See note following RCW 9.94A.8671.

43.131.413 Alternative process for awarding contracts—University buildings and facilities for critical patient care or specialized medical research—Termination. The alternative process for awarding contracts established in RCW 28B.20.744 terminates June 30, 2015, as provided in RCW 43.131.414. [2010 c 245 § 12.]

Findings—Expand on demand—System design plan endorsed—2010 c 245: See note following RCW 28B.50.020.

43.131.414 Alternative process for awarding contracts—University buildings and facilities for critical patient care or specialized medical research—Repeal. RCW 28B.20.744, as now existing or hereafter amended, is repealed, effective June 30, 2016. [2010 c 245 § 13.]

Findings—Expand on demand—System design plan endorsed—2010 c 245: See note following RCW 28B.50.020.

43.131.900 Expiration of RCW 43.131.010 through 43.131.150—Exception. RCW 43.131.010 through 43.131.150 shall expire on June 30, 2015, unless extended by law for an additional fixed period of time. [2000 c 189 § 12; 1988 c 17 § 2; 1982 c 223 § 16; 1979 c 22 § 3; 1977 ex.s. c 289 § 16.]

43.131.901 Severability—1977 ex.s. c 289. If any provision of this 1977 amendatory act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the 1977 amendatory act which can be given effect without the invalid provision or application, and to this end the provisions of this 1977 amendatory act are declared severable. [1977 ex.s. c 289 § 18.]

43.131.910 Severability—1979 c 99. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 c 99 § 90.]

43.131.911 Severability—2000 c 189. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2000 c 189 § 13.]

Chapter 43.132 RCW

FISCAL IMPACT OF PROPOSED LEGISLATION ON POLITICAL SUBDIVISIONS

Sections

- 43.132.010 Intent.
- 43.132.020 Fiscal notes—Preparation—Contents—Scope—Revisions—Reports.
- 43.132.030 Designation of department of community, trade, and economic development to prepare fiscal notes—Cooperation of state agencies, legislative staffs, and local government associations.
- 43.132.040 Fiscal notes—Transmission of copies to designated recipients.
- 43.132.050 Fiscal notes—Transmission of copies upon request.
- 43.132.055 Fiscal notes—Expenditures by local government—Fiscal responsibility.
- 43.132.060 Legislative action upon or validity of measures not affected.
- 43.132.800 Fiscal impact on local governments of selected laws enacted over five-year period—Annual report.
- 43.132.810 Local government fiscal notes—Fiscal impact of selected laws on local governments—Biennial report.

Legislative fiscal notes: Chapter 43.88A RCW.

43.132.010 Intent. It is the intent of this chapter to create a uniform and coordinated procedure to determine the fiscal impact of proposed legislation on units of local government. [1977 ex.s. c 19 § 1.]

43.132.020 Fiscal notes—Preparation—Contents—Scope—Revisions—Reports. The director of financial management or the director's designee shall, in cooperation with appropriate legislative committees and legislative staff, establish a mechanism for the determination of the fiscal impact of proposed legislation which if enacted into law would directly or indirectly increase or decrease revenues received or expenditures incurred by counties, cities, towns, or any other units of local government. The office of financial management shall, when requested by a member of the state legislature, report in writing as to such fiscal impact and said report shall be known as a "fiscal note".

Such fiscal notes shall indicate by fiscal year the total impact on the local governments involved for the first two years the legislation would be in effect and also a cumulative six year forecast of the fiscal impact. Where feasible and applicable, the fiscal note also shall indicate the fiscal impact on each individual county or on a representative sampling of cities, towns, or other units of local government.

A fiscal note as defined in this section shall be provided only upon request of any member of the state legislature. A request for a fiscal note on legislation shall be considered to be a continuing request for a fiscal note on any formal alteration of the legislation in the form of amendments to the leg-

islation that are adopted by a committee or a house of the legislature or a substitute version of such legislation that is adopted by a committee and preparation of the fiscal note on the prior version of the legislation shall stop, unless the legislator requesting the fiscal note specifies otherwise or the altered version is first adopted or enacted in the last week of a legislative session.

Fiscal notes shall be completed within one week of the request unless a longer time period is allowed by the requesting legislator. In the event a fiscal note has not been completed within one week of a request, a daily report shall be prepared for the requesting legislator by the director of financial management which report summarizes the progress in preparing the fiscal note. If the request is referred to the *director of community, trade, and economic development, the daily report shall also include the date and time such referral was made. [2000 c 182 § 2; 1995 c 399 § 79; 1984 c 125 § 16; 1979 c 151 § 149; 1977 ex.s. c 19 § 2.]

***Reviser's note:** The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

Intent—2000 c 182: "It is the intent of the legislature to enhance the local government fiscal note process by providing for updated fiscal information on pending legislation and to establish a process for a more comprehensive report on the fiscal impacts to local governments arising from laws that have been enacted. Further, it is the intent of the legislature that the varying effects of legislation on different local governments be recognized. This act is enacted in recognition of the responsibilities imposed by RCW 43.135.060." [2000 c 182 § 1.]

Additional notes found at www.leg.wa.gov

43.132.030 Designation of department of community, trade, and economic development to prepare fiscal notes—Cooperation of state agencies, legislative staffs, and local government associations. The director of financial management is hereby empowered to designate the *director of community, trade, and economic development as the official responsible for the preparation of fiscal notes authorized and required by this chapter. It is the intent of the legislature that when necessary the resources of other state agencies, appropriate legislative staffs, and the various associations of local government may be employed in the development of such fiscal notes. [1995 c 399 § 80; 1985 c 6 § 10; 1979 c 151 § 150; 1977 ex.s. c 19 § 3.]

***Reviser's note:** The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

43.132.040 Fiscal notes—Transmission of copies to designated recipients. When a fiscal note is prepared and approved as to form and completeness by the director of financial management, the director shall transmit copies immediately to:

- (1) The requesting legislator;
- (2) With respect to proposed legislation held by the senate, the chairperson of the committee which holds or has acted upon the proposed legislation, the chairperson of the ways and means committee or equivalent committees with jurisdiction over matters normally considered by a ways and means committee, the chairperson of the local government committee or equivalent committee that considers local government matters, and the secretary of the senate; and
- (3) With respect to proposed legislation held by the house of representatives, the chairperson of the committee

which holds or has acted upon the proposed legislation, the chairpersons of the ways and means committee or equivalent committees with jurisdiction over matters normally considered by a ways and means committee, the chairperson of the local government committee or equivalent committee that considers local government matters, and the chief clerk of the house of representatives. [2000 c 182 § 3; 1986 c 158 § 18; 1979 c 151 § 151; 1977 ex.s. c 19 § 4.]

Intent—2000 c 182: See note following RCW 43.132.020.

43.132.050 Fiscal notes—Transmission of copies upon request. The office of financial management may make additional copies of the fiscal note available to members of the legislature and others on request.

At the request of any member of the senate or house of representatives, whichever is considering the proposed legislation, and unless it is prohibited by the rules of the body, copies of the fiscal note or a synopsis thereof shall be placed on the members' desks at the time the proposed legislation takes its place on the second reading calendar.

Whenever proposed legislation accompanied by such a fiscal note is passed by either the senate or the house of representatives, the fiscal note shall be transmitted with the bill to the other house. [1986 c 158 § 19; 1979 c 151 § 152; 1977 ex.s. c 19 § 5.]

43.132.055 Fiscal notes—Expenditures by local government—Fiscal responsibility. When the fiscal note indicates that a bill or resolution would require expenditures of funds by a county, city, town, or other unit of local government, the legislature shall determine the state's fiscal responsibility and shall make every effort to appropriate the funds or provide the revenue generating authority necessary to implement the legislation during the ensuing biennium. [1979 ex.s. c 112 § 2.]

43.132.060 Legislative action upon or validity of measures not affected. (1) Nothing in this chapter shall prevent either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules of the senate and house of representatives, nor shall the lack of any fiscal note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature.

(2) Subsection (1) of this section shall not alter the responsibilities of RCW 43.135.060. [2000 c 182 § 4; 1977 ex.s. c 19 § 6.]

Intent—2000 c 182: See note following RCW 43.132.020.

43.132.800 Fiscal impact on local governments of selected laws enacted over five-year period—Annual report. (1) The office of financial management, in consultation with the *department of community, trade, and economic development, shall annually prepare a report on the fiscal impacts to counties, cities, towns, and other units of local governments, arising from selected laws enacted in the preceding five-year period. The office of financial management, in consultation with the *department of community, trade, and economic development, shall annually select up to

five laws to include within this report from a recommended list of laws approved by the legislature. The office of financial management, in consultation with the *department of community, trade, and economic development, may select up to five laws to include within this report if the legislature does not approve a recommended list.

(2) The preparation of the reports required in subsection (1) of this section is subject to available funding. [2000 c 182 § 5.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Intent—2000 c 182: See note following RCW 43.132.020.

43.132.810 Local government fiscal notes—Fiscal impact of selected laws on local governments—Biennial report. The office of financial management, in consultation with the *department of community, trade, and economic development, shall prepare a report for the legislature on or before December 31st of every even-numbered year on local government fiscal notes, and reports on the fiscal impacts on local governments arising from selected laws, that were prepared over the preceding two-year period. [2000 c 182 § 6.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Intent—2000 c 182: See note following RCW 43.132.020.

Chapter 43.133 RCW WASHINGTON SUNRISE ACT

Sections

43.133.010	Legislative declaration.
43.133.020	Definitions.
43.133.030	Sunrise notes—Procedure.
43.133.040	Sunrise notes—Contents.
43.133.050	Sunrise notes—Preparation.
43.133.060	Sunrise notes—Filing.
43.133.070	Forwarding of notification and sunrise note to committees when standing committee votes out bill creating board or special purpose district.
43.133.080	Effect of chapter on validity of legislative action.
43.133.900	Short title.

43.133.010 Legislative declaration. Because of the proliferation of boards and special purpose districts, the legislature recognizes the necessity of developing a uniform and coordinated procedure for determining the need for these new units of government. [1987 c 342 § 1.]

43.133.020 Definitions. (1) For purposes of this chapter, "special purpose district" means any unit of local government other than a city, town, county, or school district.

(2) For purposes of this chapter, "board" means a board, commission, council, committee or task force. [1987 c 342 § 2.]

43.133.030 Sunrise notes—Procedure. The office of financial management and the *department of community, trade, and economic development shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of sunrise notes on the expected impact of bills and resolutions that authorize the creation of new boards and new types of special purpose districts. [1995 c 399 § 81; 1987 c 342 § 3.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.133.040 Sunrise notes—Contents. Sunrise notes shall include:

- (1) The purpose and expected impact of the new board or special purpose district;
- (2) The powers and duties of the new board or special purpose district;
- (3) The direct or potential duplication of the powers and duties of existing boards or special purpose districts; and
- (4) Other information relevant to the need for the new board or special purpose district. [1987 c 342 § 4.]

43.133.050 Sunrise notes—Preparation. (1) The office of financial management shall prepare sunrise notes for legislation concerning the creation of new boards. The *department of community, trade, and economic development shall prepare sunrise notes for legislation creating new types of special purpose districts.

(2) A sunrise note shall be prepared for all executive and agency request legislation that creates a board or special purpose district.

(3) The office of financial management or the *department of community, trade, and economic development shall also provide a sunrise note at the request of any committee of the legislature. [1995 c 399 § 82; 1987 c 342 § 5.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.133.060 Sunrise notes—Filing. Sunrise notes shall be filed with:

- (1) The committee to which the bill or resolution was referred upon introduction in the house of origin;
- (2) The senate committee on ways and means or its successor;
- (3) The house of representatives committee on ways and means or its successor;
- (4) The senate governmental operations committee or its successor; and
- (5) The house of representatives state government committee or its successor. [1987 c 342 § 6.]

43.133.070 Forwarding of notification and sunrise note to committees when standing committee votes out bill creating board or special purpose district. Legislative standing committees shall forward notification and the sunrise note, if available, to the senate or house of representatives ways and means committee and the senate governmental operations committee or the house of representatives state government committee whenever a bill providing for the creation of a new board or special purpose district is voted out of the standing committee. [1987 c 342 § 7.]

43.133.080 Effect of chapter on validity of legislative action. Nothing in this chapter prevents either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules and joint rules of the senate and house of representatives, nor shall the lack of any sunrise note as provided in this chapter or any error in the accuracy thereof affect the

validity of any measure otherwise duly passed by the legislature. [1987 c 342 § 8.]

43.133.900 Short title. This chapter shall be known as the Washington sunrise act. [1987 c 342 § 9.]

Chapter 43.135 RCW

STATE EXPENDITURES LIMITATIONS

(Formerly: Tax revenue limitations)

Sections

43.135.010	Findings—Intent.
43.135.025	General fund expenditure limit—Computation—Annual limit adjustment—Definitions—Emergency exception—State treasurer duty, penalty—State expenditure limit committee.
43.135.031	Bills raising taxes or fees—Cost analysis—Press release—Notice of hearings—Updated analyses.
43.135.035	Tax legislation—Referral to voters—Conditions and restrictions—Ballot title—Declarations of emergency—Taxes on intangible property—Expenditure limit to reflect program cost shifting or fund transfer.
43.135.0351	Reinvesting in youth account transfers.
43.135.03901	Criminal justice treatment account, violence reduction and drug enforcement account transfers.
43.135.041	Tax legislation—Advisory vote—Duties of the attorney general and secretary of state—Exemption.
43.135.045	Education construction fund—Appropriation conditions.
43.135.055	Fee restrictions—Exception.
43.135.060	Prohibition of new or extended programs without full reimbursement—Transfer of programs—Determination of costs.
43.135.080	Reenactment and reaffirmation of Initiative Measure No. 601—Continued limitations—Exceptions.
43.135.902	Short title—1994 c 2.
43.135.903	Severability—1994 c 2.
43.135.904	Effective dates—1994 c 2.

43.135.010 Findings—Intent. The people of the state of Washington hereby find and declare:

(1) The continuing increases in our state tax burden and the corresponding growth of state government is contrary to the interest of the people of the state of Washington.

(2) It is necessary to limit the rate of growth of state government while assuring adequate funding of essential services, including basic education as defined by the legislature.

(3) The current budgetary system in the state of Washington lacks stability. The system encourages crisis budgeting and results in cutbacks during lean years and overspending during surplus years.

(4) It is therefore the intent of this chapter to:

(a) Establish a limit on state expenditures that will assure that the growth rate of state expenditures does not exceed the growth rate in Washington personal income;

(b) Assure that local governments are provided funds adequate to render those services deemed essential by their citizens;

(c) Assure that the state does not impose responsibility on local governments for new programs or increased levels of service under existing programs unless the costs thereof are paid by the state;

(d) Provide for adjustment of the limit when costs of a program are transferred between the state and another political entity;

(e) Establish a procedure for exceeding this limit in emergency situations;

(f) Provide for voter approval of tax increases; and

(g) Avoid overfunding and underfunding state programs by providing stability, consistency, and long-range planning. [2005 c 72 § 3; 1994 c 2 § 1 (Initiative Measure No. 601, approved November 2, 1993); 1980 c 1 § 1 (Initiative Measure No. 62, approved November 6, 1979).]

Findings—2005 c 72: "The legislature finds that the citizens of the state benefit from a state expenditure limit that ensures that the state budget operates with stability and predictability, while encouraging the establishment of budget priorities and a periodic review of state programs and the delivery of state services. A state expenditure limit can prevent budgeting crises that can occur because of increased spending levels during periods of revenue surplus followed by drastic reductions in state services in lean years. The citizens of the state are best served by an expenditure limit that keeps pace with the growth in the state's economy yet ensures budget discipline and taxpayer protection. For these reasons, the legislature finds that modifications to the state expenditure limit, after ten years of experience following the initial implementation of Initiative Measure No. 601, will recognize the economic productivity of the state's economy and better balance the needs of the citizens for essential government services with the obligation of the legislature for strict spending accountability and protection of its taxpayers." [2005 c 72 § 1.]

Effective dates—2005 c 72: "(1) Sections 1 and 2 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [April 18, 2005].

(2) Sections 3 through 6 of this act take effect July 1, 2007." [2005 c 72 § 7.]

43.135.025 General fund expenditure limit—Computation—Annual limit adjustment—Definitions—Emergency exception—State treasurer duty, penalty—State expenditure limit committee. (1) The state shall not expend from the general fund during any fiscal year state moneys in excess of the state expenditure limit established under this chapter.

(2) Except pursuant to a declaration of emergency under RCW 43.135.035 or pursuant to an appropriation under RCW 43.135.045(2), the state treasurer shall not issue or redeem any check, warrant, or voucher that will result in a state general fund expenditure for any fiscal year in excess of the state expenditure limit established under this chapter. A violation of this subsection constitutes a violation of RCW 43.88.290 and shall subject the state treasurer to the penalties provided in RCW 43.88.300.

(3) The state expenditure limit for any fiscal year shall be the previous fiscal year's state expenditure limit increased by a percentage rate that equals the fiscal growth factor.

(4) For purposes of computing the state expenditure limit for the fiscal year beginning July 1, 2009, the phrase "the previous fiscal year's state expenditure limit" means the total state expenditures from the state general fund, the public safety and education account, the health services account, the violence reduction and drug enforcement account, the student achievement fund, the water quality account, and the equal justice subaccount, not including federal funds, for the fiscal year beginning July 1, 2008, plus the fiscal growth factor.

(5) A state expenditure limit committee is established for the purpose of determining and adjusting the state expenditure limit as provided in this chapter. The members of the state expenditure limit committee are the director of financial management, the attorney general or the attorney general's designee, and the chairs and ranking minority members of the senate committee on ways and means and the house of representatives committee on ways and means. All actions of the

state expenditure limit committee taken pursuant to this chapter require an affirmative vote of at least four members.

(6) Each November, the state expenditure limit committee shall adjust the expenditure limit for the preceding fiscal year based on actual expenditures and known changes in the fiscal growth factor and then project an expenditure limit for the next two fiscal years. If, by November 30th, the state expenditure limit committee has not adopted the expenditure limit adjustment and projected expenditure limit as provided in subsection (5) of this section, the attorney general or his or her designee shall adjust or project the expenditure limit, as necessary.

(7) "Fiscal growth factor" means the average growth in state personal income for the prior ten fiscal years.

(8) "General fund" means the state general fund. [2009 c 479 § 35; 2005 c 72 § 4; (2006 c 56 § 7 expired July 1, 2007); 2000 2nd sp.s. c 2 § 1; 1994 c 2 § 2 (Initiative Measure No. 601, approved November 2, 1993).]

Effective date—2009 c 479: See note following RCW 2.56.030.

Expiration date—2006 c 56 §§ 7 and 8: "Sections 7 and 8 of this act expire July 1, 2007." [2006 c 56 § 12.]

Effective dates—2006 c 56: See note following RCW 41.45.230.

Findings—Effective dates—2005 c 72: See notes following RCW 43.135.010.

Effective date—2000 2nd sp.s. c 2: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2000." [2000 2nd sp.s. c 2 § 4.]

43.135.031 Bills raising taxes or fees—Cost analysis—Press release—Notice of hearings—Updated analyses. (1) For any bill introduced in either the house of representatives or the senate that raises taxes as defined by RCW 43.135.035 or increases fees, the office of financial management must expeditiously determine its cost to the taxpayers in its first ten years of imposition, must promptly and without delay report the results of its analysis by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, who are sponsors and cosponsors of the bill so they can provide information to, and answer questions from, the public.

(2) Any time any legislative committee schedules a public hearing on a bill that raises taxes as defined by RCW 43.135.035 or increases fees, the office of financial management must promptly and without delay report the results of its most up-to-date analysis of the bill required by subsection (1) of this section and the date, time, and location of the hearing by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. The press release required by this subsection must include all the information required by subsection (1) of this section and the names of the legislators, and their contact information, who are members of the legis-

lative committee conducting the hearing so they can provide information to, and answer questions from, the public.

(3) Each time a bill that raises taxes as defined by RCW 43.135.035 or increases fees is approved by any legislative committee or by at least a simple majority in either the house of representatives or the senate, the office of financial management must expeditiously reexamine and redetermine its ten-year cost projection due to amendment or other changes during the legislative process, must promptly and without delay report the results of its most up-to-date analysis by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, and how they voted on the bill so they can provide information to, and answer questions from, the public.

(4) For the purposes of this section, "names of legislators, and their contact information" includes each legislator's position (senator or representative), first name, last name, party affiliation (for example, Democrat or Republican), city or town they live in, office phone number, and office e-mail address.

(5) For the purposes of this section, "news media" means any member of the press or media organization, including newspapers, radio, and television, that signs up with the office of financial management to receive the public press releases by e-mail.

(6) For the purposes of this section, "the public" means any person, group, or organization that signs up with the office of financial management to receive the public press releases by e-mail. [2008 c 1 § 2 (Initiative Measure No. 960, approved November 6, 2007).]

Findings—Intent—2008 c 1 (Initiative Measure No. 960): "Washington has a long history of public interest in tax increases. The people have clearly and consistently illustrated their ongoing and passionate desire to ensure that taxpayers are protected. The people find that even without raising taxes, the government consistently receives revenue growth many times higher than the rate of inflation every year. With this measure, the people intend to protect taxpayers by creating a series of accountability procedures to ensure greater legislative transparency, broader public participation, and wider agreement before state government takes more of the people's money. This measure protects taxpayers and relates to tax and fee increases imposed by state government. This measure would require publication of cost projections, information on public hearings, and legislators' sponsorship and voting records on bills increasing taxes and fees, allow either two-thirds legislative approval or voter approval for tax increases, and require advisory votes on tax increases blocked from citizen referendum.

The intent of sections 2, 3, and 4 of this act: The people want a thorough, independent analysis of any proposed increase in taxes and fees. The people find that legislators too often do not know the costs to the taxpayers for their tax and fee increases and this fiscal analysis by the office of financial management will provide better, more accessible information. The people want a user-friendly method to track the progress of bills increasing taxes and fees, finding that transparency and openness leads to more public involvement and better understanding. The people want information on public hearings and legislators' sponsorship and voting records on bills increasing taxes and fees and want easy access to contact information of legislators so the people's voice can be heard. Section 2(5) and (6) of this act are intended to provide active, engaged citizens with the opportunity to be notified of the status of bills increasing taxes and fees. Such a notification system is already being provided by the state supreme court with regard to judi-

cial rulings. Intent of RCW 43.88A.020: The cost projection reports required by section 2 of this act will simplify and facilitate the creation of fiscal notes. The people want the office of financial management to fully comply with the cost projections and other requirements of section 2 [of this act] on bills increasing taxes or fees before fiscal notes. Cost projections and the other information required by section 2 [of this act] are critically important for the legislature, the media, and the public to receive before fiscal notes.

The intent of section 5 of this act: The two-thirds requirement for raising taxes has been on the books since 1993 and the people find that this policy has provided the legislature with a much stronger incentive to use existing revenues more cost-effectively rather than reflexively raising taxes. The people want this policy continued and want it to be clear that tax increases inside and outside the general fund are subject to the two-thirds threshold. If the legislature cannot receive a two-thirds vote in the house of representatives and senate to raise taxes, the Constitution provides the legislature with the option of referring the tax increase to the voters for their approval or rejection at an election using a referendum bill. The people expect the legislature to respect, follow, and abide by the law, on the books for thirteen years, to not raise taxes in excess of the state expenditure limit without two-thirds legislative approval and a vote of the people. Intent of RCW 43.135.035(5): When it comes to enactment of tax increases exceeding the state expenditure limit, the legislature has, in recent years, shifted money between funds to get around the voter approval requirement for tax increases above the state expenditure limit as occurred in 2005 with sections 1607 and 1701 of Engrossed Substitute Senate Bill No. 6090. RCW 43.135.035(5) is intended to clarify the law so that the effective taxpayer protection of requiring voter approval for tax increases exceeding the state expenditure limit is not circumvented.

The intent of sections 6 through 13 of this act: Our state Constitution guarantees to the people the right of referendum. In recent years, however, the legislature has thwarted the people's constitutional right to referendum by excessive use of the emergency clause. In 2005, for example, the legislature approved five hundred twenty-three bills and declared ninety-eight of them, nearly twenty percent, "emergencies," insulating them all from the constitution's guaranteed right to referendum. The courts' reviews of emergency clauses have resulted in inconsistent decisions regarding the legality of them in individual cases. The people find that, if they are not allowed to vote on a tax increase, good public policy demands that at least the legislature should be aware of the voters' view of individual tax increases. An advisory vote of the people at least gives the legislature the views of the voters and gives the voters information about the bill increasing taxes and provides the voters with legislators' names and contact information and how they voted on the bill. The people have a right to know what is happening in Olympia. Intent of section 6(1) of this act: If the legislature blocks a citizen referendum through the use of an emergency clause or a citizen referendum on the tax increase is not certified for the next general election ballot, then an advisory vote on the tax increase is required. Intent of section 6(4) of this act: If there's a binding vote on the ballot, there's no need for a nonbinding vote.

The intent of section 14 of this act: The people want to return the authority to impose or increase fees from unelected officials at state agencies to the duly elected representatives of the legislature or to the people. The people find that fee increases should be debated openly and transparently and up-or-down votes taken by our elected representatives so the people are given the opportunity to hold them accountable at the next election." [2008 c 1 § 1 (Initiative Measure No. 960, approved November 6, 2007).]

Construction—2008 c 1 (Initiative Measure No. 960): "The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act." [2008 c 1 § 15 (Initiative Measure No. 960, approved November 6, 2007).]

Severability—2008 c 1 (Initiative Measure No. 960): "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2008 c 1 § 16 (Initiative Measure No. 960, approved November 6, 2007).]

Subheadings and part headings not law—2008 c 1 (Initiative Measure No. 960): "Subheadings and part headings used in this act are not part of the law." [2008 c 1 § 17 (Initiative Measure No. 960, approved November 6, 2007).]

Short title—2008 c 1 (Initiative Measure No. 960): "This act shall be known and cited as the taxpayer protection act of 2007." [2008 c 1 § 18 (Initiative Measure No. 960, approved November 6, 2007).]

Effective date—2008 c 1 (Initiative Measure No. 960): "This act takes effect December 6, 2007." [2008 c 1 § 19 (Initiative Measure No. 960, approved November 6, 2007).]

43.135.035 Tax legislation—Referral to voters—Conditions and restrictions—Ballot title—Declarations of emergency—Taxes on intangible property—Expenditure limit to reflect program cost shifting or fund transfer. (1) After July 1, 2011, any action or combination of actions by the legislature that raises taxes may be taken only if approved by a two-thirds vote of each house of the legislature, and then only if state expenditures in any fiscal year, including the new revenue, will not exceed the state expenditure limits established under this chapter. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, tax increases may be referred to the voters for their approval or rejection at an election.

(2)(a) If the legislative action under subsection (1) of this section will result in expenditures in excess of the state expenditure limit, then the action of the legislature shall not take effect until approved by a vote of the people at a November general election. The state expenditure limit committee shall adjust the state expenditure limit by the amount of additional revenue approved by the voters under this section. This adjustment shall not exceed the amount of revenue generated by the legislative action during the first full fiscal year in which it is in effect. The state expenditure limit shall be adjusted downward upon expiration or repeal of the legislative action.

(b) The ballot title for any vote of the people required under this section shall be substantially as follows:

"Shall taxes be imposed on in order to allow a spending increase above last year's authorized spending adjusted for personal income growth?"

(3)(a) The state expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed twenty-four months by a law approved by a two-thirds vote of each house of the legislature and signed by the governor. The law shall set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than twenty-four months following the declaration of the emergency and only for the purposes contained in the emergency declaration.

(b) Additional taxes required for an emergency under this section may be imposed only until thirty days following the next general election, unless an extension is approved at that general election. The additional taxes shall expire upon expiration of the declaration of emergency. The legislature shall not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted.

(c) The state or any political subdivision of the state shall not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.

(4) If the cost of any state program or function is shifted from the state general fund to another source of funding, or if moneys are transferred from the state general fund to another fund or account, the state expenditure limit committee, acting

pursuant to RCW 43.135.025(5), shall lower the state expenditure limit to reflect the shift. For the purposes of this section, a transfer of money from the state general fund to another fund or account includes any state legislative action taken that has the effect of reducing revenues from a particular source, where such revenues would otherwise be deposited into the state general fund, while increasing the revenues from that particular source to another state or local government account. This subsection does not apply to: (a) The dedication or use of lottery revenues under RCW 67.70.240(3), in support of education or education expenditures; or (b) a transfer of moneys to, or an expenditure from, the budget stabilization account.

(5) If the cost of any state program or function and the ongoing revenue necessary to fund the program or function are shifted to the state general fund on or after January 1, 2007, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall increase the state expenditure limit to reflect the shift unless the shifted revenue had previously been shifted from the general fund.

(6) For the purposes of chapter 1, Laws of 2008, "raises taxes" means any action or combination of actions by the legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund. [2010 c 4 § 2; 2009 c 479 § 36. Prior: 2008 c 1 § 5 (Initiative Measure No. 960, approved November 6, 2007); 2007 c 484 § 6; 2005 c 72 § 5; 2005 c 72 § 2; (2006 c 56 § 8 expired July 1, 2007); prior: 2001 c 3 § 8 (Initiative Measure No. 728, approved November 7, 2000); 2000 2nd sp.s. c 2 § 2; (2002 c 33 § 1 expired June 30, 2003); 1994 c 2 § 4 (Initiative Measure No. 601, approved November 2, 1993).]

Intent—2010 c 4: "In order to preserve funding for education, public safety, health care, and safety net services for elderly, disabled, and vulnerable people, it is the intent of the legislature to provide a means to stabilize revenue collections." [2010 c 4 § 1.]

Effective date—2010 c 4: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 24, 2010]." [2010 c 4 § 4.]

Effective date—2009 c 479: See note following RCW 2.56.030.

Findings—Intent—Construction—Severability—Subheadings and part headings not law—Short title—Effective date—2008 c 1 (Initiative Measure No. 960): See notes following RCW 43.135.031.

Contingent effective date—2007 c 484 §§ 2-8: See note following RCW 43.79.495.

Expiration date—2006 c 56 §§ 7 and 8: See note following RCW 43.135.025.

Effective dates—2006 c 56: See note following RCW 41.45.230.

Findings—Effective dates—2005 c 72: See notes following RCW 43.135.010.

Expiration date—2002 c 33: See note following RCW 43.135.045.

Short title—Purpose—Intent—Construction—Severability—Effective dates—2001 c 3 (Initiative Measure No. 728): See notes following RCW 28A.505.210.

Effective date—2000 2nd sp.s. c 2: See note following RCW 43.135.025.

43.135.0351 Reinvesting in youth account transfers. RCW 43.135.035(4) does not apply to the transfers established in RCW 13.40.466. [2006 c 304 § 5.]

Finding—Intent—Entitlement not created—Effective date—2006 c 304: See notes following RCW 13.40.462.

43.135.03901 Criminal justice treatment account, violence reduction and drug enforcement account transfers. RCW 43.135.035(4) does not apply to the transfers established in RCW 70.96A.350. [2002 c 290 § 5.]

Effective date—2002 c 290 §§ 1, 4-6, 12, 13, 26, and 27: See note following RCW 70.96A.350.

Intent—2002 c 290: See note following RCW 9.94A.517.

Severability—2002 c 290: See RCW 9.94A.924.

43.135.041 Tax legislation—Advisory vote—Duties of the attorney general and secretary of state—Exemption. (1)(a) After July 1, 2011, if legislative action raising taxes as defined by RCW 43.135.035 is blocked from a public vote or is not referred to the people by a referendum petition found to be sufficient under RCW 29A.72.250, a measure for an advisory vote of the people is required and shall be placed on the next general election ballot under chapter 1, Laws of 2008.

(b) If legislative action raising taxes enacted after July 1, 2011, involves more than one revenue source, each tax being increased shall be subject to a separate measure for an advisory vote of the people under the requirements of chapter 1, Laws of 2008.

(2) No later than the first of August, the attorney general will send written notice to the secretary of state of any tax increase that is subject to an advisory vote of the people, under the provisions and exceptions provided by chapter 1, Laws of 2008. Within five days of receiving such written notice from the attorney general, the secretary of state will assign a serial number for a measure for an advisory vote of the people and transmit one copy of the measure bearing its serial number to the attorney general as required by RCW 29A.72.040, for any tax increase identified by the attorney general as needing an advisory vote of the people for that year's general election ballot. Saturdays, Sundays, and legal holidays are not counted in calculating the time limits in this subsection.

(3) For the purposes of this section, "blocked from a public vote" includes adding an emergency clause to a bill increasing taxes, bonding or contractually obligating taxes, or otherwise preventing a referendum on a bill increasing taxes.

(4) If legislative action raising taxes is referred to the people by the legislature or is included in an initiative to the people found to be sufficient under RCW 29A.72.250, then the tax increase is exempt from an advisory vote of the people under chapter 1, Laws of 2008. [2010 c 4 § 3; 2008 c 1 § 6 (Initiative Measure No. 960, approved November 6, 2007).]

Intent—Effective date—2010 c 4: See notes following RCW 43.135.035.

Findings—Intent—Construction—Severability—Subheadings and part headings not law—Short title—Effective date—2008 c 1 (Initiative Measure No. 960): See notes following RCW 43.135.031.

43.135.045 Education construction fund—Appropriation conditions. The education construction fund is hereby created in the state treasury.

(1) Funds may be appropriated from the education construction fund exclusively for common school construction or higher education construction. During the 2007-2009 fiscal biennium, funds may also be used for higher education facilities preservation and maintenance. During the 2009-2011

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fiscal biennium, the legislature may transfer from the education construction fund to the state general fund such amounts as reflect the excess fund balance of the fund.

(2) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection shall result in an adjustment to the state expenditure limit only for the fiscal period for which the appropriation is made and shall not affect any subsequent fiscal period.

(3) Funds for the student achievement program in RCW 28A.505.210 and 28A.505.220 shall be appropriated to the superintendent of public instruction strictly for distribution to school districts to meet the provisions set out in the student achievement act. Allocations shall be made on an equal per full-time equivalent student basis to each school district.

(4) After July 1, 2010, the state treasurer shall transfer one hundred two million dollars from the general fund to the education construction fund by June 30th of each year. [2010 1st sp.s. c 27 § 5. Prior: 2009 c 564 § 939; 2009 c 479 § 37; prior: 2007 c 520 § 6035; 2007 c 484 § 5; prior: 2005 c 518 § 931; (2005 c 488 § 920 expired June 30, 2007); 2005 c 314 § 401; 2005 c 72 § 6; 2003 1st sp.s. c 25 § 920; prior: (2003 1st sp.s. c 26 § 919 expired June 30, 2005); (2003 1st sp.s. c 26 § 918 expired June 30, 2005); (2002 c 33 § 2 expired June 30, 2003); prior: 2001 c 3 § 9 (Initiative Measure No. 728, approved November 7, 2000); 2000 2nd sp.s. c 5 § 1; 2000 2nd sp.s. c 2 § 3; 1994 c 2 § 3 (Initiative Measure No. 601, approved November 2, 1993).]

Findings—Intent—2010 1st sp.s. c 27: See note following RCW 28B.76.526.

Effective date—2009 c 564: See note following RCW 2.68.020.

Effective date—2009 c 479: See note following RCW 2.56.030.

Part headings not law—Severability—Effective dates—2007 c 520: See notes following RCW 43.19.125.

Contingent effective date—2007 c 484 §§ 2-8: See note following RCW 43.79.495.

Effective date—2005 c 518 § 931: "Section 931 (RCW 43.135.045) of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2005." [2005 c 518 § 1808.]

Severability—2005 c 518: See note following RCW 28A.500.030.

Expiration date—2005 c 488 §§ 920 and 921: "Sections 920 and 921 of this act expire June 30, 2007." [2005 c 488 § 955.]

Part headings not law—Severability—Effective dates—2005 c 488: See notes following RCW 28B.50.360.

Effective date—2005 c 314 §§ 101-107, 109, 303-309, and 401: See note following RCW 46.68.290.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

Findings—Effective dates—2005 c 72: See notes following RCW 43.135.010.

Expiration date—2003 1st sp.s. c 26: "Sections 918 through 921, 926, and 929 of this act expire June 30, 2005." [2003 1st sp.s. c 26 § 927.]

Severability—2003 1st sp.s. c 26: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2003 1st sp.s. c 26 § 930.]

Effective dates—2003 1st sp.s. c 26: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect

immediately [June 26, 2003], except for section 919 of this act which takes effect June 30, 2003." [2003 1st sp.s. c 26 § 931.]

Severability—Effective date—2003 1st sp.s. c 25: See notes following RCW 19.28.351.

Expiration date—2002 c 33: "This act expires June 30, 2003." [2002 c 33 § 3.]

Effective date—2002 c 33: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 13, 2002]." [2002 c 33 § 4.]

Short title—Purpose—Intent—Construction—Severability—Effective dates—2001 c 3 (Initiative Measure No. 728): See notes following RCW 28A.505.210.

Effective date—2000 2nd sp.s. c 2: See note following RCW 43.135.025.

43.135.055 Fee restrictions—Exception. (1) No fee may be imposed or increased in any fiscal year without prior legislative approval and must be subject to the accountability procedures required by RCW 43.135.031.

(2) This section does not apply to an assessment made by an agricultural commodity commission or board created by state statute or created under a marketing agreement or order under chapter 15.65 or 15.66 RCW, or to the forest products commission, if the assessment is approved by referendum in accordance with the provisions of the statutes creating the commission or board or chapter 15.65 or 15.66 RCW for approving such assessments. [2008 c 1 § 14 (Initiative Measure No. 960, approved November 6, 2007); 2001 c 314 § 19; 1997 c 303 § 2; 1994 c 2 § 8 (Initiative Measure No. 601, approved November 2, 1993).]

Findings—Intent—Construction—Severability—Subheadings and part headings not law—Short title—Effective date—2008 c 1 (Initiative Measure No. 960): See notes following RCW 43.135.031.

Findings—Construction—Severability—2001 c 314: See RCW 15.100.010, 15.100.900, and 15.100.901.

Findings—1997 c 303: "The legislature finds that Initiative Measure No. 601, adopted by the people of the state of Washington, limits fee increases by requiring that any increases in fees beyond the levels expressly allowed under the initiative receive the prior approval of the legislature. The legislature finds that a more direct system of allowing the people to control fee increases predates Initiative Measure No. 601. This system developed in agricultural communities and provides these communities with direct control of the fees of the agricultural commodity commissions they created to serve them. The system requires those who pay the assessments levied by commodity commissions and boards to approve of assessment increases by referendum. It is at the heart of the statutes and marketing orders and agreements under which agricultural commodity commissions and boards are created. The legislature does not believe that the adoption of Initiative Measure No. 601 was intended to dilute in any manner this more direct control held by the people governed by commodity commissions or boards over the fees they pay in the form of such assessments. Therefore, the legislature defers to this more direct control of these assessments so long as the authority to approve or disapprove of increases in these assessments is by referendum held directly by those who pay them." [1997 c 303 § 1.]

Toll increases in excess of fiscal growth factor: RCW 47.46.120.

Additional notes found at www.leg.wa.gov

43.135.060 Prohibition of new or extended programs without full reimbursement—Transfer of programs—Determination of costs. (1) After July 1, 1995, the legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any political subdivision of the state unless the subdivision is fully reimbursed by the state for the costs of the new programs or increases in service levels. Reimbursement by the

state may be made by: (a) A specific appropriation; or (b) increases in state distributions of revenue to political subdivisions occurring after January 1, 1998.

(2) If by order of any court, or legislative enactment, the costs of a federal or local government program are transferred to or from the state, the otherwise applicable state expenditure limit shall be increased or decreased, as the case may be, by the dollar amount of the costs of the program.

(3) The legislature, in consultation with the office of financial management or its successor agency, shall determine the costs of any new programs or increased levels of service under existing programs imposed on any political subdivision or transferred to or from the state.

(4) Subsection (1) of this section does not apply to the costs incurred for voting devices or machines under *RCW 29.04.200. [1998 c 321 § 15 (Referendum Bill No. 49, approved November 3, 1998); 1994 c 2 § 5 (Initiative Measure No. 601, approved November 2, 1993); 1990 2nd ex.s. c 1 § 601; 1990 c 184 § 2; 1980 c 1 § 6 (Initiative Measure No. 62, approved November 6, 1979).]

***Reviser's note:** RCW 29.04.200 was recodified as RCW 29A.12.150 pursuant to 2003 c 111 § 2401, effective July 1, 2004.

Purpose—Severability—1998 c 321: See notes following RCW 82.14.045.

Local government reimbursement claims: RCW 4.92.280.

Additional notes found at www.leg.wa.gov

43.135.080 Reenactment and reaffirmation of Initiative Measure No. 601—Continued limitations—Exceptions. (1) Initiative Measure No. 601 (chapter 43.135 RCW, as amended by chapter 321, Laws of 1998 and the amendatory changes enacted by section 6, chapter 2, Laws of 1994) is hereby reenacted and reaffirmed. The legislature also adopts chapter 321, Laws of 1998 to continue the general fund revenue and expenditure limitations contained in this chapter 43.135 RCW after this one-time transfer of funds.

(2) RCW 43.135.035(4) does not apply to sections 5 through 13, chapter 321, Laws of 1998. [1998 c 321 § 14 (Referendum Bill No. 49, approved November 3, 1998).]

Purpose—Severability—1998 c 321: See notes following RCW 82.14.045.

Additional notes found at www.leg.wa.gov

43.135.902 Short title—1994 c 2. This chapter may be known and cited as the taxpayer protection act. [1994 c 2 § 10 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.903 Severability—1994 c 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1994 c 2 § 12 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.904 Effective dates—1994 c 2. (1) Sections 8 and 13 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [December 2, 1993].

(2) Sections 1 through 7 and 9 through 12 of this act shall take effect July 1, 1995. [1994 c 2 § 14 (Initiative Measure No. 601, approved November 2, 1993).]

Chapter 43.136 RCW

TERMINATION OF TAX PREFERENCES

Sections

43.136.011	Finding.
43.136.021	"Tax preference" defined.
43.136.035	Citizen commission for performance measurement of tax preferences.
43.136.045	Schedule for review of tax preferences—Expedited review—Citizen input.
43.136.055	Review of tax preferences by joint legislative audit and review committee—Recommendations.
43.136.065	Reports to the citizen commission—Reports to the legislature—Public hearings.
43.136.075	Information from the department of revenue and the employment security department.

43.136.011 Finding. The legislature recognizes that tax preferences are enacted to meet objectives which are determined to be in the public interest. However, some tax preferences may not be efficient or equitable tools for the achievement of current public policy objectives. Given the changing nature of the economy and tax structures of other states, the legislature finds that periodic performance audits of tax preferences are needed to determine if their continued existence will serve the public interest. [2006 c 197 § 1.]

43.136.021 "Tax preference" defined. As used in this chapter, "tax preference" means an exemption, exclusion, or deduction from the base of a state tax; a credit against a state tax; a deferral of a state tax; or a preferential state tax rate. [2006 c 197 § 2.]

43.136.035 Citizen commission for performance measurement of tax preferences. (1) The citizen commission for performance measurement of tax preferences is created.

(2) The commission has seven members as follows:

(a) One member is the state auditor, who is a nonvoting member;

(b) One member is the chair of the joint legislative audit and review committee, who is a nonvoting member;

(c) The chair of each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives shall each appoint a member. None of these appointees may be members of the legislature; and

(d) The governor shall select the seventh member.

(3) Persons appointed by the caucus chairs should be individuals who represent a balance of perspectives and constituencies, and have a basic understanding of state tax policy, government operations, and public services. These appointees should have knowledge and expertise in performance management, fiscal analysis, strategic planning, economic development, performance assessments, or closely related fields.

(4) The commission shall elect a chair from among its voting or nonvoting members. Decisions of the commission must be made using the sufficient consensus model. For the purposes of this subsection, "sufficient consensus" means the

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point at which the vast majority of the commission favors taking a particular action. If the commission determines that sufficient consensus cannot be reached, a vote must be taken. The commission must allow a minority report to be included with a decision of the commission, if requested by a member of the commission.

(5) Members serve for terms of four years, with the terms expiring on June 30th on the fourth year of the term. However, in the case of the initial terms, the members appointed by the chairs of senate caucuses shall serve four-year terms, the members appointed by the chairs of house of representatives caucuses shall serve three-year terms, and the member appointed by the governor shall serve a two-year term, with each of the terms expiring on June 30th of the applicable year. Appointees may be reappointed to serve more than one term.

(6) The joint legislative audit and review committee shall provide clerical, technical, and management personnel to the commission to serve as the commission's staff. The department of revenue shall provide necessary support and information to the joint legislative audit and review committee.

(7) The commission shall meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the commission. The members of the commission shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2006 c 197 § 3.]

43.136.045 Schedule for review of tax preferences—Expedited review—Citizen input. (1) The citizen commission for performance measurement of tax preferences shall develop a schedule to accomplish an orderly review of tax preferences at least once every ten years. The commission shall schedule tax preferences for review in the order the tax preferences were enacted into law, except that the commission may elect to include, anywhere in the schedule, a tax preference that has a statutory expiration date. The commission shall omit from the schedule tax preferences that are required by constitutional law, sales and use tax exemptions for machinery and equipment for manufacturing, research and development, or testing, the small business credit for the business and occupation tax, sales and use tax exemptions for food and prescription drugs, property tax relief for retired persons, and property tax valuations based on current use, and may omit any tax preference that the commission determines is a critical part of the structure of the tax system. As an alternative to the process under RCW 43.136.055, the commission may recommend to the joint legislative audit and review committee an expedited review process for any tax preference that has an estimated biennial fiscal impact of ten million dollars or less.

(2) The commission shall revise the schedule as needed each year, taking into account newly enacted or terminated tax preferences. The commission shall deliver the schedule to the joint legislative audit and review committee by September 1st of each year.

(3) The commission shall provide a process for effective citizen input during its deliberations. [2006 c 197 § 4.]

43.136.055 Review of tax preferences by joint legislative audit and review committee—Recommendations. (1) The joint legislative audit and review committee shall review tax preferences according to the schedule developed under RCW 43.136.045. The committee shall consider, but not be limited to, the following factors in the review:

(a) The classes of individuals, types of organizations, or types of industries whose state tax liabilities are directly affected by the tax preference;

(b) Public policy objectives that might provide a justification for the tax preference, including but not limited to the legislative history, any legislative intent, or the extent to which the tax preference encourages business growth or relocation into this state, promotes growth or retention of high wage jobs, or helps stabilize communities;

(c) Evidence that the existence of the tax preference has contributed to the achievement of any of the public policy objectives;

(d) The extent to which continuation of the tax preference might contribute to any of the public policy objectives;

(e) The extent to which the tax preference may provide unintended benefits to an individual, organization, or industry other than those the legislature intended;

(f) The extent to which terminating the tax preference may have negative effects on the category of taxpayers that currently benefit from the tax preference, and the extent to which resulting higher taxes may have negative effects on employment and the economy;

(g) The feasibility of modifying the tax preference to provide for adjustment or recapture of the tax benefits of the tax preference if the objectives are not fulfilled;

(h) Fiscal impacts of the tax preference, including past impacts and expected future impacts if it is continued. For the purposes of this subsection, "fiscal impact" includes an analysis of the general effects of the tax preference on the overall state economy, including, but not limited to, the effects of the tax preference on the consumption and expenditures of persons and businesses within the state;

(i) The extent to which termination of the tax preference would affect the distribution of liability for payment of state taxes;

(j) Consideration of similar tax preferences adopted in other states, and potential public policy benefits that might be gained by incorporating corresponding provisions in Washington.

(2) For each tax preference, the committee shall provide a recommendation as to whether the tax preference should be continued without modification, modified, scheduled for sunset review at a future date, or terminated immediately. The committee may recommend accountability standards for the future review of a tax preference. [2006 c 197 § 5.]

43.136.065 Reports to the citizen commission—Reports to the legislature—Public hearings. (1) The joint legislative audit and review committee shall report its findings and recommendations for scheduled tax preferences to the citizen commission for performance measurement of tax preferences by August 30th of each year. The commission may review and comment on the report of the committee. The committee may revise its report based on the comments of the commission. The committee shall prepare a final

report that includes the comments of the commission and submit the final report to the finance committee of the house of representatives and the ways and means committee of the senate by December 30th.

(2) The joint legislative audit and review committee shall submit a special report reviewing all tax preferences that have statutory expiration dates between June 30, 2005, and January 1, 2007. For the special report, the committee shall complete a review under RCW 43.136.055, and obtain comments of the citizen commission for performance measurement of tax preferences under subsection (1) of this section, to the extent possible. The committee shall submit the special report to the finance committee of the house of representatives and the ways and means committee of the senate by January 12, 2006.

(3) Following receipt of a report under this section, the finance committee of the house of representatives and the ways and means committee of the senate shall jointly hold a public hearing to consider the final report and any related data. [2006 c 197 § 6.]

43.136.075 Information from the department of revenue and the employment security department. Upon request of the citizen commission for performance measurement of tax preferences or the joint legislative audit and review committee, the department of revenue and the department of employment security shall provide information needed by the commission or committee to meet its responsibilities under this chapter. [2006 c 197 § 7.]

Chapter 43.140 RCW GEOTHERMAL ENERGY

Sections

- 43.140.010 Purpose.
- 43.140.020 Definitions.
- 43.140.030 Geothermal account—Deposit of revenues.
- 43.140.040 Geothermal account—Limitations on distributions.
- 43.140.050 Distribution of funds to county of origin.
- 43.140.060 Appropriation for exploration and assessment of geothermal energy—Reimbursement.
- 43.140.900 Termination of chapter.

Geothermal resources: RCW 79.13.530.

43.140.010 Purpose. The purpose of this chapter is to provide for the allocation of revenues distributed to the state under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with respect to activities of the United States bureau of land management undertaken pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. Sec. 1001 et seq.) in order to accomplish the following general objectives:

(1) Reduction of dependence on nonrenewable energy and stimulation of the state's economy through development of geothermal energy.

(2) Mitigation of the social, economic, and environmental impacts of geothermal development.

(3) Financial assistance to counties to offset the costs of providing public services and facilities necessitated by the development of geothermal resources within their jurisdictions.

(4) Maintenance of the productivity of renewable resources through the investment of proceeds from these resources. [1981 c 158 § 1.]

43.140.020 Definitions. As used in this chapter:

(1) "County of origin" means any county in which the United States bureau of land management has leased lands for geothermal development.

(2) "Geothermal energy" means the natural heat of the earth and the medium by which this heat is extracted from the earth, including liquids or gases, as well as any minerals contained in any natural or injected fluids, brines, and associated gas but excluding oil, hydrocarbon gas, and other hydrocarbon substances. [1981 c 158 § 2.]

43.140.030 Geothermal account—Deposit of revenues. There is created the geothermal account in the state treasury. All expenditures from this account are subject to appropriation and chapter 43.88 RCW.

All revenues received by the state treasurer under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with respect to activities of the United States bureau of land management undertaken pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. Sec. 1001 et seq.) shall be deposited in the geothermal account in the state treasury immediately upon receipt. [1991 sp.s. c 13 § 7; 1985 c 57 § 58; 1981 c 158 § 3.]

Additional notes found at www.leg.wa.gov

43.140.040 Geothermal account—Limitations on distributions. Distribution of funds from the geothermal account of the general fund shall be subject to the following limitations:

(1) Thirty percent to the department of natural resources for geothermal exploration and assessment;

(2) Thirty percent to Washington State University or its statutory successor for the purpose of encouraging the development of geothermal energy; and

(3) Forty percent to the county of origin for mitigating impacts caused by geothermal energy exploration, assessment, and development. [1996 c 186 § 510; 1981 c 158 § 4.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

43.140.050 Distribution of funds to county of origin. The state treasurer shall be responsible for distribution of funds to the county of origin. Each county's share of rentals and royalties from a lease including lands in more than one county shall be computed on the basis of the ratio that the acreage within each county has to the total acreage in the lease. Washington State University shall obtain the necessary information to make the distribution of funds on such a basis. [1996 c 186 § 511; 1996 c 186 § 107; 1981 c 158 § 5.]

Reviser's note: This section was amended by 1996 c 186 § 107 and by 1996 c 186 § 511, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

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43.140.060 Appropriation for exploration and assessment of geothermal energy—Reimbursement. The legislature hereby appropriates one hundred forty-eight thousand dollars from the general fund of the state treasury to the department of natural resources for the purpose of exploration and assessment of geothermal energy within the state of Washington. The department of natural resources shall reimburse the general fund from its share of the revenues credited to the geothermal account up to one hundred forty-eight thousand dollars. Geothermal Steam Act revenues credited to the department's share of the geothermal account in excess of one hundred forty-eight thousand dollars shall be expended by the department of natural resources for the purpose of exploration and assessment of geothermal energy within the state of Washington. [1981 c 158 § 7.]

43.140.900 Termination of chapter. This chapter shall terminate on June 30, 2011. [2001 c 215 § 1; 1991 c 76 § 1; 1981 c 158 § 8.]

Effective date—2001 c 215: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 8, 2001]." [2001 c 215 § 2.]

Chapter 43.143 RCW

OCEAN RESOURCES MANAGEMENT ACT

Sections

- 43.143.005 Legislative findings.
- 43.143.010 Legislative policy and intent—Moratorium on leases for oil and gas exploration, development, or production—Appeals from regulation of recreational uses—Participation in federal ocean and marine resource decisions.
- 43.143.020 Definitions.
- 43.143.030 Planning and project review criteria.
- 43.143.900 Captions not law.
- 43.143.901 Short title.
- 43.143.902 Severability—1989 1st ex.s. c 2.

Oil or gas exploration in marine waters: RCW 90.58.550.

Transport of petroleum products or hazardous substances: Chapter 88.40 RCW.

43.143.005 Legislative findings. (1) Washington's coastal waters, seabed, and shorelines are among the most valuable and fragile of its natural resources.

(2) Ocean and marine-based industries and activities, such as fishing, aquaculture, tourism, and marine transportation have played a major role in the history of the state and will continue to be important in the future.

(3) Washington's coastal waters, seabed, and shorelines are faced with conflicting use demands. Some uses may pose unacceptable environmental or social risks at certain times.

(4) The state of Washington has primary jurisdiction over the management of coastal and ocean natural resources within three miles of its coastline. From three miles seaward to the boundary of the two hundred mile exclusive economic zone, the United States federal government has primary jurisdiction. Since protection, conservation, and development of the natural resources in the exclusive economic zone directly affect Washington's economy and environment, the state has an inherent interest in how these resources are managed. [1997 c 152 § 1; 1989 1st ex.s. c 2 § 8.]

43.143.010 Legislative policy and intent—Moratorium on leases for oil and gas exploration, development, or production—Appeals from regulation of recreational uses—Participation in federal ocean and marine resource decisions. (1) The purpose of this chapter is to articulate policies and establish guidelines for the exercise of state and local management authority over Washington's coastal waters, seabed, and shorelines.

(2) There shall be no leasing of Washington's tidal or submerged lands extending from mean high tide seaward three miles along the Washington coast from Cape Flattery south to Cape Disappointment, nor in Grays Harbor, Willapa Bay, and the Columbia river downstream from the Longview bridge, for purposes of oil or gas exploration, development, or production.

(3) When conflicts arise among uses and activities, priority shall be given to resource uses and activities that will not adversely impact renewable resources over uses which are likely to have an adverse impact on renewable resources.

(4) It is the policy of the state of Washington to actively encourage the conservation of liquid fossil fuels, and to explore available methods of encouraging such conservation.

(5) It is not currently the intent of the legislature to include recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources within the uses and activities which must meet the planning and review criteria set forth in RCW 43.143.030. It is not the intent of the legislature, however, to permanently exclude these uses from the requirements of RCW 43.143.030. If information becomes available which indicates that such uses should reasonably be covered by the requirements of RCW 43.143.030, the permitting government or agency may require compliance with those requirements, and appeals of that decision shall be handled through the established appeals procedure for that permit or approval.

(6) The state shall participate in federal ocean and marine resource decisions to the fullest extent possible to ensure that the decisions are consistent with the state's policy concerning the use of those resources. [1997 c 152 § 2; 1995 c 339 § 1; 1989 1st ex.s. c 2 § 9.]

43.143.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Coastal counties" means Clallam, Jefferson, Grays Harbor, and Pacific counties.

(2) "Coastal waters" means the waters of the Pacific Ocean seaward from Cape Flattery south to Cape Disappointment, from mean high tide seaward two hundred miles. [1989 1st ex.s. c 2 § 10.]

43.143.030 Planning and project review criteria. (1) When the state of Washington and local governments develop plans for the management, conservation, use, or development of natural resources in Washington's coastal waters, the policies in RCW 43.143.010 shall guide the decision-making process.

(2) Uses or activities that require federal, state, or local government permits or other approvals and that will adversely impact renewable resources, marine life, fishing, aquaculture, recreation, navigation, air or water quality, or

other existing ocean or coastal uses, may be permitted only if the criteria below are met or exceeded:

(a) There is a demonstrated significant local, state, or national need for the proposed use or activity;

(b) There is no reasonable alternative to meet the public need for the proposed use or activity;

(c) There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;

(d) All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Columbia river, Willapa Bay and Grays Harbor estuaries, and Olympic national park;

(e) All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;

(f) Compensation is provided to mitigate adverse impacts to coastal resources or uses;

(g) Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and

(h) The use or activity complies with all applicable local, state, and federal laws and regulations. [1989 1st ex.s. c 2 § 11.]

43.143.900 Captions not law. Section captions as used in this chapter do not constitute any part of the law. [1989 1st ex.s. c 2 § 18.]

43.143.901 Short title. Sections 8 through 12 of this act shall constitute a new chapter in Title 43 RCW and may be known and cited as the ocean resources management act. [1989 1st ex.s. c 2 § 19.]

43.143.902 Severability—1989 1st ex.s. c 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 1st ex.s. c 2 § 20.]

Chapter 43.145 RCW

NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

Sections

43.145.010 Compact.

43.145.020 Requirements of Washington representative to Northwest low-level waste compact committee.

43.145.030 Rule-making authority.

Radioactive Waste Storage and Transportation Act of 1980: Chapter 70.99 RCW.

43.145.010 Compact. The Northwest Interstate Compact on Low-Level Radioactive Waste Management is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and other states joining the compact in accordance with the terms of the compact.

NORTHWEST INTERSTATE COMPACT ON
LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

ARTICLE I—Policy and Purpose

The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

ARTICLE II—Definitions

As used in this compact:

(1) "Facility" means any site, location, structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

(2) "Low-level waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations;

(3) "Generator" means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

(4) "Host state" means a state in which a facility is located.

ARTICLE III—Regulatory Practices

Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this Article. Nothing in this Article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this Article.

ARTICLE IV—Regional Facilities

Section 1. Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

Section 2. No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in Article V.

Section 3. Until such time as Section 2 takes effect as provided in Article VI, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

(1) The generator's name and address;

(2) A description of the contents of the low-level waste container;

(3) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable federal regulations and such additional requirements as may be imposed by the host state;

(4) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

Section 4. Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

Section 5. The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in

consideration of the state of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact may be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure or [of] such facilities, so long as such action by a host state is applied equally to all generators within the region composed of the party states.

Section 6. Any host state may establish a schedule of fees and requirements related to its facility, to assure that closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

ARTICLE V—Northwest Low-level Waste Compact Committee

The governor of each party state shall designate one official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the Northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provision of Article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

ARTICLE VI—Eligible Parties and Effective Date

Section 1. Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

Section 2. After the compact has initially taken effect pursuant to Section 1, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

Section 3. Section 2 of Article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in Public Law 96-573, Congress may withdraw its consent to the compact after every five-year period.

ARTICLE VII—Severability

If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable. [1981 c 124 § 1.]

43.145.020 Requirements of Washington representative to Northwest low-level waste compact committee.

The person designated as the Washington representative to the committee as specified in Article V shall adhere to all provisions of the low-level radioactive waste compact. In considering special conditions or arrangements for access to the state's facilities from wastes generated outside of the region, the committee member shall ensure at a minimum, that the provisions of Article IV, Section 3 are complied with. After 1992 the Washington representative may approve access to the state's facility only for the states currently members of the Rocky Mountain compact or states which generate less than one thousand cubic feet of waste annually and are contiguous with a state which is a member of the Northwest compact. [1990 c 21 § 5; 1981 c 124 § 2.]

43.145.030 Rule-making authority. See RCW 43.200.070.

Chapter 43.146 RCW

PACIFIC STATES AGREEMENT ON RADIOACTIVE MATERIAL TRANSPORTATION MANAGEMENT

Sections

- 43.146.010 Pacific States Agreement on Radioactive Materials Transportation Management.
- 43.146.900 Legislative directive—State designee.

43.146.010 Pacific States Agreement on Radioactive Materials Transportation Management. The Pacific States Agreement on Radioactive Materials Transportation Management is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and other states joining the agreement in accordance with its terms.

PACIFIC STATES AGREEMENT ON RADIOACTIVE MATERIALS TRANSPORTATION MANAGEMENT

ARTICLE I—Policy and Purpose

The party states recognize that protection of the health and safety of citizens and the environment, and the most economical transportation of radioactive materials, can be accomplished through cooperation and coordination among neighboring states. It is the purpose of this agreement to establish a committee comprised of representatives from each party state to further cooperation between the states on emergency response and to coordinate activities by the states to eliminate unnecessary duplication of rules and regulations regarding the transportation and handling of radioactive material.

The party states intend that this agreement facilitate both interstate commerce and protection of public health and the environment. To accomplish this goal, the party states direct the committee to develop model regulatory standards for party states to act upon and direct the committee to coordinate decisions by party states relating to the routing and inspection of shipments of radioactive material.

ARTICLE II—Definitions

As used in this agreement:

- (1) "Carrier" includes common, private, and contract carriers.
- (2) "Hazardous material" means a substance or material which has been determined by the United States department of transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.
- (3) "Radioactive material" has the meaning given that term in federal department of transportation regulations found in 49 C.F.R. Sec. 173, and includes, but is not limited to, high-level radioactive waste, low-level radioactive waste, and spent nuclear fuel, as defined in section 2 of the nuclear waste policy act of 1982 (96 Stat. 2202; 42 U.S.C.A. Sec. 10101).
- (4) "Transportation" means the transport by any means of radioactive material destined for or derived from any location, and any loading, unloading, or storage incident to such transport. "Transportation" does not include permanent storage or disposal of the material.

ARTICLE III—Regulatory Practices

Section 1. The party states agree to develop model standards, not in conflict with federal law or regulations, for carriers of radioactive material to provide information regarding:

- (1) The amount and kind of material transported;
- (2) The mode of transportation and, to the extent feasible, the route or routes and the time schedule;
- (3) The carrier's compliance with local, state, and federal rules and regulations related to radioactive material transportation;
- (4) The carrier's compliance with federal and state liability insurance requirements.

Section 2. Consistent with federal law or regulations pertaining to transportation of radioactive material, the party states also agree to:

- (1) Develop model uniform procedures for issuing permits to carriers;
- (2) Develop model uniform record-keeping processes that allow access on demand by each state;
- (3) Develop model uniform safety standards for carriers;
- (4) Coordinate routing of shipments of radioactive materials;
- (5) Develop a method for coordinating the party states' emergency response plans to provide for regional emergency response including (a) systems for sharing information essential to radiation control efforts, (b) systems for sharing emergency response personnel, and (c) a method to allocate costs and clarify liability when a party state or its officers request or render emergency response;

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- (6) Recommend parking requirements for motor vehicles transporting radioactive materials;
- (7) Coordinate state inspections of carriers; and
- (8) Develop other cooperative arrangements and agreements to enhance safety.

Section 3. The party states also agree to coordinate emergency response training and preparedness drills among the party states, Indian tribes, and affected political subdivisions of the party states, and, if possible, with federal agencies.

Section 4. The party states recognize that the transportation management of hazardous waste and hazardous materials is similar in many respects to that of radioactive materials. The party states, therefore, agree to confer as to transportation management and emergency response for those items where similarities in management exist.

ARTICLE IV—Pacific States Radioactive Materials Transportation Committee

Section 1. Each party state shall designate one official of that state to confer with appropriate legislative committees and with other officials of that state responsible for managing transportation of radioactive material and with affected Indian tribes and be responsible for administration of this agreement. The officials so designated shall together comprise the Pacific states radioactive materials transportation committee. The committee shall meet as required to consider and, where necessary, coordinate matters addressed in this agreement. The parties shall inform the committee of existing regulations concerning radioactive materials transportation management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations.

Section 2. The committee may also engage in long-term planning to assure safe and economical management of radioactive material transportation on a continuing basis.

Section 3. To the extent practicable, the committee shall coordinate its activities with those of other organizations.

ARTICLE V—Eligible Parties and Effective Date

Section 1. The states of Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming are eligible to become a party to this agreement. As to any eligible party, this agreement shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two states. Any party state may withdraw from this agreement by enacting a statute repealing its approval.

Section 2. After the agreement has initially taken effect under section 1 of this article, any eligible party state may become a party to this agreement by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1988, whichever occurs first, unless the agreement has by then been enacted as a statute by that state.

ARTICLE VI—Severability

If any provision of this agreement, or its application to any person or circumstance, is held to be invalid, all other

provisions of this agreement, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this agreement are severable. [1987 c 90 § 1.]

43.146.900 Legislative directive—State designee. (1) Section 1 of this act shall constitute a new chapter in Title 43 RCW.

(2) The Washington state designee to the committee shall be appointed by the governor. [1987 c 90 § 2.]

Chapter 43.147 RCW

PACIFIC NORTHWEST ECONOMIC REGION AGREEMENT

Sections

- 43.147.010 Terms of agreement.
- 43.147.020 Finding.
- 43.147.030 Cooperative activities encouraged.
- 43.147.040 Interlibrary sharing—Finding.
- 43.147.050 Interlibrary sharing—Definition—Member libraries.
- 43.147.060 PNWER-Net working subgroup—Generally.
- 43.147.070 PNWER-Net working subgroup—Duties.
- 43.147.080 PNWER-Net working subgroup—Gifts, grants, donations.

43.147.010 Terms of agreement. The Pacific Northwest Economic Region is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect in accordance with the terms of this agreement.

THE PACIFIC NORTHWEST ECONOMIC REGION

ARTICLE I—Policy and Purpose

States and provinces participating in the Pacific Northwest Economic Region shall seek to develop and establish policies that: Promote greater regional collaboration among the seven entities; enhance the overall competitiveness of the region in international and domestic markets; increase the economic well-being of all citizens in the region; and improve the quality of life of the citizens of the Pacific Northwest.

States and provinces recognize that there are many public policy areas in which cooperation and joint efforts would be mutually beneficial. These areas include, but are not limited to: International trade; economic development; human resources; the environment and natural resources; energy; and education. Parties to this agreement shall work diligently to establish collaborative activity in these and other appropriate policy areas where such cooperation is deemed worthwhile and of benefit to the participating entities. Participating states and provinces also agree that there are areas in which cooperation may not be feasible.

The substantive actions of the Pacific Northwest Economic Region may take the form of uniform legislation enacted by two or more states and/or provinces or policy initiatives endorsed as appropriate by participating entities. It shall not be necessary for all states and provinces to participate in each initiative.

ARTICLE II—Eligible Parties and Effective Date

Each of the following states and provinces is eligible to become a party to this agreement: Alaska, Alberta, British Columbia, Idaho, Montana, Oregon, and Washington. This agreement establishing the Pacific Northwest Economic Region shall become effective when it is executed by one state, one province, and one additional state and/or province in a form deemed appropriate by each entity. This agreement shall continue in force and remain binding upon each state and province until renounced by it. Renunciation of this agreement must be preceded by sending one year's notice in writing of intention to withdraw from the agreement to the other parties to the agreement.

ARTICLE III—Organizational Structure

Each state and province participating in this agreement shall appoint representatives to the Pacific Northwest Economic Region. The organizational structure of the Pacific Northwest Economic Region shall consist of the following: A delegate council consisting of four legislators and the governor or governor's designee from each participating state and four representatives and the premier or the premier's designee from each participating province and an executive committee consisting of one legislator from each participating state and/or province who is a member of the delegate council and four of the seven governors/premiers or their designees who are members of the delegate council. The legislator members of the executive committee from each state or province shall be chosen by the legislator members of that state or province. The four governor or premier members of the executive committee shall be chosen by the governors and premiers from among the governors and premiers on the delegate council. At least one of four members representing the governors and premiers on the executive committee must be the premier of a Canadian province. Policy committees may be established to carry out further duties and responsibilities of the Pacific Northwest Economic Region.

ARTICLE IV—Duties and Responsibilities

The delegate council shall have the following duties and responsibilities: Facilitate the involvement of other government officials in the development and implementation of specific collaborative initiatives; work with policy-making committees in the development and implementation of specific initiatives; approve general organizational policies developed by the executive committee; provide final approval of the annual budget and staffing structure for the Pacific Northwest Economic Region developed by the executive committee; and other duties and responsibilities as may be established in the rules and regulations of the Pacific Northwest Economic Region. The executive committee shall perform the following duties and responsibilities: Elect the president and vice president of the Pacific Northwest Economic Region; approve and implement general organizational policies; develop the annual budget; devise the annual action plan; act as liaison with other public and private sector entities; review the availability of, and if appropriate apply for, (1) tax exempt status under the laws and regulations of the United States or any state or subdivision thereof and (2) similar status under the laws and regulations of Canada or any province

or subdivision thereof, and approve such rules, regulations, organizational policies, and staffing structure for the Pacific Northwest Economic Region and take such further actions on behalf of the Pacific Northwest Economic Region as may be deemed by the executive committee to be necessary or appropriate to qualify for and maintain such tax exempt or similar status under the applicable laws or regulations; and other duties and responsibilities established in the rules and regulations of the Pacific Northwest Economic Region. The rules and regulations of the Pacific Northwest Economic Region shall establish the procedure for voting.

ARTICLE V—Membership of Policy Committees

Policy committees dealing with specific subject matter may be established by the executive committee.

Each participating state and province shall appoint legislators and governors or premiers to sit on these committees in accordance with its own rules and regulations concerning such appointments.

ARTICLE VI—General Provisions

This agreement shall not be construed to limit the powers of any state or province or to amend or repeal or prevent the enactment of any legislation. [1993 c 108 § 1; 1991 c 251 § 2.]

43.147.020 Finding. The legislature finds that there is a new emerging global economy in which countries and regions located in specific areas of the world are forging new cooperative arrangements.

The legislature finds that these new cooperative arrangements are increasing the competitiveness of the participating countries and regions, thus increasing the economic benefits and the overall quality of life for the citizens of the individual countries and regions.

The legislature also finds that the Pacific Northwest states of Alaska, Idaho, Montana, Oregon, and Washington and the Canadian provinces of Alberta and British Columbia are in a strategic position to act together, as a region, thus increasing the overall competitiveness of the individual states and provinces that will provide substantial economic benefits for all of their citizens. [1991 c 251 § 1.]

43.147.030 Cooperative activities encouraged. It is the intent of chapter 251, Laws of 1991 to direct and encourage the establishment of cooperative activities between the seven legislative bodies of the region. The state representatives to the Pacific Northwest Economic Region shall work through appropriate channels to advance consideration of proposals developed by this body. [1991 c 251 § 3.]

43.147.040 Interlibrary sharing—Finding. In chapter 251, Laws of 1991, the legislature enacted into law the Pacific Northwest economic region agreement and made the state of Washington a party along with member states Alaska, Idaho, Montana, and Oregon, and member Canadian provinces Alberta and British Columbia. The legislature recognized that the member states and provinces of the Pacific Northwest economic region are in a strategic position to act together, as a region, thus increasing the overall competitive-

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ness of the members and providing substantial economic benefits for all of their citizens.

For those reasons, in chapter 251, Laws of 1991, the legislature also encouraged the establishment of cooperative activities between the seven legislative bodies of the Pacific Northwest economic region. The member states and provinces now desire to engage in such cooperation by electronically sharing twenty-two million volumes from certain of their respective universities. The member states and provinces have determined that such interlibrary sharing will provide substantial economic benefit for their citizens. The legislature agrees, specifically also finding that such interlibrary sharing furthers a major component of education strategy in the 1990's and twenty-first century, namely providing increased access to knowledge via technology. [1993 c 485 § 1.]

43.147.050 Interlibrary sharing—Definition—Member libraries. Unless the context clearly requires otherwise, as used in RCW 43.147.040 through 43.147.080 "PNWER-Net" means the technology network to be created by the member states and provinces of the Pacific Northwest economic region that will be capable of electronically linking the following undergraduate university libraries of the member states and provinces:

- (1) Alaska:
 - (a) University of Alaska, Anchorage;
 - (b) University of Alaska, Juneau;
- (2) Alberta:
 - (a) University of Alberta, Calgary;
 - (b) University of Alberta, Edmonton;
- (3) British Columbia:
 - (a) University of British Columbia, Vancouver;
 - (b) University of Victoria, Victoria;
- (4) Idaho:
 - (a) Boise State University, Boise;
 - (b) University of Idaho, Moscow;
- (5) Montana:
 - (a) Montana State University, Bozeman;
 - (b) University of Montana, Missoula;
- (6) Oregon:
 - (a) Oregon State University, Corvallis;
 - (b) University of Oregon, Eugene;
- (7) Washington:
 - (a) University of Washington, Seattle; and
 - (b) Washington State University, Pullman. [1993 c 485 § 2.]

43.147.060 PNWER-Net working subgroup—Generally. (1) The PNWER-Net working subgroup is hereby created for the member state of Washington. The working subgroup shall be composed of seven members as follows: Two members of the senate, one from each of the major caucuses, appointed by the president of the senate; two members of the house of representatives, appointed by the speaker of the house of representatives; the state librarian; and the primary undergraduate academic librarian from each of the state's two research institutions of higher education.

(2) The staff support shall be provided by the senate committee services and, to the extent authorized by the chief

clerk of the house of representatives, by the house of representatives office of program research as mutually agreed by the legislators on the working group.

(3) Legislative members shall be reimbursed for expenses in accordance with RCW 44.04.120. Nonlegislative members shall be reimbursed for expenses in accordance with RCW 43.03.050 and 43.03.060. [1993 c 485 § 3.]

43.147.070 PNWER-Net working subgroup—Duties.

The PNWER-Net working subgroup shall have the following duties:

(1) To work with working subgroups from other member states and provinces in an entity known as the PNWER-Net working group to develop PNWER-Net; and

(2) To assist the PNWER-Net working group in developing criteria to ensure that designated member libraries use existing telecommunications infrastructure including the internet. [1998 c 245 § 49; 1993 c 485 § 4.]

43.147.080 PNWER-Net working subgroup—Gifts, grants, donations. The PNWER-Net working group may accept gifts, grants, and donations from private individuals and entities made for the purposes of RCW 43.147.040 through 43.147.070. [1993 c 485 § 5.]

Chapter 43.150 RCW

**CENTER FOR VOLUNTEERISM AND
CITIZEN SERVICE**

Sections

43.150.010	Legislative findings.
43.150.020	Short title.
43.150.030	Definitions.
43.150.040	Center for volunteerism and citizen service authorized—Coordinator—Staff.
43.150.050	Programs and activities authorized.
43.150.070	Receipt and expenditure of donations—Fees—Voluntary action center fund created.
43.150.080	At-risk children—Collaborative program.

43.150.010 Legislative findings. (1) The legislature finds that:

(a) Large numbers of Washington's citizens are actively engaged in carrying forward the ethic of service and voluntary activities that benefit their citizens, their communities, and the entire state;

(b) This contribution continues to provide the equivalent of hundreds of millions of dollars in services that might otherwise create a need for additional tax collections;

(c) Many Washington citizens have yet to become fully involved in the life of their communities; many societal needs exist that could and should be met by new citizen service initiatives;

(d) The state of Washington needs to continue to encourage and expand the ethic of civic responsibility among its citizenry, through individuals working on their own, and through local and statewide organizations, both governmental and private and nonprofit agencies;

(e) This ethic of citizen service benefits those who serve and those who receive services; in both cases there is the betterment of all Washington communities;

(f) Public and private agencies depend in large measure on the efforts of volunteers for the accomplishment of their missions and actively seek to increase these efforts;

(g) State agencies can and should extend their service delivery programs through the increased use of and support for volunteers;

(h) The national and community service act of 1990 provides an opportunity for Washington to support citizen service and volunteer activities in Washington;

(i) Business, industry, communities, schools, and labor in Washington state are increasingly interested in opportunities for community service and in developing the volunteer and service ethic;

(j) While providing both tangible and intangible benefits, volunteers in turn need respect and support for their efforts;

(k) The state itself, through the programs and services of its agencies as well as through the provisions of law and rule making, can and should provide a primary role and focus for encouraging the ethic of citizen service and support for volunteer efforts and programs;

(l) Planned and coordinated recognition, information, training, and technical assistance for volunteer and citizen service efforts through a statewide center for voluntary action have been proven to be effective means of multiplying the resources volunteers bring to the needs of their communities; and

(m) It is important that Washington state position itself to raise volunteerism to the highest attainable levels, and along with the private sector, become a voice in the role citizen service will take in providing solutions to societal needs.

(2) Therefore, the legislature, in recognition of these findings, enacts the center for volunteerism and citizen service act to ensure that the state of Washington actively promotes the ethic of service and makes every appropriate effort to encourage effective involvement of individuals in their communities and of volunteers who supplement the services of private, nonprofit community agencies and organizations, agencies of local government throughout the state, and the state government. [1992 c 66 § 1; 1982 1st ex.s. c 11 § 1.]

43.150.020 Short title. This chapter may be known and cited as the center for volunteerism and citizen service act. [1992 c 66 § 2; 1982 1st ex.s. c 11 § 2.]

43.150.030 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Volunteer" means a person who is willing to work without expectation of salary or financial reward and who chooses where he or she provides services and the type of services he or she provides.

(2) "Center" means the state center for volunteerism and citizen service. [1995 c 269 § 2301; 1992 c 66 § 3; 1982 1st ex.s. c 11 § 3.]

Additional notes found at www.leg.wa.gov

43.150.040 Center for volunteerism and citizen service authorized—Coordinator—Staff. The governor may establish a statewide center for volunteerism and citizen service within the *department of community, trade, and eco-

conomic development and appoint an executive administrator, who may employ such staff as necessary to carry out the purposes of this chapter. The provisions of chapter 41.06 RCW do not apply to the executive administrator and the staff. [1995 c 399 § 84; 1992 c 66 § 4; 1985 c 6 § 11; 1982 1st ex.s. c 11 § 4.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.150.050 Programs and activities authorized. The center, working in cooperation with individuals, local groups, and organizations throughout the state, may undertake any program or activity for which funds are available which furthers the goals of this chapter. These programs and activities may include, but are not limited to:

(1) Providing information about programs, activities, and resources of value to volunteers and to organizations operating or planning volunteer or citizen service programs;

(2) Sponsoring recognition events for outstanding individuals and organizations;

(3) Facilitating the involvement of business, industry, government, and labor in community service and betterment;

(4) Organizing, or assisting in the organization of, training workshops and conferences;

(5) Publishing schedules of significant events, lists of published materials, accounts of successful programs and programming techniques, and other information concerning the field of volunteerism and citizen service, and distributing this information broadly;

(6) Reviewing the laws and rules of the state of Washington, and proposed changes therein, to determine their impact on the success of volunteer activities and programs, and recommending such changes as seem appropriate to ensure the achievement of the goals of this chapter;

(7) Seeking funding sources for enhancing, promoting, and supporting the ethic of service and facilitating or providing information to those organizations and agencies which may benefit;

(8) Providing information about agencies and individuals who are working to prevent the spread of the human immunodeficiency virus, as defined in chapter 70.24 RCW, and to agencies and individuals who are working to provide health and social services to persons with acquired immunodeficiency syndrome, as defined in chapter 70.24 RCW. [1992 c 66 § 5; 1988 c 206 § 301; 1982 1st ex.s. c 11 § 5.]

Additional notes found at www.leg.wa.gov

43.150.070 Receipt and expenditure of donations—Fees—Voluntary action center fund created. (1) The center may receive such gifts, grants, and endowments from private or public sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purpose of the center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. The center may charge reasonable fees, or other appropriate charges, for attendance at workshops and conferences, for various publications and other materials which it is authorized to prepare and distribute for the purpose of defraying all or part of the costs of those activities and materials.

(2) A fund known as the voluntary action center fund is created, which consists of all gifts, grants, and endowments,

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fees, and other revenues received pursuant to this chapter. The state treasurer is the custodian of the fund. Disbursements from the fund shall be on authorization of the executive administrator of the center or the administrator's designee, and may be made for the following purposes to enhance the capabilities of the center's activities, such as: (a) Reimbursement of center volunteers for travel expenses as provided in RCW 43.03.050 and 43.03.060; (b) publication and distribution of materials involving volunteerism and citizen service; (c) for other purposes designated in gifts, grants, or endowments consistent with the purposes of this chapter. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1992 c 66 § 7; 1982 1st ex.s. c 11 § 7.]

43.150.080 At-risk children—Collaborative program. A volunteer organization or individual volunteer may assist a public agency, with the agency's approval, in a collaborative program designed to serve the needs of at-risk children. The center, with the advice and counsel of the attorney general, shall develop guidelines defining at-risk children and establish reasonable safety standards to protect the safety of program participants and volunteers, including but not limited to background checks as appropriate as provided in RCW 43.43.830 through 43.43.834. In carrying out the volunteer activity, the individual volunteer or member of the volunteer organization shall not be considered to be an employee or agent of any public agency involved in the collaborative program. The public agency shall have no liability for any acts of the individual volunteer or volunteer organization. Prior to participation, a volunteer and the public agency administering the collaborative program shall sign a written master agreement, approved in form by the attorney general, that includes provisions defining the scope of the volunteer activities and waiving any claims against each other. A volunteer organization or individual volunteer shall not be liable for civil damages resulting from any act or omission arising from volunteer activities which comply with safety standards issued by the center for volunteerism and citizen service, other than acts or omissions constituting gross negligence or willful or wanton misconduct. [1993 c 365 § 1.]

Chapter 43.155 RCW

PUBLIC WORKS PROJECTS

Sections

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43.155.010 Legislative findings and policy. The legislature finds that there exists in the state of Washington over four billion dollars worth of critical projects for the planning, acquisition, construction, repair, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, and storm and sanitary sewage systems. The December, 1983 Washington state public works report prepared by the planning and community affairs agency documented that local governments expect to be capable of financing over two billion dollars worth of the costs of those critical projects but will not be able to fund nearly half of the documented needs.

The legislature further finds that Washington's local governments have unmet financial needs for solid waste disposal, including recycling, and encourages the board to make an equitable geographic distribution of the funds.

It is the policy of the state of Washington to encourage self-reliance by local governments in meeting their public works needs and to assist in the financing of critical public works projects by making loans, financing guarantees, and technical assistance available to local governments for these projects. [1996 c 168 § 1; 1985 c 446 § 7.]

43.155.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Board" means the public works board created in RCW 43.155.030.

(2) "Capital facility plan" means a capital facility plan required by the growth management act under chapter 36.70A RCW or, for local governments not fully planning under the growth management act, a plan required by the public works board.

(3) "Department" means the department of commerce.

(4) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(5) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.

(6) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems and solid waste facilities, including recycling facilities. A planning project may include the compilation of biological, hydrological, or other data on a county, drainage basin, or region necessary to develop a base of information for a capital facility plan.

(7) "Solid waste or recycling project" means remedial actions necessary to bring abandoned or closed landfills into compliance with regulatory requirements and the repair, restoration, and replacement of existing solid waste transfer, recycling facilities, and landfill projects limited to the opening of landfill cells that are in existing and permitted landfills.

(8) "Technical assistance" means training and other services provided to local governments to: (a) Help such local governments plan, apply, and qualify for loans and financing guarantees from the board, and (b) help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities. [2009 c 565 § 33; 2001 c 131 § 1; 1996 c 168 § 2; 1995 c 399 § 85; 1985 c 446 § 8.]

43.155.030 Public works board created. (1) The public works board is hereby created.

(2) The board shall be composed of thirteen members appointed by the governor for terms of four years, except that five members initially shall be appointed for terms of two years. The board shall include: (a) Three members, two of whom shall be elected officials and one shall be a public works manager, appointed from a list of at least six persons nominated by the association of Washington cities or its successor; (b) three members, two of whom shall be elected officials and one shall be a public works manager, appointed from a list of at least six persons nominated by the Washington state association of counties or its successor; (c) three members appointed from a list of at least six persons nominated jointly by the Washington public utility districts association and a state association of water-sewer districts, or their successors; and (d) four members appointed from the general public. In appointing the four general public members, the governor shall endeavor to balance the geographical composition of the board and to include members with special expertise in relevant fields such as public finance, architecture and civil engineering, and public works construction. The governor shall appoint one of the general public members of the board as chair. The term of the chair shall coincide with the term of the governor.

(3) Staff support to the board shall be provided by the department.

(4) Members of the board shall receive no compensation but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(5) If a vacancy on the board occurs by death, resignation, or otherwise, the governor shall fill the vacant position for the unexpired term. Each vacancy in a position appointed from lists provided by the associations under subsection (2) of this section shall be filled from a list of at least three persons nominated by the relevant association or associations. Any members of the board, appointive or otherwise, may be removed by the governor for cause in accordance with RCW 43.06.070 and 43.06.080. [1999 c 153 § 58; 1985 c 446 § 9.]

Additional notes found at www.leg.wa.gov

43.155.040 General powers of the board. The board may:

(1) Accept from any state or federal agency, loans or grants for the planning or financing of any public works project and enter into agreements with any such agency concerning the loans or grants;

(2) Provide technical assistance to local governments;

(3) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on

any terms and conditions which are not in conflict with this chapter;

(4) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter;

(5) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter. [1985 c 446 § 10.]

43.155.050 Public works assistance account. (Expires June 30, 2011.) (1) The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. During the 2009-2011 fiscal biennium, the legislature may transfer from the public works assistance account to the general fund and the city-county assistance account such amounts as reflect the excess fund balance of the account. During the 2009-2011 fiscal biennium, sums in the public works assistance account may be used for the water pollution control revolving fund program match in section 3013, chapter 36, Laws of 2010 1st sp. sess.

(2) The job development fund is hereby established in the state treasury. Moneys in the job development fund may be spent only after appropriation. During the 2009-2011 fiscal biennium, the legislature may transfer from the job development fund to the general fund such amounts as reflect the excess fund balance of the fund. [2010 1st sp.s. c 37 § 932; 2010 1st sp.s. c 36 § 6007; 2009 c 564 § 940; 2008 c 328 § 6002; 2007 c 520 § 6036. Prior: 2005 c 488 § 925; 2005 c 425 § 4; 2001 c 131 § 2; prior: 1995 2nd sp.s. c 18 § 918; 1995 c 376 § 11; 1993 sp.s. c 24 § 921; 1985 c 471 § 8.]

Reviser's note: This section was amended by 2010 1st sp.s. c 36 § 6007 and by 2010 1st sp.s. c 37 § 932, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Effective date—2010 1st sp.s. c 36: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 4, 2010]." [2010 1st sp.s. c 36 § 6018.]

Expiration date—2009 c 564 § 940: "Section 940 of this act expires June 30, 2011." [2009 c 564 § 962.]

Effective date—2009 c 564: See note following RCW 2.68.020.

Expiration date—2008 c 328 § 6002: "Section 6002 of this act expires June 30, 2011." [2008 c 328 § 6018.]

(2010 Ed.)

Part headings not law—2008 c 328: "Part headings in this act are not any part of the law." [2008 c 328 § 6020.]

Severability—2008 c 328: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2008 c 328 § 6021.]

Effective date—2008 c 328: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 1, 2008]." [2008 c 328 § 6022.]

Expiration date—2007 c 520 § 6036: "Section 6036 of this act expires June 30, 2011." [2007 c 520 § 6039.]

Part headings not law—Severability—Effective dates—2007 c 520: See notes following RCW 43.19.125.

Part headings not law—Severability—Effective dates—2005 c 488: See notes following RCW 28B.50.360.

Finding—2005 c 425: "The legislature has and continues to recognize the vital importance of economic development to the health and prosperity of Washington state as indicated in RCW 43.160.010, 43.155.070(4)(g), 43.163.005, and 43.168.010. The legislature finds that current economic development programs and funding, which are primarily low-interest loan programs, can be enhanced by creating a grant program to assist with public infrastructure projects that directly stimulate community and economic development by supporting the creation of new jobs or the retention of existing jobs." [2005 c 425 § 1.]

Expiration date—2005 c 425: "This act expires June 30, 2011." [2005 c 425 § 6.]

Severability—2005 c 425: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2005 c 425 § 7.]

Findings—1995 c 376: See note following RCW 70.116.060.

Additional notes found at www.leg.wa.gov

43.155.050 Public works assistance account. (Effective June 30, 2011.) The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. For the 2007-2009 biennium, moneys in the account may be used for grants for projects identified in section 138, chapter 488, Laws of 2005 and section 1033, chapter 520, Laws of 2007. During the 2009-2011 fiscal biennium, sums in the public works assistance account may be used for the water pollution control revolving fund program match in section 3013, chapter 36, Laws of 2010 1st sp. sess. During the 2009-2011 fiscal biennium, the legislature may transfer from the job development fund to the general fund such amounts as reflect the excess fund balance of the fund. [2010 1st sp.s. c

37 § 932; 2010 1st sp.s. c 36 § 6007; 2007 c 520 § 6037; 2005 c 488 § 925; 2001 c 131 § 2. Prior: 1995 2nd sp.s. c 18 § 918; 1995 c 376 § 11; 1993 sp.s. c 24 § 921; 1985 c 471 § 8.]

Reviser's note: The 2010 amendments to the version of RCW 43.155.050 that expires June 30, 2011, do not expire on June 30, 2011. Those amendments are included in the version of RCW 43.155.050 that takes effect June 30, 2011.

Part headings not law—Severability—Effective dates—2007 c 520: See notes following RCW 43.19.125.

Part headings not law—Severability—Effective dates—2005 c 488: See notes following RCW 28B.50.360.

Findings—1995 c 376: See note following RCW 70.116.060.

Additional notes found at www.leg.wa.gov

43.155.055 Water storage projects and water systems facilities subaccount. (1) A subaccount is created in the public works assistance account to receive money to fund the following projects: (a) Water storage projects; and (b) water systems facilities.

(2) The projects listed in subsection (1) of this section must comply with the competitive bid requirements of RCW 43.155.060.

(3) The subaccount created in subsection (1) of this section shall receive amounts appropriated to it for purposes of distributing these moneys as grants for water storage projects and water systems facilities projects as provided in the appropriation and this section. This subaccount shall be administered by the board and shall be separate from the other programs managed by the board under this chapter.

(4) The subaccount created in this section shall be known as the water storage projects and water systems facilities subaccount of the public works assistance account. [2003 c 330 § 1.]

43.155.060 Public works financing powers—Competitive bids on projects. In order to aid the financing of public works projects, the board may:

(1) Make low-interest or interest-free loans to local governments from the public works assistance account or other funds and accounts for the purpose of assisting local governments in financing public works projects. The board may require such terms and conditions and may charge such rates of interest on its loans as it deems necessary or convenient to carry out the purposes of this chapter. Money received from local governments in repayment of loans made under this section shall be paid into the public works assistance account for uses consistent with this chapter.

(2) Pledge money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects. The board shall not pledge any amount greater than the sum of money in the public works assistance account plus money to be received from the payment of the debt service on loans made from that account, nor shall the board pledge the faith and credit or the taxing power of the state or any agency or subdivision thereof to the repayment of obligations issued by any local government.

(3) Create such subaccounts in the public works assistance account as the board deems necessary to carry out the purposes of this chapter.

(4) Provide a method for the allocation of loans and financing guarantees and the provision of technical assistance under this chapter.

All local public works projects aided in whole or in part under the provisions of this chapter shall be put out for competitive bids, except for emergency public works under RCW 43.155.065 for which the recipient jurisdiction shall comply with this requirement to the extent feasible and practicable. The competitive bids called for shall be administered in the same manner as all other public works projects put out for competitive bidding by the local governmental entity aided under this chapter. [1988 c 93 § 2; 1985 c 446 § 11.]

43.155.065 Emergency public works projects. The board may make low-interest or interest-free loans to local governments for emergency public works projects. Emergency public works projects shall include the construction, repair, reconstruction, replacement, rehabilitation, or improvement of a public water system that is in violation of health and safety standards and is being operated by a local government on a temporary basis. The loans may be used to help fund all or part of an emergency public works project less any reimbursement from any of the following sources: (1) Federal disaster or emergency funds, including funds from the federal emergency management agency; (2) state disaster or emergency funds; (3) insurance settlements; or (4) litigation. [2001 c 131 § 3; 1990 c 133 § 7; 1988 c 93 § 1.]

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

43.155.068 Loans for preconstruction activities. (1) The board may make low-interest or interest-free loans to local governments for preconstruction activities on public works projects before the legislature approves the construction phase of the project. Preconstruction activities include design, engineering, bid-document preparation, environmental studies, right-of-way acquisition, and other preliminary phases of public works projects as determined by the board. The purpose of the loans authorized in this section is to accelerate the completion of public works projects by allowing preconstruction activities to be performed before the approval of the construction phase of the project by the legislature.

(2) Projects receiving loans for preconstruction activities under this section must be evaluated using the priority process and factors in *RCW 43.155.070(2). The receipt of a loan for preconstruction activities does not ensure the receipt of a construction loan for the project under this chapter. Construction loans for projects receiving a loan for preconstruction activities under this section are subject to legislative approval under *RCW 43.155.070 (4) and (5). The board shall adopt a single application process for local governments seeking both a loan for preconstruction activities under this section and a construction loan for the project. [2001 c 131 § 4; 1995 c 363 § 2.]

***Reviser's note:** RCW 43.155.070 was amended by 1999 c 164 § 602, changing subsections (2), (4), and (5) to subsections (4), (6), and (7), respectively.

Finding—Purpose—1995 c 363: "The legislature finds that there continues to exist a great need for capital projects to plan, acquire, design, construct, and repair local government streets, roads, bridges, water systems,

and storm and sanitary sewage systems. It is the purpose of this act to accelerate the construction of these projects under the public works assistance program." [1995 c 363 § 1.]

43.155.070 Eligibility, priority, limitations, and exceptions. (1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 must have adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a loan or loan guarantee under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a loan or loan guarantee under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a loan or loan guarantee.

(3) In considering awarding loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) The board shall develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Except as otherwise conditioned by RCW 43.155.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

(d) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

(e) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007;

(f) The cost of the project compared to the size of the local government and amount of loan money available;

(g) The number of communities served by or funding the project;

(h) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(i) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;

(j) Except as otherwise conditioned by RCW 43.155.120, and effective one calendar year following the development of model evergreen community management plans and ordinances under RCW 35.105.050, whether the entity receiving assistance has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030;

(k) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and

(l) Other criteria that the board considers advisable.

(5) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(6) Before November 1st of each even-numbered year, the board shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(7) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board.

The legislature shall not change the order of the priorities recommended for funding by the board.

(8) Subsection (7) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section.

(9) Loans made for the purpose of capital facilities plans shall be exempted from subsection (7) of this section.

(10) To qualify for loans or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.

(11) After January 1, 2010, any project designed to address the effects of storm water or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310. [2009 c 518 § 16; 2008 c 299 § 25. Prior: 2007 c 341 § 24; 2007 c 231 § 2; 2001 c 131 § 5; 1999 c 164 § 602; 1997 c 429 § 29; 1996 c 168 § 3; 1995 c 363 § 3; 1993 c 39 § 1; 1991 sp.s. c 32 § 23; 1990 1st ex.s. c 17 § 82; 1990 c 133 § 6; 1988 c 93 § 3; 1987 c 505 § 40; 1985 c 446 § 12.]

Short title—2008 c 299: See note following RCW 35.105.010.

Severability—Effective date—2007 c 341: See RCW 90.71.906 and 90.71.907.

Findings—Recommendations—Reports encouraged—2007 c 231: "(1) The legislature finds that permit programs have been legislatively established to protect the health, welfare, economy, and environment of Washington's citizens and to provide a fair, competitive opportunity for business innovation and consumer confidence. The legislature also finds that uncertainty in government processes to permit an activity by a citizen of Washington state is undesirable and erodes confidence in government. The legislature further finds that in the case of projects that would further economic development in the state, information about the permitting process is critical for an applicant's planning and financial assessment of the proposed project. The legislature also finds that applicants have a responsibility to provide complete and accurate information.

(2) The legislature recommends that applicants be provided with the following information when applying for a development permit from a city, county, or state agency:

(a) The minimum and maximum time an agency will need to make a decision on a permit, including public comment requirements;

(b) The minimum amount of information required for an agency to make a decision on a permit;

(c) When an agency considers an application complete for processing;

(d) The minimum and maximum costs in agency fees that will be incurred by the permit applicant; and

(e) The reasons for a denial of a permit in writing.

(3) In providing this information to applicants, an agency should base estimates on the best information available about the permitting program and prior applications for similar permits, as well as on the information provided by the applicant. New information provided by the applicant subsequent to the agency estimates may change the information provided by an agency per subsection (2) of this section. Project modifications by an applicant may result in more time, more information, or higher fees being required for permit processing.

(4) This section does not create an independent cause of action, affect any existing cause of action, or establish time limits for purposes of RCW 64.40.020.

(5) City, county, and state agencies issuing development permits are encouraged to track the progress in providing the information to applicants per subsection (2) of this section by preparing an annual report of its performance for the preceding fiscal year. The report should be posted on its web site [and] made available and provided to the appropriate standing committees of the senate and house of representatives." [2007 c 231 § 1.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

[Title 43 RCW—page 590]

Finding—Purpose—1995 c 363: See note following RCW 43.155.068.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Additional notes found at www.leg.wa.gov

43.155.075 Loans for public works projects—Statement of environmental benefits—Development of outcome-focused performance measures. In providing loans for public works projects, the board shall require recipients to incorporate the environmental benefits of the project into their applications, and the board shall utilize the statement of environmental benefits in its prioritization and selection process. The board shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the loan program. To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The board shall consult with affected interest groups in implementing this section. [2001 c 227 § 10.]

Findings—Intent—2001 c 227: See note following RCW 43.41.270.

43.155.080 Records and audits. The board shall keep proper records of accounts and shall be subject to audit by the state auditor. [1987 c 505 § 41; 1985 c 446 § 13.]

43.155.090 Loan agreements. Loans from the public works assistance account under this chapter shall be made by loan agreement under chapter 39.69 RCW. [1987 c 19 § 6.]

43.155.100 Water conservation account. The water conservation account is created in the custody of the state treasurer. All receipts from federal funding dedicated to water conservation under 16 U.S.C. Sec. 3831 shall be deposited in the account. In addition, the legislature may appropriate money to the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account shall be used for the development and support of water conservation as defined by 16 U.S.C. Sec. 3831. Only the public works board or its designee may make expenditures from the account. [2002 c 329 § 11.]

Effective date—2002 c 329 § 11: "Section 11 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 3, 2002]." [2002 c 329 § 12.]

43.155.110 Puget Sound partners. In developing a priority process for public works projects under RCW 43.155.070, the board shall give preferences only to Puget Sound partners, as defined in RCW 90.71.010, over other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the action agenda developed by the Puget Sound partnership under RCW 90.71.310, or for any other reason, shall not be given less preferential treatment than Puget Sound partners. [2007 c 341 § 25.]

(2010 Ed.)

Severability—Effective date—2007 c 341: See RCW 90.71.906 and 90.71.907.

43.155.120 Administering funds—Preference to an evergreen community. When administering funds under this chapter, the board shall give preference only to an evergreen community recognized under RCW 35.105.030 in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community. [2008 c 299 § 30.]

Short title—2008 c 299: See note following RCW 35.105.010.

Chapter 43.157 RCW

PROJECTS OF STATEWIDE SIGNIFICANCE

Sections

- 43.157.005 Declaration.
 43.157.010 Definitions (*as amended by 2009 c 421*).
 43.157.010 Definitions (*as amended by 2009 c 565*).
 43.157.020 Expediting completion of projects of statewide significance—Requirements of agreements.
 43.157.030 Application for designation—Project facilitator or coordinator.

43.157.005 Declaration. The legislature declares that certain investments, such as investments for industrial development, environmental improvement, and innovation activities, merit special designation and treatment by governmental bodies when they are proposed. Such investments bolster the economies of their locale and impact the economy of the state as a whole. It is the intention of the legislature to recognize projects of statewide significance and to encourage local governments and state agencies to expedite their completion. [2009 c 421 § 1; 1997 c 369 § 1.]

Effective date—2009 c 421: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 8, 2009]." [2009 c 421 § 11.]

43.157.010 Definitions (*as amended by 2009 c 421*). ((+)) For purposes of this chapter and RCW 28A.525.166, 28B.76.210, *28C.18.080, 43.21A.350, ((47-06-030)) and 90.58.100 ((and an industrial)), unless the context requires otherwise:

- (1)(a) A project of statewide significance is:
- A border crossing project that involves both private and public investments carried out in conjunction with adjacent states or provinces;
 - A development project that will provide a net environmental benefit;
 - A development project in furtherance of the commercialization of innovations; or
 - A private industrial development with private capital investment in manufacturing or research and development.
- (b) To qualify for designation under RCW 43.157.030 as ((an industrial)) a project of statewide significance: ((+))
- The project must be completed after January 1, ((1997)) 2009; ((+))
 - The applicant must submit an application to the department for designation as ((an industrial)) a project of statewide significance to the **department of community, trade, and economic development; and ((+))
 - The project must have:
 - In counties with a population ((+)) less than or equal to twenty thousand, a capital investment of ((twenty)) five million dollars;
 - In counties with a population ((+)) greater than twenty thousand but no more than fifty thousand, a capital investment of ((fifty)) ten million dollars;

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((+)) (C) In counties with a population ((+)) greater than fifty thousand but no more than one hundred thousand, a capital investment of ((one hundred)) fifteen million dollars;

((+)) (D) In counties with a population ((+)) greater than one hundred thousand but no more than two hundred thousand, a capital investment of ((two hundred)) twenty million dollars;

((+)) (E) In counties with a population ((+)) greater than two hundred thousand but no more than four hundred thousand, a capital investment of ((four hundred)) thirty million dollars;

((+)) (F) In counties with a population ((+)) greater than four hundred thousand but no more than one million, a capital investment of ((six hundred)) forty million dollars;

((+)) (G) In counties with a population ((+)) greater than one million, a capital investment of ((one billion)) fifty million dollars;

((+)) (H) In rural counties ((with fewer than one hundred persons per square mile as determined annually by the office of financial management and published by the department of revenue effective for the period July 1st through June 30th)) as defined by RCW 82.14.370, projected full-time employment positions after completion of construction of fifty or greater;

((+)) (I) In counties ((with one hundred or more persons per square mile as determined annually by the office of financial management and published by the department of revenue effective for the period July 1st through June 30th)) other than rural counties as defined by RCW 82.14.370, projected full-time employment positions after completion of construction of one hundred or greater; or

((+)) (J) Been ((designated)) qualified by the director of ((community, trade, and economic development)) the department as ((an industrial)) a project of statewide significance either because: ((A) Because the county in which the project is to be located is a distressed county and)

(I) The economic circumstances of the county merit the additional assistance such designation will bring; ((or (B) because))

(II) The impact on a region due to the size and complexity of the project merits such designation;

(III) The project resulted from or is in furtherance of innovation activities at a public research institution in the state or is in or resulted from innovation activities within an innovation partnership zone; or

(IV) The project will provide a net environmental benefit as evidenced by plans for design and construction under green building standards or for the creation of renewable energy technology or components or under other environmental criteria established by the director in consultation with the director of the department of ecology.

A project may be qualified under this subsection (1)(b)(iii)(J) only after consultation on the availability of staff resources of the office of regulatory assistance.

(2) ((The term)) "Department" means the **department of community, trade, and economic development.

(3) "Manufacturing" shall have the meaning assigned it in RCW ((82-61-010)) 82.62.010.

((3) The term) (4) "Research and development" shall have the meaning assigned it in RCW ((82-61-010)) 82.62.010.

((4) The term) (5) "Applicant" means a person applying to the department ((of community, trade, and economic development)) for designation of a development project as ((an industrial)) a project of statewide significance. [2009 c 421 § 2; 2004 c 275 § 63; 2003 c 54 § 1; 1997 c 369 § 2.]

Reviser's note: *(1) RCW 28C.18.080 was amended by 2009 c 151 § 7, deleting the phrase "projects of statewide significance."

** (2) The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Effective date—2009 c 421: See note following RCW 43.157.005.

43.157.010 Definitions (*as amended by 2009 c 565*). (1) For purposes of this chapter and RCW 28A.525.166, 28B.76.210, *28C.18.080, 43.21A.350, **47.06.030, and 90.58.100 and an industrial project of statewide significance is a border crossing project that involves both private and public investments carried out in conjunction with adjacent states or provinces or a private industrial development with private capital investment in manufacturing or research and development. To qualify as an industrial project of statewide significance: (a) The project must be completed after January 1, 1997; (b) the applicant must submit an application for designation as an industrial project of statewide significance to the department of ((community, trade, and economic development)) commerce; and (c) the project must have:

(i) In counties with a population of less than or equal to twenty thousand, a capital investment of twenty million dollars;

(ii) In counties with a population of greater than twenty thousand but no more than fifty thousand, a capital investment of fifty million dollars;

(iii) In counties with a population of greater than fifty thousand but no more than one hundred thousand, a capital investment of one hundred million dollars;

(iv) In counties with a population of greater than one hundred thousand but no more than two hundred thousand, a capital investment of two hundred million dollars;

(v) In counties with a population of greater than two hundred thousand but no more than four hundred thousand, a capital investment of four hundred million dollars;

(vi) In counties with a population of greater than four hundred thousand but no more than one million, a capital investment of six hundred million dollars;

(vii) In counties with a population of greater than one million, a capital investment of one billion dollars;

(viii) In counties with fewer than one hundred persons per square mile as determined annually by the office of financial management and published by the department of revenue effective for the period July 1st through June 30th, projected full-time employment positions after completion of construction of fifty or greater;

(ix) In counties with one hundred or more persons per square mile as determined annually by the office of financial management and published by the department of revenue effective for the period July 1st through June 30th, projected full-time employment positions after completion of construction of one hundred or greater; or

(x) Been designated by the ***director of community, trade, and economic development as an industrial project of statewide significance either: (A) Because the county in which the project is to be located is a distressed county and the economic circumstances of the county merit the additional assistance such designation will bring; or (B) because the impact on a region due to the size and complexity of the project merits such designation.

(2) The term manufacturing shall have the meaning assigned it in ***RCW 82.61.010.

(3) The term research and development shall have the meaning assigned it in ***RCW 82.61.010.

(4) The term applicant means a person applying to the department of ((community, trade, and economic development)) commerce for designation of a development project as an industrial project of statewide significance. [2009 c 565 § 34; 2004 c 275 § 63; 2003 c 54 § 1; 1997 c 369 § 2.]

Reviser's note: *(1) RCW 28C.18.080 was amended by 2009 c 151 § 7, deleting the phrase "projects of statewide significance."

** (2) RCW 47.06.030 was repealed by 2007 c 516 § 13.

*** (3) The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

**** (4) RCW 82.61.010 was repealed by 2005 c 443 § 7, effective July 1, 2006.

Part headings not law—2004 c 275: See note following RCW 28B.76.030.

43.157.020 Expediting completion of projects of statewide significance—Requirements of agreements.

Counties and cities with development projects designated as projects of statewide significance within their jurisdictions shall enter into an agreement with the office of regulatory assistance and the project managers of projects of statewide significance for expediting the completion of projects of statewide significance. The agreement shall require:

(1) Expedited permit processing for the design and construction of the project;

(2) Expedited environmental review processing;

(3) Expedited processing of requests for street, right-of-way, or easement vacations necessary for the construction of the project;

(4) Participation of local officials on the team assembled under the requirements of RCW 43.157.030(2)(b); and

(5) Such other actions or items as are deemed necessary by the office of regulatory assistance for the design and construction of the project. [2009 c 421 § 3; 2003 c 54 § 2; 1997 c 369 § 3.]

Effective date—2009 c 421: See note following RCW 43.157.005.

43.157.030 Application for designation—Project facilitator or coordinator. (1) The *department of community, trade, and economic development shall:

(a) Develop an application for designation of development projects as projects of statewide significance. The application must be accompanied by a letter of approval from the legislative authority of any jurisdiction that will have the proposed project of statewide significance within its boundaries. No designation of a project as a project of statewide significance shall be made without such letter of approval. The letter of approval must state that the jurisdiction joins in the request for the designation of the project as one of statewide significance and has or will hire the professional staff that will be required to expedite the processes necessary to the completion of a project of statewide significance. The development project proponents may provide the funding necessary for the jurisdiction to hire the professional staff that will be required to so expedite. The application shall contain information regarding the location of the project, the applicant's average employment in the state for the prior year, estimated new employment related to the project, estimated wages of employees related to the project, estimated time schedules for completion and operation, and other information required by the department; and

(b) Designate a development project as a project of statewide significance if the department determines:

(i) After review of the application under criteria adopted by rule, the development project will provide significant economic benefit to the local or state economy, or both, the project is aligned with the state's comprehensive plan for economic development under RCW 43.162.020, and, by its designation, the project will not prevent equal consideration of all categories of proposals under RCW 43.157.010; and

(ii) The development project meets or will meet the requirements of RCW 43.157.010 regarding designation as a project of statewide significance.

(2) The office of regulatory assistance shall assign a project facilitator or coordinator to each project of statewide significance to:

(a) Assist in the scoping and coordinating functions provided for in chapter 43.42 RCW;

(b) Assemble a team of state and local government and private officials to help meet the planning, permitting, and development needs of each project, which team shall include those responsible for planning, permitting and licensing, infrastructure development, workforce development services including higher education, transportation services, and the provision of utilities; and

(c) Work with each team member to expedite their actions in furtherance of the project. [2009 c 421 § 4; 2003 c 54 § 3; 1997 c 369 § 4.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Effective date—2009 c 421: See note following RCW 43.157.005.

Chapter 43.160 RCW

ECONOMIC DEVELOPMENT—PUBLIC FACILITIES LOANS AND GRANTS

Sections

- 43.160.010 Legislative declaration.
- 43.160.020 Definitions.
- 43.160.030 Community economic revitalization board—Members—Terms—Chair, vice-chair—Management services—Travel expenses—Vacancies—Removal.
- 43.160.035 Designees for board members.
- 43.160.040 Conflicts of interest—Code of ethics.
- 43.160.050 Powers of board.
- 43.160.060 Loans and grants to political subdivisions and federally recognized Indian tribes for public facilities authorized—Application—Requirements for financial assistance.
- 43.160.070 Conditions.
- 43.160.074 Application—Request for improvements to existing highways—Procedures.
- 43.160.076 Financial assistance in rural counties.
- 43.160.077 Applications—Processing of recyclable materials—Department of ecology notice.
- 43.160.078 Board to familiarize government officials and public with chapter provisions.
- 43.160.080 Public facilities construction loan revolving account.
- 43.160.090 Records—Audits.
- 43.160.900 Community economic revitalization board—Evaluations of financial assistance—Reporting of evaluations.
- 43.160.901 Severability—1982 1st ex.s. c 40.
- 43.160.902 Captions not part of law—1984 c 257.

Public records: Chapter 42.56 RCW.

43.160.010 Legislative declaration. (1) The legislature finds that it is the public policy of the state of Washington to direct financial resources toward the fostering of economic development through the stimulation of investment and job opportunities and the retention of sustainable existing employment for the general welfare of the inhabitants of the state. Reducing unemployment and reducing the time citizens remain jobless is important for the economic welfare of the state. A valuable means of fostering economic development is the construction of public facilities which contribute to the stability and growth of the state's economic base. Expenditures made for these purposes as authorized in this chapter are declared to be in the public interest, and constitute a proper use of public funds. A community economic revitalization board is needed which shall aid the development of economic opportunities. The general objectives of the board should include:

- (a) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies;
- (b) Encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment;
- (c) Encouraging wider access to financial resources for both large and small industrial development projects;
- (d) Encouraging new economic development or expansions to maximize employment;
- (e) Encouraging the retention of viable existing firms and employment; and
- (f) Providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment.

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(2) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to improve state highways, county roads, or city streets for industries considering locating or expanding in this state.

(3) The legislature finds it desirable to provide a process whereby the need for diverse public works improvements necessitated by planned economic development can be addressed in a timely fashion and with coordination among all responsible governmental entities.

(4) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to assist development of telecommunications infrastructure that supports business development, retention, and expansion in the state.

(5) The legislature also finds that the state's economic development efforts can be enhanced by providing funds to improve markets for those recyclable materials representing a large fraction of the waste stream. The legislature finds that public facilities which result in private construction of processing or remanufacturing facilities for recyclable materials are eligible for consideration from the board.

(6) The legislature finds that sharing economic growth statewide is important to the welfare of the state. The ability of communities to pursue business and job retention, expansion, and development opportunities depends on their capacity to ready necessary economic development project plans, sites, permits, and infrastructure for private investments. Project-specific planning, predevelopment, and infrastructure are critical ingredients for economic development. It is, therefore, the intent of the legislature to increase the amount of funding available through the community economic revitalization board and to authorize flexibility for available resources in these areas to help fund planning, predevelopment, and construction costs of infrastructure and facilities and sites that foster economic vitality and diversification. [2008 c 327 § 1. Prior: 1999 c 164 § 101; 1999 c 94 § 5; 1996 c 51 § 1; 1991 c 314 § 21; 1989 c 431 § 61; 1987 c 422 § 1; 1984 c 257 § 1; 1982 1st ex.s. c 40 § 1.]

Effective date—2008 c 327 §§ 1, 2, 4-11, 17: "Sections 1, 2, 4 through 11, and 17 of this act take effect July 1, 2009." [2008 c 327 § 18.]

Findings—Intent—1999 c 164: "The legislature finds that while Washington's economy is currently prospering, economic growth continues to be uneven, particularly as between metropolitan and rural areas. This has created in effect two Washingtons. One afflicted by inadequate infrastructure to support and attract investment, another suffering from congestion and soaring housing prices. In order to address these problems, the legislature intends to use resources strategically to build on our state's strengths while addressing threats to our prosperity." [1999 c 164 § 1.]

Legislative finding—Effective dates—1999 c 94: See notes following RCW 43.84.092.

Findings—1991 c 314: See note following RCW 43.160.020.

Additional notes found at www.leg.wa.gov

43.160.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the community economic revitalization board.

(2) "Department" means the department of commerce.

(3) "Local government" or "political subdivision" means any port district, county, city, town, special purpose district,

and any other municipal corporations or quasi-municipal corporations in the state providing for public facilities under this chapter.

(4) "Public facilities" means a project of a local government or a federally recognized Indian tribe for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of bridges, roads, domestic and industrial water, earth stabilization, sanitary sewer, storm sewer, railroad, electricity, telecommunications, transportation, natural gas, buildings or structures, and port facilities, all for the purpose of job creation, job retention, or job expansion.

(5) "Rural county" means a county with a population density of fewer than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles, as determined by the office of financial management and published each year by the department for the period July 1st to June 30th. [2009 c 565 § 35. Prior: 2008 c 327 § 2; 2008 c 131 § 1; 2004 c 252 § 1; 1999 c 164 § 102; 1997 c 367 § 8; 1996 c 51 § 2; 1995 c 226 § 14; prior: 1993 c 320 § 1; 1993 c 280 § 55; 1992 c 21 § 3; 1991 c 314 § 22; 1985 c 466 § 58; 1985 c 6 § 12; 1984 c 257 § 2; 1983 1st ex.s. c 60 § 1; 1982 1st ex.s. c 40 § 2.]

Effective date—2008 c 327 §§ 1, 2, 4-11, 17: See note following RCW 43.160.010.

Effective date—2008 c 131: "This act takes effect July 1, 2009." [2008 c 131 § 6.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Findings—1991 c 314: "The legislature finds that:

(1) Cutbacks in allowable sales of old growth timber in Washington state pose a substantial threat to the region and the state with massive layoffs, loss of personal income, and declines in state revenues;

(2) The timber impact areas are of critical significance to the state because of their leading role in the overall economic well-being of the state and their importance to the quality of life to all residents of Washington, and that these regions require a special state effort to diversify the local economy;

(3) There are key opportunities to broaden the economic base in the timber impact areas including agriculture, high-technology, tourism, and regional exports; and

(4) A coordinated state, local, and private sector effort offers the greatest potential to promote economic diversification and to provide support for new projects within the region.

The legislature further finds that if a special state effort does not take place the decline in allowable timber sales may result in a loss of six thousand logging and milling jobs; two hundred million dollars in direct wages and benefits; twelve thousand indirect jobs; and three hundred million dollars in indirect wages and benefits.

It is the intent of the legislature to develop comprehensive programs to provide diversified economic development and promote job creation and employment opportunities for the citizens of the timber impact areas." [1991 c 314 § 1.]

Additional notes found at www.leg.wa.gov

43.160.030 Community economic revitalization board—Members—Terms—Chair, vice-chair—Management services—Travel expenses—Vacancies—Removal.

(1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of one member from each of the two major caucuses of the house of representatives to be appointed by the speaker of the house and one member from each of the two major caucuses of the senate to be appointed by the president of the senate. The board shall also consist of

the following members appointed by the governor: A recognized private or public sector economist; one port district official; one county official; one city official; one representative of a federally recognized Indian tribe; one representative of the public; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chair. Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the governor. The members of the board shall elect one of their members to serve as vice-chair. The *director of community, trade, and economic development, the director of revenue, the commissioner of employment security, and the secretary of transportation shall serve as nonvoting advisory members of the board.

(3) Management services, including fiscal and contract services, shall be provided by the department to assist the board in implementing this chapter.

(4) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW.

(6) A member appointed by the governor may not be absent from more than fifty percent of the regularly scheduled meetings in any one calendar year. Any member who exceeds this absence limitation is deemed to have withdrawn from the office and may be replaced by the governor.

(7) A majority of members currently appointed constitutes a quorum. [2008 c 327 § 3; 2004 c 252 § 2; 2003 c 151 § 1; 1996 c 51 § 3; 1995 c 399 § 86; 1993 c 320 § 2. Prior: 1987 c 422 § 2; 1987 c 195 § 11; prior: 1985 c 446 § 2; 1985 c 6 § 13; prior: 1985 c 446 § 1; 1984 c 287 § 89; 1983 1st ex.s. c 60 § 2; 1982 1st ex.s. c 40 § 3.]

***Reviser's note:** The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

Effective date—2008 c 327 § 3: "Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 1, 2008]." [2008 c 327 § 19.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.160.035 Designees for board members. Each member of the house of representatives who is appointed to the community economic revitalization board under RCW 43.160.030 may designate another member from the house of representatives to take his or her place on the board for meetings at which the member will be absent, as long as the designated member belongs to the same caucus. The designee

shall have all powers to vote and participate in board deliberations as have the other board members. Each member of the senate who is appointed to the community economic revitalization board under RCW 43.160.030 may designate another member from the senate to take his or her place on the board for meetings at which the member will be absent, as long as the designated member belongs to the same caucus. The designee shall have all powers to vote and participate in board deliberations as have the other board members. Each agency head of an executive agency who is appointed to serve as a nonvoting advisory member of the community economic revitalization board under RCW 43.160.030 may designate an agency employee to take his or her place on the board for meetings at which the agency head will be absent. The designee will have all powers to participate in board deliberations as have the other board members but shall not have voting powers. [2003 c 151 § 2; 1993 c 320 § 3; 1987 c 422 § 3; 1985 c 446 § 4.]

43.160.040 Conflicts of interest—Code of ethics. In addition to other applicable provisions of law pertaining to conflicts of interest of public officials, no board member, appointive or otherwise, may participate in any decision on any board contract in which the board member has any interests, direct or indirect, with any firm, partnership, corporation, or association which would be the recipient of any aid under this chapter. In any instance where the participation occurs, the board shall void the transaction, and the involved member shall be subject to whatever further sanctions may be provided by law. The board shall frame and adopt a code of ethics for its members, which shall be designed to protect the state and its citizens from any unethical conduct by the board. [1982 1st ex.s. c 40 § 4.]

43.160.050 Powers of board. The board may:

- (1) Adopt bylaws for the regulation of its affairs and the conduct of its business.
- (2) Adopt an official seal and alter the seal at its pleasure.
- (3) Utilize the services of other governmental agencies.
- (4) Accept from any federal agency loans or grants for the planning or financing of any project and enter into an agreement with the agency respecting the loans or grants.
- (5) Conduct examinations and investigations and take testimony at public hearings of any matter material for its information that will assist in determinations related to the exercise of the board's lawful powers.
- (6) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter.
- (7) Enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of this chapter.
- (8) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter.
- (9) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter. [2008 c 327 § 4; 1996 c 51 § 4; 1987 c 422 § 4; 1982 1st ex.s. c 40 § 5.]

Effective date—2008 c 327 §§ 1, 2, 4-11, 17: See note following RCW 43.160.010.

(2010 Ed.)

Additional notes found at www.leg.wa.gov

43.160.060 Loans and grants to political subdivisions and federally recognized Indian tribes for public facilities authorized—Application—Requirements for financial assistance. The board is authorized to make direct loans to political subdivisions of the state and to federally recognized Indian tribes for the purposes of assisting the political subdivisions and federally recognized Indian tribes in financing the cost of public facilities, including development of land and improvements for public facilities, project-specific environmental, capital facilities, land use, permitting, feasibility, and marketing studies and plans; project design, site planning, and analysis; project debt and revenue impact analysis; as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or the federally recognized Indian tribe and the finding by the board that financial circumstances require grant assistance to enable the project to move forward. However, no more than twenty-five percent of all financial assistance approved by the board in any biennium may consist of grants to political subdivisions and federally recognized Indian tribes.

Application for funds shall be made in the form and manner as the board may prescribe. In making grants or loans the board shall conform to the following requirements:

- (1) The board shall not provide financial assistance:
 - (a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.
 - (b) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.
 - (c) For a project the primary purpose of which is to facilitate or promote gambling.
 - (d) For a project located outside the jurisdiction of the applicant political subdivision or federally recognized Indian tribe.
- (2) The board shall only provide financial assistance:
 - (a) For a project demonstrating convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made that:
 - (i) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board and is consistent with the state comprehensive economic development plan developed by the Washington economic development commission pursuant to chapter 43.162 RCW, once the plan is adopted; and
 - (ii) Will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities;
 - (b) For a project that cannot meet the requirement of (a) of this subsection but is a project that:
 - (i) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board and is consistent with the state comprehensive economic development plan developed by the Wash-

ington economic development commission pursuant to chapter 43.162 RCW, once the plan is adopted;

(ii) Is part of a local economic development plan consistent with applicable state planning requirements;

(iii) Can demonstrate project feasibility using standard economic principles; and

(iv) Is located in a rural community as defined by the board, or a rural county;

(c) For site-specific plans, studies, and analyses that address environmental impacts, capital facilities, land use, permitting, feasibility, marketing, project engineering, design, site planning, and project debt and revenue impacts, as grants not to exceed fifty thousand dollars.

(3) The board shall develop guidelines for local participation and allowable match and activities.

(4) An application must demonstrate local match and local participation, in accordance with guidelines developed by the board.

(5) An application must be approved by the political subdivision and supported by the local associate development organization or local workforce development council or approved by the governing body of the federally recognized Indian tribe.

(6) The board may allow de minimis general system improvements to be funded if they are critically linked to the viability of the project.

(7) An application must demonstrate convincing evidence that the median hourly wage of the private sector jobs created after the project is completed will exceed the county-wide median hourly wage.

(8) The board shall prioritize each proposed project according to:

(a) The relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed, but also giving consideration to the unemployment rate in the area in which the jobs would be located;

(b) The rate of return of the state's investment, including, but not limited to, the leveraging of private sector investment, anticipated job creation and retention, and expected increases in state and local tax revenues associated with the project;

(c) Whether the proposed project offers a health insurance plan for employees that includes an option for dependents of employees;

(d) Whether the public facility investment will increase existing capacity necessary to accommodate projected population and employment growth in a manner that supports infill and redevelopment of existing urban or industrial areas that are served by adequate public facilities. Projects should maximize the use of existing infrastructure and provide for adequate funding of necessary transportation improvements; and

(e) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007.

(9) A responsible official of the political subdivision or the federally recognized Indian tribe shall be present during board deliberations and provide information that the board requests.

Before any financial assistance application is approved, the political subdivision or the federally recognized Indian tribe seeking the assistance must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board. [2008 c 327 § 5; 2007 c 231 § 3; 2004 c 252 § 3. Prior: 2002 c 242 § 4; 2002 c 239 § 1; 1999 c 164 § 103; 1996 c 51 § 5; 1993 c 320 § 4; 1990 1st ex.s. c 17 § 73; 1989 c 431 § 62; 1987 c 422 § 5; 1985 c 446 § 3; 1983 1st ex.s. c 60 § 3; 1982 1st ex.s. c 40 § 6.]

Effective date—2008 c 327 §§ 1, 2, 4-11, 17: See note following RCW 43.160.010.

Findings—Recommendations—Reports encouraged—2007 c 231: See note following RCW 43.155.070.

Findings—Intent—2002 c 242: See note following RCW 43.84.092.

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Additional notes found at www.leg.wa.gov

43.160.070 Conditions. Public facilities financial assistance, when authorized by the board, is subject to the following conditions:

(1) The moneys in the public facilities construction loan revolving account shall be used solely to fulfill commitments arising from financial assistance authorized in this chapter. The total outstanding amount which the board shall dispense at any time pursuant to this section shall not exceed the moneys available from the account.

(2) On contracts made for public facilities loans the board shall determine the interest rate which loans shall bear. The interest rate shall not exceed ten percent per annum. The board may provide reasonable terms and conditions for repayment for loans, including partial forgiveness of loan principal and interest payments on projects located in rural communities as defined by the board, or rural counties. The loans shall not exceed twenty years in duration.

(3) Repayments of loans made from the public facilities construction loan revolving account under the contracts for public facilities construction loans shall be paid into the public facilities construction loan revolving account. Repayments of loans from moneys from the new appropriation from the public works assistance account for the fiscal biennium ending June 30, 1999, shall be paid into the public works assistance account.

(4) When every feasible effort has been made to provide loans and loans are not possible, the board may provide grants upon finding that unique circumstances exist. [2008 c 327 § 6; 1999 c 164 § 104; 1998 c 321 § 27 (Referendum Bill No. 49, approved November 3, 1998); 1997 c 235 § 721; 1996 c 51 § 6; 1990 1st ex.s. c 16 § 802; 1983 1st ex.s. c 60 § 4; 1982 1st ex.s. c 40 § 7.]

Effective date—2008 c 327 §§ 1, 2, 4-11, 17: See note following RCW 43.160.010.

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Purpose—Severability—1998 c 321: See notes following RCW 82.14.045.

Additional notes found at www.leg.wa.gov

43.160.074 Application—Request for improvements to existing highways—Procedures. (1) An application to the board from a political subdivision may also include a request for improvements to an existing state highway or highways. The application is subject to all of the applicable criteria relative to qualifying types of development set forth in this chapter, as well as procedures and criteria established by the board.

(2) Before board consideration of an application from a political subdivision that includes a request for improvements to an existing state highway or highways, the application shall be forwarded by the board to the department of transportation.

(3) The board may not make its final determination on any application made under subsection (1) of this section before receiving approval, as submitted or amended or disapproval from the department of transportation as specified in RCW 47.01.280. Notwithstanding its disposition of the remainder of any such application, the board may not approve a request for improvements to an existing state highway or highways without the approval as submitted or amended of the department of transportation as specified in RCW 47.01.280.

(4) The board shall notify the department of transportation of its decision regarding any application made under this section. [2008 c 327 § 7; 1985 c 433 § 5.]

Effective date—2008 c 327 §§ 1, 2, 4-11, 17: See note following RCW 43.160.010.

Additional notes found at www.leg.wa.gov

43.160.076 Financial assistance in rural counties. (1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance in a biennium under this chapter, the board shall approve at least seventy-five percent of the first twenty million dollars of funds available and at least fifty percent of any additional funds for financial assistance for projects in rural counties.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in rural counties are clearly insufficient to use up the allocations under subsection (1) of this section, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance to projects not located in rural counties. [2008 c 327 § 8. Prior: 1999 c 164 § 105; prior: 1998 c 321 § 28 (Referendum Bill No. 49, approved November 3, 1998); 1998 c 55 § 4; 1997 c 367 § 9; 1996 c 51 § 7; 1995 c 226 § 15; 1993 c 320 § 5; 1991 c 314 § 24; 1985 c 446 § 6.]

Effective date—2008 c 327 §§ 1, 2, 4-11, 17: See note following RCW 43.160.010.

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Purpose—Severability—1998 c 321: See notes following RCW 82.14.045.

Findings—1991 c 314: See note following RCW 43.160.020.

Additional notes found at www.leg.wa.gov

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43.160.077 Applications—Processing of recyclable materials—Department of ecology notice. (1) When the board receives an application from a political subdivision that includes a request for assistance in financing the cost of public facilities to encourage the development of a private facility to process recyclable materials, a copy of the application shall be sent by the board to the department of ecology.

(2) The board shall notify the department of ecology of its decision regarding any application made under this section. [1993 c 320 § 6; 1989 c 431 § 63.]

Additional notes found at www.leg.wa.gov

43.160.078 Board to familiarize government officials and public with chapter provisions. In order to enhance competition for grants and loans and the quality of projects for which loans and grants are sought, the board shall take such reasonable measures as are necessary to familiarize government officials and members of the public with the provisions of this chapter, particularly the board's authority to make grants and loans. [1985 c 446 § 5.]

43.160.080 Public facilities construction loan revolving account. There shall be a fund in the state treasury known as the public facilities construction loan revolving account, which shall consist of all moneys collected under this chapter and any moneys appropriated to it by law. Disbursements from the revolving account shall be on authorization of the board. In order to maintain an effective expenditure and revenue control, the public facilities construction loan revolving account shall be subject in all respects to chapter 43.88 RCW. During the 2009-2011 biennium, sums in the public facilities construction loan revolving account may be used for community economic revitalization board export assistance grants and loans in section 1018, chapter 36, Laws of 2010 1st sp. sess. and for matching funds for the federal energy regional innovation cluster in section 1017, chapter 36, Laws of 2010 1st sp. sess. [2010 1st sp.s. c 36 § 6011; 2008 c 327 § 11; 1998 c 321 § 30 (Referendum Bill No. 49, approved November 3, 1998); 1992 c 235 § 10; 1991 sp.s. c 13 § 115; 1987 c 422 § 6; 1984 c 257 § 12; 1983 1st ex.s. c 60 § 6; 1982 1st ex.s. c 40 § 8.]

Effective date—2010 1st sp.s. c 36: See note following RCW 43.155.050.

Effective date—2008 c 327 §§ 1, 2, 4-11, 17: See note following RCW 43.160.010.

Purpose—Severability—1998 c 321: See notes following RCW 82.14.045.

Additional notes found at www.leg.wa.gov

43.160.090 Records—Audits. The board and the department shall keep proper records of accounts and shall be subject to audit by the state auditor. [1996 c 51 § 8; 1987 c 505 § 42; 1982 1st ex.s. c 40 § 9.]

Additional notes found at www.leg.wa.gov

43.160.900 Community economic revitalization board—Evaluations of financial assistance—Reporting of evaluations. (1) The community economic revitalization board shall conduct biennial outcome-based evaluations of the financial assistance provided under this chapter. The evaluations shall include information on the number of appli-

cations for community economic revitalization board assistance; the number and types of projects approved; the grant or loan amount awarded each project; the projected number of jobs created or retained by each project; the actual number and cost of jobs created or retained by each project; the wages and health benefits associated with the jobs; the amount of state funds and total capital invested in projects; the number and types of businesses assisted by funded projects; the location of funded projects; the transportation infrastructure available for completed projects; the local match and local participation obtained; the number of delinquent loans; and the number of project terminations. The evaluations may also include additional performance measures and recommendations for programmatic changes.

(2)(a) By September 1st of each even-numbered year, the board shall forward its draft evaluation to the Washington state economic development commission for review and comment, as required in *section 10 of this act. The board shall provide any additional information as may be requested by the commission for the purpose of its review.

(b) Any written comments or recommendations provided by the commission as a result of its review shall be included in the board's completed evaluation. The evaluation must be presented to the governor and appropriate committees of the legislature by December 31st of each even-numbered year. The initial evaluation must be submitted by December 31, 2010. [2008 c 327 § 9; 1993 c 320 § 8; 1987 c 422 § 10; 1985 c 446 § 25; 1982 1st ex.s. c 40 § 10.]

*Reviser's note: Section 10 of this act was vetoed by the governor.

Effective date—2008 c 327 §§ 1, 2, 4-11, 17: See note following RCW 43.160.010.

Additional notes found at www.leg.wa.gov

43.160.901 Severability—1982 1st ex.s. c 40. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1982 1st ex.s. c 40 § 11.]

43.160.902 Captions not part of law—1984 c 257. As used in this act, captions constitute no part of the law. [1984 c 257 § 14.]

Chapter 43.162 RCW

ECONOMIC DEVELOPMENT COMMISSION

Sections

43.162.005	Findings—Intent.
43.162.010	Washington state economic development commission—Membership—Rules.
43.162.015	Executive director.
43.162.020	Duties—Biennial report.
43.162.025	Additional authority.
43.162.030	Authority of governor and department of community, trade, and economic development not affected.

43.162.005 Findings—Intent. The legislature finds that Washington's innovation and trade-driven economy has provided tremendous opportunities for citizens of the state, but that there is no guarantee that globally competitive firms will continue to grow and locate in the state. The current economic development system is fragmented among numerous

programs, councils, centers, and organizations with inadequate overall coordination and insufficient guidance built into the system to ensure that the system is responsive to its customers. The current economic development system's data-gathering and evaluation methods are inconsistent and unable to provide adequate information for determining how well the system is performing on a regular basis so the system may be held accountable for its outcomes.

The legislature also finds that developing a comprehensive economic development strategic plan to guide the operation of effective economic development programs, including workforce training, infrastructure development, small business assistance, technology transfer, and export assistance, is vital to the state's efforts to increase the competitiveness of state businesses, encourage employment growth, increase state revenues, and generate economic well-being. There is a need for responsive and consistent involvement of the private sector in the state's economic development efforts. The legislature finds that there is a need for the development of coordination criteria for business recruitment, expansion, and retention activities carried out by the state and local entities. It is the intent of the legislature to create an economic development commission that will provide planning, coordination, evaluation, monitoring, and policy analysis and development for the state economic development system as a whole, and advice to the governor and legislature concerning the state economic development system. [2007 c 232 § 1; 2003 c 235 § 1.]

43.162.010 Washington state economic development commission—Membership—Rules. (1) The Washington state economic development commission is established to oversee the economic development strategies and policies of the *department of community, trade, and economic development.

(2)(a) The Washington state economic development commission shall consist of eleven voting members appointed by the governor as follows: Six representatives of the private sector, one representative of labor, one representative of port districts, one representative of four-year state public higher education, one representative for state community or technical colleges, and one representative of associate development organizations. The director of the *department of community, trade, and economic development, the director of the workforce training and education coordinating board, the commissioner of the employment security department, and the chairs and ranking minority members of the standing committees of the house of representatives and the senate overseeing economic development policies shall serve as nonvoting ex officio members.

The chair of the commission shall be a voting member selected by the governor with the consent of the senate, and shall serve at the pleasure of the governor. In selecting the chair, the governor shall seek a person who understands the future economic needs of the state and nation and the role the state's economic development system has in meeting those needs.

(b) In making the appointments, the governor shall consult with organizations that have an interest in economic development, including, but not limited to, industry associations, labor organizations, minority business associations,

economic development councils, chambers of commerce, port associations, tribes, and the chairs of the legislative committees with jurisdiction over economic development.

(c) The members shall be representative of the geographic regions of the state, including eastern and central Washington, as well as represent the ethnic diversity of the state. Private sector members shall represent existing and emerging industries, small businesses, women-owned businesses, and minority-owned businesses. Members of the commission shall serve statewide interests while preserving their diverse perspectives, and shall be recognized leaders in their fields with demonstrated experience in economic development or disciplines related to economic development.

(3) Members appointed by the governor shall serve at the pleasure of the governor for three-year terms.

(4) The commission may establish committees as it desires, and may invite nonmembers of the commission to serve as committee members.

(5) The executive director of the commission shall be appointed by the governor with the consent of the voting members of the commission. The governor may dismiss the director only with the approval of a majority vote of the commission. The commission, by a majority vote, may dismiss the executive director with the approval of the governor.

(6) The commission may adopt rules for its own governance. [2007 c 232 § 2; 2003 c 235 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.162.015 Executive director. (1) The commission shall employ an executive director. The executive director shall serve as chief executive officer of the commission and shall administer the provisions of this chapter, employ such personnel as may be necessary to implement the purposes of this chapter, utilize staff of existing operating agencies to the fullest extent possible, and employ outside consulting and service agencies when appropriate.

(2) The executive director may not be the chair of the commission.

(3) The executive director shall appoint necessary staff who shall be exempt from the provisions of chapter 41.06 RCW. The executive director's appointees shall serve at the executive director's pleasure on such terms and conditions as the executive director determines but subject to chapter 42.52 RCW.

(4) The executive director shall appoint and employ such other employees as may be required for the proper discharge of the functions of the commission.

(5) The executive director shall exercise such additional powers, other than rule making, as may be delegated by the commission. [2007 c 232 § 3.]

43.162.020 Duties—Biennial report. The Washington state economic development commission shall:

(1) Concentrate its major efforts on planning, coordination, evaluation, policy analysis, and recommending improvements to the state's economic development system using, but not limited to, the "Next Washington" plan and the global competitiveness council recommendations;

(2) Develop and maintain on a biennial basis a state comprehensive plan for economic development, including but not

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limited to goals, objectives, and priorities for the state economic development system; identify the elements local associate development organizations must include in their countywide economic development plans; and review the state system for consistency with the state comprehensive plan. The plan shall include the industry clusters in the state and the strategic clusters targeted by the commission for economic development efforts. The commission shall consult with the workforce training and education coordinating board and include labor market and economic information by the employment security department in developing the list of clusters and strategic clusters that meet the criteria identified by the working group convened by the economic development commission and the workforce training and education coordinating board under chapter 43.330 RCW. In developing the state comprehensive plan for economic development, the commission shall use, but may not be limited to: Economic, labor market, and populations trend reports in office of financial management forecasts; the annual state economic climate report prepared by the economic climate council; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome evaluations; the needs of industry associations, industry clusters, businesses, and employees as evidenced in formal surveys and other input;

(3) Establish and maintain an inventory of the programs of the state economic development system and related state programs; perform a biennial assessment of the ongoing and strategic economic development needs of the state; and assess the extent to which the economic development system and related programs represent a consistent, coordinated, efficient, and integrated approach to meet such needs; and

(4) Produce a biennial report to the governor and the legislature on progress by the commission in coordinating the state's economic development system and meeting the other obligations of this chapter, as well as include recommendations for any statutory changes necessary to enhance operational efficiencies or improve coordination.

The commission may delegate to the executive director any of the functions of this section. [2009 c 151 § 9; 2007 c 232 § 4; 2003 c 235 § 3.]

43.162.025 Additional authority. Subject to available funds, the Washington state economic development commission may:

(1) Periodically review for consistency with the state comprehensive plan for economic development the policies and plans established for:

(a) Business and technical assistance by the small business development center, the Washington manufacturing service, the Washington technology center, associate development organizations, the *department of community, trade, and economic development, and the office of minority and women-owned business enterprises;

(b) Export assistance by the small business export finance assistance center, the international marketing program for agricultural commodities and trade, the department of agriculture, the center for international trade in forest products, associate development organizations, and the *department of community, trade, and economic development; and

(c) Infrastructure development by the *department of community, trade, and economic development and the department of transportation;

(2) Review and make recommendations to the office of financial management and the legislature on budget requests and legislative proposals relating to the state economic development system for purposes of consistency with the state comprehensive plan for economic development;

(3) Provide for coordination among the different agencies, organizations, and components of the state economic development system at the state level and at the regional level;

(4) Advocate for the state economic development system and for meeting the needs of industry associations, industry clusters, businesses, and employees;

(5) Identify partners and develop a plan to develop a consistent and reliable database on participation rates, costs, program activities, and outcomes from publicly funded economic development programs in this state by January 1, 2011.

(a) In coordination with the development of the database, the commission shall establish standards for data collection and maintenance for providers in the economic development system in a format that is accessible to use by the commission. The commission shall require a minimum of common core data to be collected by each entity providing economic development services with public funds and shall develop requirements for minimum common core data in consultation with the economic climate council, the office of financial management, and the providers of economic development services;

(b) The commission shall establish minimum common standards and metrics for program evaluation of economic development programs, and monitor such program evaluations; and

(c) The commission shall, beginning no later than January 1, 2012, periodically administer, based on a schedule established by the commission, scientifically based outcome evaluations of the state economic development system including, but not limited to, surveys of industry associations, industry cluster associations, and businesses served by publicly funded economic development programs; matches with employment security department payroll and wage files; and matches with department of revenue tax files; and

(6) Evaluate proposals for expenditure from the economic development strategic reserve account and recommend expenditures from the account.

The commission may delegate to the director any of the functions of this section. [2007 c 232 § 5.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.162.030 Authority of governor and department of community, trade, and economic development not affected. Creation of the Washington state economic development commission shall not be construed to modify any authority or budgetary responsibility of the governor or the *department of community, trade, and economic development. [2007 c 232 § 7; 2003 c 235 § 4.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Chapter 43.163 RCW ECONOMIC DEVELOPMENT FINANCE AUTHORITY

Sections

43.163.005	Purpose—Construction.
43.163.010	Definitions.
43.163.020	Economic development finance authority created—Membership.
43.163.030	Small businesses—Funding of export transactions.
43.163.040	Farmers—Advance financing, agriculture conservation reserve program.
43.163.050	Pooling of loans.
43.163.060	Scope of authority's powers—Duties of other agencies.
43.163.070	Use of funds.
43.163.080	General operating procedures.
43.163.090	Economic development finance objectives plan.
43.163.100	Powers of the authority.
43.163.110	Restrictions on authority's activity.
43.163.120	Staffing, restrictions—Authority not to receive appropriated state funds.
43.163.130	Nonrecourse revenue bonds—Issuance.
43.163.140	Nonrecourse revenue bonds—Contracts—Restrictions.
43.163.150	Nonrecourse revenue bonds—Financing documents, scope.
43.163.160	Nonrecourse revenue bonds—Money received shall be trust funds.
43.163.170	Nonrecourse revenue bonds—Owner and trustee, enforcement of rights.
43.163.180	Nonrecourse revenue bonds as legal investment.
43.163.190	Chapter as an alternative bond issuance method.
43.163.200	Construction.
43.163.210	Nonrecourse revenue bond financing—Economic development activities—New products.
43.163.901	Severability—1989 c 279.

Bonds to finance conservation measures: RCW 43.19.695.

Public records: Chapter 42.56 RCW.

43.163.005 Purpose—Construction. Economic development is essential to the health, safety, and welfare of all Washington citizens by broadening and strengthening state and local tax bases, providing meaningful employment opportunities and thereby enhancing the quality of life. Economic development increasingly is dependent upon the ability of small-sized and medium-sized businesses and farms to finance growth and trade activities. Many of these businesses face an unmet need for capital that limits their growth. These unmet capital needs are a problem in both urban and rural areas which cannot be solved by the private sector alone. There presently exist some federal programs, private credit enhancements and other financial tools to complement the private banking industry in providing this needed capital. More research is needed to develop effective strategies to enhance access to capital and thereby stimulate economic development.

It is the purpose of this chapter to establish a state economic development finance authority to act as a financial conduit that, without using state funds or lending the credit of the state or local governments, can issue nonrecourse revenue bonds, and participate in federal, state, and local economic development programs to help facilitate access to needed capital by Washington businesses that cannot otherwise readily obtain needed capital on terms and rates comparable to large corporations, and can help local governments obtain capital more efficiently. It is also a primary purpose of this chapter to encourage the employment and retention of Washington workers at meaningful wages and to develop innovative approaches to the problem of unmet capital needs. This chapter is enacted to accomplish these and related purposes

and shall be construed liberally to carry out its purposes and objectives. [1990 c 53 § 1; 1989 c 279 § 1.]

Findings—Purpose—1994 c 302: "The legislature finds that when public funds are used to support private enterprise, the public may gain through the creation of new jobs, the diversification of the economy, or higher quality jobs for existing workers. The legislature further finds that such returns on public investments are not automatic and that tax-based incentives, in particular, may result in a greater tax burden on businesses and individuals that are not eligible for the public support. It is the purpose of this *chapter to collect information sufficient to allow the legislature and the executive branch to make informed decisions about the merits of existing tax-based incentives and loan programs intended to encourage economic development in the state." [1994 c 302 § 1.]

***Reviser's note:** 1994 c 302 § 2 was vetoed by the governor. 1994 c 302 § 3 is a codification direction and 1994 c 302 § 4 is an emergency clause. The code reviser's office chose not to create a new chapter for the only remaining section, section 1.

43.163.010 Definitions. As used in this chapter, the following words and terms have the following meanings, unless the context requires otherwise:

(1) "Authority" means the Washington economic development finance authority created under RCW 43.163.020 or any board, body, commission, department or officer succeeding to the principal functions of the authority or to whom the powers conferred upon the authority shall be given by law;

(2) "Bonds" means any bonds, notes, debentures, interim certificates, conditional sales or lease financing agreements, lines of credit, forward purchase agreements, investment agreements, and other banking or financial arrangements, guaranties, or other obligations issued by or entered into by the authority. Such bonds may be issued on either a tax-exempt or taxable basis;

(3) "Borrower" means one or more public or private persons or entities acting as lessee, purchaser, mortgagor, or borrower who has obtained or is seeking to obtain financing either from the authority or from an eligible banking organization that has obtained or is seeking to obtain funds from the authority to finance a project. A borrower may include a party who transfers the right of use and occupancy to another party by lease, sublease or otherwise, or a party who is seeking or has obtained a financial guaranty from the authority;

(4) "Eligible banking organization" means any organization subject to regulation by the director of the department of financial institutions, any national bank, federal savings and loan association, and federal credit union located within this state;

(5) "Eligible export transaction" means any preexport or export activity by a person or entity located in the state of Washington involving a sale for export and product sale which, in the judgment of the authority: (a) Will create or maintain employment in the state of Washington, (b) will obtain a material percent of its value from manufactured goods or services made, processed or occurring in Washington, and (c) could not otherwise obtain financing on reasonable terms from an eligible banking organization;

(6) "Eligible farmer" means any person who is a resident of the state of Washington and whose specific acreage qualifying for receipts from the federal department of agriculture under its conservation reserve program is within the state of Washington;

(7) "Eligible person" means an individual, partnership, corporation, or joint venture carrying on business, or propos-

ing to carry on business within the state and is seeking financial assistance under RCW 43.163.210;

(8) "Financial assistance" means the infusion of capital to persons for use in the development and exploitation of specific inventions and products;

(9) "Financing document" means an instrument executed by the authority and one or more persons or entities pertaining to the issuance of or security for bonds, or the application of the proceeds of bonds or other funds of, or payable to, the authority. A financing document may include, but need not be limited to, a lease, installment sale agreement, conditional sale agreement, mortgage, loan agreement, trust agreement or indenture, security agreement, letter or line of credit, reimbursement agreement, insurance policy, guaranty agreement, or currency or interest rate swap agreement. A financing document also may be an agreement between the authority and an eligible banking organization which has agreed to make a loan to a borrower;

(10) "Plan" means the general plan of economic development finance objectives developed and adopted by the authority, and updated from time to time, as required under RCW 43.163.090;

(11) "Economic development activities" means activities related to: Manufacturing, processing, research, production, assembly, tooling, warehousing, airports, docks and wharves, mass commuting facilities, high-speed intercity rail facilities, public broadcasting, pollution control, solid waste disposal, federally qualified hazardous waste facilities, energy generating, conservation, or transmission facilities, and sports facilities and industrial parks and activities conducted within a federally designated enterprise or empowerment zone or geographic area of similar nature;

(12) "Project costs" means costs of:

(a) Acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of land, rights to land, buildings, structures, docks, wharves, fixtures, machinery, equipment, excavations, paving, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities, and any other real or personal property included in an economic development activity;

(b) Architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of an activity included under subsection (11) of this section, including costs of studies assessing the feasibility of an economic development activity;

(c) Finance costs, including the costs of credit enhancement and discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any financing document;

(d) Start-up costs, working capital, capitalized research and development costs, capitalized interest during construction and during the eighteen months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves;

(e) The refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and

(f) Other costs incidental to any of the costs listed in this section;

(13) "Product" means a product, device, technique, or process that is or may be exploitable commercially. "Product" does not refer to pure research, but shall be construed to apply to products, devices, techniques, or processes that have advanced beyond the theoretic stage and are readily capable of being, or have been, reduced to practice;

(14) "Financing agreements" means, and includes without limitation, a contractual arrangement with an eligible person whereby the authority obtains rights from or in an invention or product or proceeds from an invention or product in exchange for the granting of financial and other assistance to the person. [1999 c 294 § 1. Prior: 1994 c 238 § 1; 1994 c 92 § 498; 1989 c 279 § 2.]

Additional notes found at www.leg.wa.gov

43.163.020 Economic development finance authority created—Membership. The Washington economic development finance authority is established as a public body corporate and politic, with perpetual corporate succession, constituting an instrumentality of the state of Washington exercising essential governmental functions. The authority is a public body within the meaning of RCW 39.53.010.

The authority shall consist of eighteen [seventeen] members as follows: The director of the *department of community, trade, and economic development, the director of the department of agriculture, the state treasurer, one member from each caucus in the house of representatives appointed by the speaker of the house, one member from each caucus in the senate appointed by the president of the senate, and ten public members with one representative of women-owned businesses and one representative of minority-owned businesses and with at least three of the members residing east of the Cascades. The public members shall be residents of the state appointed by the governor on the basis of their interest or expertise in trade, agriculture or business finance or jobs creation and development. One of the public members shall be appointed by the governor as chair of the authority and shall serve as chair of the authority at the pleasure of the governor. The authority may select from its membership such other officers as it deems appropriate.

The term of the persons appointed by the governor as public members of the authority, including the public member appointed as chair, shall be four years from the date of appointment, except that the term of three of the initial appointees shall be for two years from the date of appointment and the term of four of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms.

In the event of a vacancy on the authority due to death, resignation or removal of one of the public members, or upon the expiration of the term of one of the public members, the governor shall appoint a successor for the remainder of the unexpired term. If either of the state offices is abolished, the resulting vacancy on the authority shall be filled by the state officer who shall succeed substantially to the power and duties of the abolished office.

Any public member of the authority may be removed by the governor for misfeasance, malfeasance or willful neglect of duty after notice and a public hearing, unless such notice

and hearing shall be expressly waived in writing by the affected public member.

The state officials serving in ex officio capacity may each designate an employee of their respective departments to act on their behalf in all respects with regard to any matter to come before the authority. Such designations shall be made in writing in such manner as is specified by the rules of the authority.

The members of the authority shall serve without compensation but shall be entitled to reimbursement, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter. The authority may borrow funds from the department for the purpose of reimbursing members for expenses; however, the authority shall repay the department as soon as practicable.

A majority of the authority shall constitute a quorum. [1995 c 399 § 89; 1990 c 53 § 2; 1989 c 279 § 3.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.163.030 Small businesses—Funding of export transactions. (1) The authority, in cooperation with the small business export finance assistance center and other export assistance entities, is authorized to develop and conduct a program or programs to provide for the funding of export transactions for small businesses which are unable to obtain funding from private commercial lenders.

(2) The authority is authorized to secure or provide guaranties or insurance for loans and otherwise to provide for loans for any eligible export transaction. Loans may be made either directly by the authority or through an eligible banking organization. For such purpose, the authority may use funds legally available to it to provide for insurance or to guarantee eligible export transactions for which guaranteed funding has been provided.

(3) The authority shall make every effort to cause guaranties or insurance to be provided from the export-import bank of the United States, the foreign credit insurance association, the small business administration or such other similar or succeeding federal or private programs whose financial performance in the guarantee or insurance of export transactions is sound and recognized in the financial community. The maximum amount payable under any guaranty shall be specifically set forth in writing at the time any such guaranteed funding is entered into by the authority.

(4) Prior to providing or securing a guarantee of funding or otherwise providing for a loan for any eligible export transaction hereunder, the authority shall obtain assurance that there has been made an investigation of the credit of the exporter in order to determine its viability, the economic benefits to be derived from the eligible export transaction, the prospects for repayment, and such other facts as it deems necessary in order to determine that such guaranteed funding is consistent with the purposes of this chapter. [1989 c 279 § 4.]

Small business export finance assistance center: Chapter 43.210 RCW.

43.163.040 Farmers—Advance financing, agriculture conservation reserve program. To provide capital for economic development purposes, the authority is authorized to develop and conduct a program or programs to provide advance financing to eligible farmers in respect of the con-

tract payments due to them under the federal department of agriculture conservation reserve program. Such advance financing may be provided in the form of lease, sale, loan or other similar financing transactions. [1989 c 279 § 5.]

43.163.050 Pooling of loans. The authority is authorized to develop and conduct a program or programs to promote small business and agricultural financing in the state through the pooling of loans or portions of loans made or guaranteed through programs administered by federal agencies including the small business or farmers home administrations. For such purpose, the authority may acquire from eligible banking organizations and other financial intermediaries who make or hold loans made or guaranteed through programs administered by the federal small business or farmers home administrations all or portions of such loans, and the authority may contract or coordinate with parties authorized to acquire or pool loans made or guaranteed by a federal agency or with parties authorized to administer such loan or guarantee programs. [1990 c 53 § 3; 1989 c 279 § 6.]

43.163.060 Scope of authority's powers—Duties of other agencies. (1) The authority is authorized to participate fully in federal and other governmental economic development finance programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and to meet their requirements.

(2) The authority shall coordinate its programs with those contributing to a common purpose found elsewhere in the departments of *community, trade, and economic development, agriculture or employment security, or any other department or organization of, or affiliated with, the state or federal government, and shall avoid any duplication of such activities or programs provided elsewhere. The departments of *community, trade, and economic development, agriculture, employment security and other relevant state agencies shall provide to the authority all reports prepared in the course of their ongoing activities which may assist in the identification of unmet capital financing needs by small-sized and medium-sized businesses in the state. [1995 c 399 § 90; 1989 c 279 § 7.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.163.070 Use of funds. The authority may use any funds legally available to it for any purpose specifically authorized by this chapter, or for otherwise improving economic development in this state by assisting businesses and farm enterprises that do not have access to capital at terms and rates comparable to large corporations due to the location of the business, the size of the business, the lack of financial expertise, or other appropriate reasons: PROVIDED, That no funds of the state shall be used for such purposes. [1990 c 53 § 4; 1989 c 279 § 8.]

43.163.080 General operating procedures. (1) The authority shall adopt general operating procedures for the authority. The authority shall also adopt operating procedures for individual programs as they are developed for obtaining

funds and for providing funds to borrowers. These operating procedures shall be adopted by resolution prior to the authority operating the applicable programs.

(2) The operating procedures shall include, but are not limited to: (a) Appropriate minimum reserve requirements to secure the authority's bonds and other obligations; (b) appropriate standards for securing loans and other financing the authority provides to borrowers, such as guarantees or collateral; and (c) strict standards for providing financing to borrowers, such as (i) the borrower is a responsible party with a high probability of being able to repay the financing provided by the authority, (ii) the financing is reasonably expected to provide economic growth or stability in the state by enabling a borrower to increase or maintain jobs or capital in the state, (iii) the borrowers with the greatest needs or that provide the most public benefit are given higher priority by the authority, and (iv) the financing is consistent with any plan adopted by the authority under RCW 43.163.090. [1994 c 238 § 2; 1990 c 53 § 5; 1989 c 279 § 9.]

Additional notes found at www.leg.wa.gov

43.163.090 Economic development finance objectives plan. The authority shall adopt a general plan of economic development finance objectives to be implemented by the authority during the period of the plan. The authority may exercise the powers authorized under this chapter prior to the adoption of the initial plan. In developing the plan, the authority shall consider and set objectives for:

(1) Employment generation associated with the authority's programs;

(2) The application of funds to sectors and regions of the state economy evidencing need for improved access to capital markets and funding resources;

(3) Geographic distribution of funds and programs available through the authority;

(4) Eligibility criteria for participants in authority programs;

(5) The use of funds and resources available from or through federal, state, local, and private sources and programs;

(6) Standards for economic viability and growth opportunities of participants in authority programs;

(7) New programs which serve a targeted need for financing assistance within the purposes of this chapter; and

(8) Opportunities to improve capital access as evidenced by programs existent in other states or as they are made possible by results of private capital market circumstances.

The authority shall, as part of the finance plan required under this section, develop an outreach and marketing plan designed to increase its financial services to rural counties. As used in this section, "rural counties" means counties smaller than two hundred twenty-five square miles or as defined in RCW 43.168.020.

At least one public hearing shall be conducted by the authority on the plan prior to its adoption. The plan shall be adopted by resolution of the authority no later than November 15, 1990. The authority may periodically update the plan as determined necessary by the authority. The plan or updated plan shall include a report on authority activities conducted since the commencement of authority operation or

since the last plan was reported, whichever is more recent, including a statement of results achieved under the purposes of this chapter and the plan. Upon adoption, the authority shall conduct its programs in observance of the objectives established in the plan. [2001 c 304 § 1; 1998 c 245 § 50; 1997 c 257 § 1; 1989 c 279 § 10.]

Effective date—2001 c 304: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 14, 2001]." [2001 c 304 § 4.]

43.163.100 Powers of the authority. In addition to accomplishing the economic development finance programs specifically authorized in this chapter, the authority may:

- (1) Maintain an office or offices;
- (2) Sue and be sued in its own name, and plead and be impleaded;
- (3) Engage consultants, agents, attorneys, and advisers, contract with federal, state, and local governmental entities for services, and hire such employees, agents and other personnel as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (4) Make and execute all manner of contracts, agreements and instruments and financing documents with public and private parties as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (5) Acquire and hold real or personal property, or any interest therein, in the name of the authority, and to sell, assign, lease, encumber, mortgage, or otherwise dispose of the same in such manner as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (6) Open and maintain accounts in qualified public depositories and otherwise provide for the investment of any funds not required for immediate disbursement, and provide for the selection of investments;
- (7) Appear in its own behalf before boards, commissions, departments, or agencies of federal, state, or local government;
- (8) Procure such insurance in such amounts and from such insurers as the authority deems desirable, including, but not limited to, insurance against any loss or damage to its property or other assets, public liability insurance for injuries to persons or property, and directors and officers liability insurance;
- (9) Apply for and accept subventions, grants, loans, advances, and contributions from any source of money, property, labor, or other things of value, to be held, used and applied as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (10) Establish guidelines for the participation by eligible banking organizations in programs conducted by the authority under this chapter;
- (11) Act as an agent, by agreement, for federal, state, or local governmental entities to carry out the programs authorized in this chapter;
- (12) Establish, revise, and collect such fees and charges as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (13) Make such expenditures as are appropriate for paying the administrative costs and expenses of the authority in carrying out the provisions of this chapter: PROVIDED,

That expenditures with respect to the economic development financing programs of the authority shall not be made from funds of the state;

(14) Establish such reserves and special funds, and controls on deposits to and disbursements from them, as the authority deems necessary, useful, or convenient to accomplish its purposes;

(15) Give assistance to public bodies by providing information, guidelines, forms, and procedures for implementing their financing programs;

(16) Prepare, publish and distribute, with or without charge, such studies, reports, bulletins, and other material as the authority deems necessary, useful, or convenient to accomplish its purposes;

(17) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(18) Adopt rules concerning its exercise of the powers authorized by this chapter; and

(19) Exercise any other power the authority deems necessary, useful, or convenient to accomplish its purposes and exercise the powers expressly granted in this chapter. [1990 c 53 § 6; 1989 c 279 § 11.]

Bonds to finance conservation measures: RCW 43.19.695.

43.163.110 Restrictions on authority's activity. Notwithstanding any other provision of this chapter, the authority shall not:

- (1) Give any state money or property or loan any state money or credit to or in aid of any individual, association, company, or corporation, or become directly or indirectly the owner of any stock in or bonds of any association, company, or corporation;
- (2) Issue bills of credit or accept deposits of money for time or demand deposit, administer trusts, engage in any form or manner in, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings and loan association other than as provided in this chapter;
- (3) Be or constitute a bank or trust company within the jurisdiction or under the control of the director of financial institutions, the comptroller of the currency of the United States of America or the treasury department thereof;
- (4) Be or constitute a bank, broker or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange or securities dealers' law of the United States of America or the state;
- (5) Engage in the financing of housing as provided for in chapter 43.180 RCW;
- (6) Engage in the financing of health care facilities as provided for in chapter 70.37 RCW; or
- (7) Engage in financing higher education facilities as provided for in chapter 28B.07 RCW. [1994 c 92 § 499; 1989 c 279 § 12.]

43.163.120 Staffing, restrictions—Authority not to receive appropriated state funds. The authority shall receive no appropriation of state funds. The *department of community, trade, and economic development shall provide staff to the authority, to the extent permitted by law, to enable the authority to accomplish its purposes; the staff from the *department of community, trade, and economic develop-

ment may assist the authority in organizing itself and in designing programs, but shall not be involved in the issuance of bonds or in making credit decisions regarding financing provided to borrowers by the authority. [1998 c 245 § 51; 1994 c 238 § 3; 1989 c 279 § 13.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.163.130 Nonrecourse revenue bonds—Issuance.

(1) The authority may issue its nonrecourse revenue bonds in order to obtain the funds to carry out the programs authorized in this chapter. The bonds shall be special obligations of the authority, payable solely out of the special fund or funds established by the authority for their repayment.

(2) Any bonds issued under this chapter may be secured by a financing document between the authority and the purchasers or owners of such bonds or between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state.

(a) The financing document may pledge or assign, in whole or in part, the revenues and funds held or to be received by the authority, any present or future contract or other rights to receive the same, and the proceeds thereof.

(b) The financing document may contain such provisions for protecting and enforcing the rights, security, and remedies of bondowners as may be reasonable and proper, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event of default which may include the acceleration of maturities, restrictions on the individual rights of action by bondowners, and covenants setting forth duties of and limitations on the authority in conduct of its programs and the management of its property.

(c) In addition to other security provided in this chapter or otherwise by law, bonds issued by the authority may be secured, in whole or in part, by financial guaranties, by insurance or by letters of credit issued to the authority or a trustee or any other person, by any bank, trust company, insurance or surety company or other financial institution, within or without the state. The authority may pledge or assign, in whole or in part, the revenues and funds held or to be received by the authority, any present or future contract or other rights to receive the same, and the proceeds thereof, as security for such guaranties or insurance or for the reimbursement by the authority to any issuer of such letter of credit of any payments made under such letter of credit.

(3) Without limiting the powers of the authority contained in this chapter, in connection with each issue of its obligation bonds, the authority shall create and establish one or more special funds, including, but not limited to debt service and sinking funds, reserve funds, project funds, and such other special funds as the authority deems necessary, useful, or convenient.

(4) Any security interest created against the unexpended bond proceeds and against the special funds created by the authority shall be immediately valid and binding against the money and any securities in which the money may be invested without authority or trustee possession. The security interest shall be prior to any party having any competing

claim against the moneys or securities, without filing or recording under Article 9A of the Uniform Commercial Code, Title 62A RCW, and regardless of whether the party has notice of the security interest.

(5) The bonds may be issued as serial bonds, term bonds or any other type of bond instrument consistent with the provisions of this chapter. The bonds shall bear such date or dates; mature at such time or times; bear interest at such rate or rates, either fixed or variable; be payable at such time or times; be in such denominations; be in such form; bear such privileges of transferability, exchangeability, and interchangeability; be subject to such terms of redemption; and be sold at public or private sale, in such manner, at such time or times, and at such price or prices as the authority shall determine. The bonds shall be executed by the manual or facsimile signatures of the authority's chair and either its secretary or executive director, and may be authenticated by the trustee (if the authority determines to use a trustee) or any registrar which may be designated for the bonds by the authority.

(6) Bonds may be issued by the authority to refund other outstanding authority bonds, at or prior to maturity of, and to pay any redemption premium on, the outstanding bonds. Bonds issued for refunding purposes may be combined with bonds issued for the financing or refinancing of new projects. Pending the application of the proceeds of the refunding bonds to the redemption of the bonds to be redeemed, the authority may enter into an agreement or agreements with a corporate trustee regarding the interim investment of the proceeds and the application of the proceeds and the earnings on the proceeds to the payment of the principal of and interest on, and the redemption of, the bonds to be redeemed.

(7) The bonds of the authority may be negotiable instruments under Title 62A RCW.

(8) Neither the members of the authority, nor its employees or agents, nor any person executing the bonds shall be personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance of the bonds.

(9) The authority may purchase its bonds with any of its funds available for the purchase. The authority may hold, pledge, cancel or resell the bonds subject to and in accordance with agreements with bondowners.

(10) The authority shall not exceed one billion dollars in total outstanding debt at any time.

(11) The state finance committee shall be notified in advance of the issuance of bonds by the authority in order to promote the orderly offering of obligations in the financial markets. [2005 c 137 § 1. Prior: 2001 c 304 § 2; 2001 c 32 § 2; 1998 c 48 § 1; 1994 c 238 § 5; 1989 c 279 § 14.]

Effective date—2001 c 304: See note following RCW 43.163.090.

Effective date—2001 c 32: See note following RCW 62A.9A-102.

Bonds to finance conservation measures: RCW 43.19.695.

Additional notes found at www.leg.wa.gov

43.163.140 Nonrecourse revenue bonds—Contracts—Restrictions. (1) Bonds issued by the authority under this chapter shall not be deemed to constitute obligations, either general, special or moral, of the state or of any political subdivision of the state, or pledge of the faith and credit of the state or of any political subdivision, or general

obligations of the authority. The bonds shall be special obligations of the authority and shall be payable solely from the special fund or funds created by the authority for their repayment. The issuance of bonds under this chapter shall not obligate, directly, indirectly, or contingently, the state or any political subdivision of the state to levy any taxes or appropriate or expend any funds for the payment of the principal or the interest on the bonds. The substance of the limitations included in this paragraph shall be plainly printed, written, engraved, or reproduced on each bond and in any disclosure document prepared in conjunction with the offer and sale of bonds.

(2) Neither the proceeds of bonds issued under this chapter nor any money used or to be used to pay the principal of, premium, if any, or interest on the bonds shall constitute public money or property. All of such money shall be kept segregated and set apart from funds of the state and any political subdivision of the state and shall not be subject to appropriation or allotment by the state or subject to the provisions of chapter 43.88 RCW.

(3) Contracts entered into by the authority shall be entered into in the name of the authority and not in the name of the state. The obligations of the authority under such contracts shall be obligations only of the authority and shall not, in any way, constitute obligations of the state. [1989 c 279 § 15.]

43.163.150 Nonrecourse revenue bonds—Financing documents, scope. The authority may enter into financing documents with borrowers regarding bonds issued by the authority that may provide for the payment by each borrower of amounts sufficient, together with other revenues available to the authority, if any, to: (1) Pay the borrower's share of the fees established by the authority; (2) pay the principal of, premium, if any, and interest on outstanding bonds of the authority issued in respect of such borrower as the same shall become due and payable; and (3) create and maintain reserves required or provided for by the authority in connection with the issuance of such bonds. The payments shall not be subject to supervision or regulation by any department, committee, board, body, bureau, or agency of the state other than the authority. [1989 c 279 § 16.]

43.163.160 Nonrecourse revenue bonds—Money received shall be trust funds. All money received by or on behalf of the authority with respect to this issuance of its bonds shall be trust funds to be held and applied solely as provided in this chapter. The authority, in lieu of receiving and applying the moneys itself, may enter into trust agreement or indenture with one or more banks or trust companies having the power and authority to conduct trust business in the state to:

(1) Perform all of any part of the obligations of the authority with respect to: (a) Bonds issued by it; (b) the receipt, investment and application of the proceeds of the bonds and money paid by a participant or available from other sources for the payment of the bonds; (c) the enforcement of the obligations of a borrower in connection with the financing or refinancing of any project; and (d) other matters

relating to the exercise of the authority's powers under this chapter;

(2) Receive, hold, preserve, and enforce any security interest or evidence of security interest granted by a participant for purposes of securing the payment of the bonds; and

(3) Act on behalf of the authority or the owners of bonds of the authority for purposes of assuring or enforcing the payment of the bonds, when due. [1989 c 279 § 17.]

43.163.170 Nonrecourse revenue bonds—Owner and trustee, enforcement of rights. Any owner of bonds of the authority issued under this chapter, and the trustee under any trust agreement or indenture, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any of their respective rights, and may become the purchaser at any foreclosure sale if the person is the highest bidder, except to the extent the rights given are restricted by the authority in any bond resolution or trust agreement or indenture authorizing the issuance of the bonds. [1989 c 279 § 18.]

43.163.180 Nonrecourse revenue bonds as legal investment. The bonds or [of] the authority are securities in which all public officers and bodies of this state and all counties, cities, municipal corporations and political subdivisions, all banks, eligible banking organizations, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control. [1989 c 279 § 19.]

43.163.190 Chapter as an alternative bond issuance method. This chapter provides a complete, additional and alternative method for accomplishing the purposes of this chapter and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds. [1989 c 279 § 20.]

43.163.200 Construction. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, or parts thereof, the provisions of this chapter are controlling. [1989 c 279 § 21.]

43.163.210 Nonrecourse revenue bond financing—Economic development activities—New products. For the purpose of facilitating economic development in the state of Washington and encouraging the employment of Washington workers at meaningful wages:

(1) The authority may develop and conduct a program or programs to provide nonrecourse revenue bond financing for the project costs for economic development activities.

(2) The authority may develop and conduct a program that will stimulate and encourage the development of new products within Washington state by the infusion of financial aid for invention and innovation in situations in which the financial aid would not otherwise be reasonably available

from commercial sources. The authority is authorized to provide nonrecourse revenue bond financing for this program.

(a) For the purposes of this program, the authority shall have the following powers and duties:

(i) To enter into financing agreements with eligible persons doing business in Washington state, upon terms and on conditions consistent with the purposes of this chapter, for the advancement of financial and other assistance to the persons for the development of specific products, procedures, and techniques, to be developed and produced in this state, and to condition the agreements upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in this state and accrue to it;

(ii) Own, possess, and take license in patents, copyrights, and proprietary processes and negotiate and enter into contracts and establish charges for the use of the patents, copyrights, and proprietary processes when the patents and licenses for products result from assistance provided by the authority;

(iii) Negotiate royalty payments to the authority on patents and licenses for products arising as a result of assistance provided by the authority;

(iv) Negotiate and enter into other types of contracts with eligible persons that assure that public benefits will result from the provision of services by the authority; provided that the contracts are consistent with the state Constitution;

(v) Encourage and provide technical assistance to eligible persons in the process of developing new products;

(vi) Refer eligible persons to researchers or laboratories for the purpose of testing and evaluating new products, processes, or innovations; and

(vii) To the extent permitted under its contract with eligible persons, to consent to a termination, modification, forgiveness, or other change of a term of a contractual right, payment, royalty, contract, or agreement of any kind to which the authority is a party.

(b) Eligible persons seeking financial and other assistance under this program shall forward an application, together with an application fee prescribed by rule, to the authority. An investigation and report concerning the advisability of approving an application for assistance shall be completed by the staff of the authority. The investigation and report may include, but is not limited to, facts about the company under consideration as its history, wage standards, job opportunities, stability of employment, past and present financial condition and structure, pro forma income statements, present and future markets and prospects, integrity of management as well as the feasibility of the proposed product and invention to be granted financial aid, including the state of development of the product as well as the likelihood of its commercial feasibility. After receipt and consideration of the report set out in this subsection and after other action as is deemed appropriate, the application shall be approved or denied by the authority. The applicant shall be promptly notified of action by the authority. In making the decision as to approval or denial of an application, priority shall be given to those persons operating or planning to operate businesses of special importance to Washington's economy, including, but not limited to: (i) Existing resource-based industries of agriculture, forestry, and fisheries; (ii) existing advanced technology industries of electronics, computer and instru-

ment manufacturing, computer software, and information and design; and (iii) emerging industries such as environmental technology, biotechnology, biomedical sciences, materials sciences, and optics.

(3) The authority may also develop and implement, if authorized by the legislature, such other economic development financing programs adopted in future general plans of economic development finance objectives developed under RCW 43.163.090. [2005 c 137 § 2; 2001 c 304 § 3; 1998 c 48 § 2; 1997 c 257 § 2; 1996 c 310 § 1; 1994 c 238 § 4.]

Effective date—2001 c 304: See note following RCW 43.163.090.

Additional notes found at www.leg.wa.gov

43.163.901 Severability—1989 c 279. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 c 279 § 26.]

Chapter 43.167 RCW

COMMUNITY PRESERVATION AND DEVELOPMENT AUTHORITIES

Sections

43.167.010	Community preservation and development authorities—Formation—Board of directors.
43.167.020	Powers of authorities—Limitations.
43.167.030	Duties of authorities.
43.167.040	Community preservation and development authority account.
43.167.050	Role of state and local government agencies.
43.167.060	Pioneer Square-International District community preservation and development authority.
43.167.900	Severability—2007 c 501.

43.167.010 Community preservation and development authorities—Formation—Board of directors. (1) The residents, property owners, employees, or business owners of an impacted community may propose formation of a community preservation and development authority. The proposal to form a community preservation and development authority must be presented in writing to the appropriate legislative committee in both the house of representatives and the senate. The proposal must contain proposed general geographic boundaries that will be used to define the community for the purposes of the authority. Proposals presented after January 1, 2008, must identify in its proposal one or more stable revenue sources that (a) have a nexus with the multiple publicly funded facilities that have adversely impacted the community, and (b) can be used to support future operating or capital projects that will be identified in the strategic plan required under RCW 43.167.030.

(2) Formation of the community preservation and development authority is subject to legislative authorization by statute. The legislature must find that (a) the area within the proposal's geographic boundaries meets the definition of "impacted community" contained in *section 2(4) of this act and (b) those persons that have brought forth the proposal are members of the community as defined in *section 2(1) of this act and, if the authority were approved, would meet the definition of constituency contained in *section 2(3) of this act. For proposals brought after January 1, 2008, the legislature must also find that the community has identified one or more

stable revenue sources as required in subsection (1) of this section. The legislature may then act to authorize the establishment of the community preservation and development authority in law.

(3) The affairs of a community preservation and development authority shall be managed by a board of directors, consisting of the following members:

(a) Two members who own, operate, or represent businesses within the community;

(b) Two members who reside in the community;

(c) Two members who are involved in providing non-profit community or social services within the community;

(d) Two members who are involved in the arts and entertainment within the community;

(e) Two members with knowledge of the community's culture and history;

(f) One member who is involved in a nonprofit or public planning organization that directly serves the impacted community; and

(g) Two representatives of the local legislative authority or authorities, as ex officio members.

(4) No member of the board shall hold office for more than four years. Board positions shall be numbered one through nine, and the terms staggered as follows:

(a) Board members elected to positions one through five shall serve two-year terms, and if reelected, may serve no more than one additional two-year term.

(b) Board members initially elected to positions six through thirteen shall serve a three-year term only.

(c) Board members elected to positions six through thirteen after the initial three-year term shall serve two-year terms, and if reelected, may serve no more than one additional two-year term.

(5) With respect to an authority's initial board of directors: The state legislative delegation and those proposing formation of the authority shall jointly establish a committee to develop a list of candidates to stand for election once the authority has received legislative approval as established in subsection (2) of this section. For the purpose of developing the list and identifying those persons who meet the criteria in subsection (3)(a) through (e) of this section, community shall mean the proposed geographic boundaries as set out in the proposal. The board of directors shall be elected by the constituency during a meeting convened for that purpose by the state legislative delegation.

(6) With respect to subsequent elections of an authority's board of directors: A list of candidates shall be developed by the authority's existing board of directors and the election shall be held during the annual local town hall meeting as required in RCW 43.167.030. [2009 c 516 § 1; 2007 c 501 § 3.]

*Reviser's note: Section 2 of this act was vetoed by the governor.

43.167.020 Powers of authorities—Limitations. (1) A community preservation and development authority shall have the power to:

(a) Accept gifts, grants, loans, or other aid from public or private entities;

(b) Employ and appoint such agents, attorneys, officers, and employees as may be necessary to implement the purposes and duties of an authority;

(c) Contract and enter into partnerships with individuals, associations, corporations, and local, state, and federal governments;

(d) Buy, own, lease, and sell real and personal property;

(e) Hold in trust, improve, and develop land;

(f) Invest, deposit, and reinvest its funds;

(g) Incur debt in furtherance of its mission; and

(h) Lend its funds, property, credit, or services for corporate purposes.

(2) A community preservation and development authority has no power of eminent domain nor any power to levy taxes or special assessments.

(3) A community preservation and development authority that accepts public funds under subsection (1)(a) of this section:

(a) Is subject in all respects to Article VIII, section 5 or 7, as appropriate, of the state Constitution, and to *RCW 42.17.128; and

(b) May not use the funds to support or oppose a candidate, ballot proposition, political party, or political committee. [2009 c 516 § 2; 2007 c 501 § 4.]

*Reviser's note: RCW 42.17.128 was recodified as RCW 42.17A.550 pursuant to 2010 c 204 § 1102, effective January 1, 2012.

43.167.030 Duties of authorities. A community preservation and development authority shall have the duty to:

(1) Establish specific geographic boundaries for the authority within its bylaws based on the general geographic boundaries established in the proposal submitted and approved by the legislature;

(2) Solicit input from members of its community and develop a strategic preservation and development plan to restore and promote the health, safety, and economic well-being of the impacted community and to restore and preserve its cultural and historical identity;

(3) Include within the strategic plan a prioritized list of projects identified and supported by the community, including capital or operating components;

(4) Establish funding mechanisms to support projects and programs identified in the strategic plan including but not limited to grants and loans;

(5) Use gifts, grants, loans, and other aid from public or private entities to carry out projects identified in the strategic plan including, but not limited to, those that: (a) Enhance public safety; (b) reduce community blight; and (c) provide ongoing mitigation of the adverse effects of multiple publicly funded projects on the impacted community; and

(6) Demonstrate ongoing accountability for its actions by:

(a) Reporting to the appropriate committees of the legislature, one year after formation and every biennium thereafter, on the authority's strategic plan, activities, accomplishments, and any recommendations for statutory changes;

(b) Reporting any changes in the authority's geographic boundaries to the appropriate committees of the legislature when the legislature next convenes in regular session;

(c) Convening a local town hall meeting with its constituency on an annual basis to: (i) Report its activities and

accomplishments from the previous year; (ii) present and receive input from members of the impacted community regarding its proposed strategic plan and activities for the upcoming year; and (iii) hold board member elections as necessary; and

(d) Maintaining books and records as appropriate for the conduct of its affairs. [2009 c 516 § 3; 2007 c 501 § 5.]

43.167.040 Community preservation and development authority account. The community preservation and development authority account is created in the state treasury. The account is composed of two subaccounts, one for moneys to be appropriated for operating purposes, and the other for moneys to be appropriated for capital purposes. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for projects under this chapter. [2007 c 501 § 7.]

43.167.050 Role of state and local government agencies. Prior to making siting, design, and construction decisions for future major public facilities, public works projects, or capital projects with significant public funding, state and local government agencies may:

(1) Communicate and consult with the community preservation and development authority and impacted community, including assessing the compatibility of the proposed project with the strategic plan adopted by the authority; and

(2) Make reasonable efforts to ensure that negative, cumulative effects of multiple projects upon the impacted community are minimized. [2007 c 501 § 8.]

43.167.060 Pioneer Square-International District community preservation and development authority. The legislature authorizes the establishment of the Pioneer Square-International District community preservation and development authority, which boundaries are those contained in the Pioneer Square-International District within the city of Seattle. [2007 c 501 § 6.]

43.167.900 Severability—2007 c 501. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2007 c 501 § 9.]

Chapter 43.168 RCW

RURAL WASHINGTON LOAN FUND

(Formerly: Washington state development loan fund committee)

Sections

43.168.010	Legislative findings and declaration.
43.168.020	Definitions.
43.168.040	Approval of applications for federal community development block grant funds for projects.
43.168.050	Application approval—Conditions and limitations.
43.168.055	Application priorities.
43.168.060	Local development organizations—Duties of department—Rules.
43.168.070	Processing of applications—Contents of applications.
43.168.090	Use of federal community development block grant funds.
43.168.100	Entitlement community grants—Conditions.
43.168.110	Rural Washington loan fund.

(2010 Ed.)

43.168.120	Guidelines for use of funds for existing economic development revolving loan funds—Grants to local governments to assist existing economic development revolving loan funds.
43.168.130	Development of performance standards.
43.168.150	Minority and women-owned businesses—Application process—Joint loan guarantee program.
43.168.900	Severability—1985 c 164.

Public records: Chapter 42.56 RCW.

43.168.010 Legislative findings and declaration. The legislature finds that:

(1) The economic health and well-being of the state, particularly in areas of high unemployment, economic stagnation, and poverty, is of substantial public concern.

(2) The consequences of minimal economic activity and persistent unemployment and underemployment are serious threats to the safety, health, and welfare of residents of these areas, decreasing the value of private investments and jeopardizing the sources of public revenue.

(3) The economic and social interdependence of communities and the vitality of industrial and economic activity necessitates, and is in part dependent on preventing substantial dislocation of residents and rebuilding the diversification of the areas' economy.

(4) The ability to remedy problems in stagnant areas of the state is beyond the power and control of the regulatory process and influence of the state, and the ordinary operations of private enterprise without additional governmental assistance are insufficient to adequately remedy the problems of poverty and unemployment.

(5) The revitalization of depressed communities requires the stimulation of private investment, the development of new business ventures, the provision of capital to ventures sponsored by local organizations and capable of growth in the business markets, and assistance to viable, but under-financed, small businesses in order to create and preserve jobs that are sustainable in the local economy.

Therefore, the legislature declares there to be a substantial public purpose in providing capital to promote economic development and job creation in areas of economic stagnation, unemployment, and poverty. To accomplish this purpose, the legislature hereby creates the rural Washington loan fund and vests in the *department of community, trade, and economic development the authority to spend federal funds to stimulate the economy of distressed areas. [1999 c 164 § 501; 1985 c 164 § 1.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

43.168.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of commerce.

(2) "Director" means the director of commerce.

(3) "Distressed area" means: (a) A rural county; (b) a county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; (c) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years; (d) a metro-

politan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent; or (e) an area within a county, which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(4) "Fund" means the rural Washington loan fund.

(5) "Local development organization" means a nonprofit organization which is organized to operate within an area, demonstrates a commitment to a long-standing effort for an economic development program, and makes a demonstrable effort to assist in the employment of unemployed or underemployed residents in an area.

(6) "Project" means the establishment of a new or expanded business in an area which when completed will provide employment opportunities. "Project" also means the retention of an existing business in an area which when completed will provide employment opportunities.

(7) "Rural county" has the same meaning as provided in RCW 82.14.370. [2009 c 565 § 36; 2008 c 131 § 2; 2005 c 136 § 3; 1999 c 164 § 502; 1996 c 290 § 3; 1995 c 226 § 27; 1993 c 280 § 56; 1991 c 314 § 19; 1988 c 42 § 18; 1987 c 461 § 2; 1985 c 164 § 2.]

Effective date—2008 c 131: See note following RCW 43.160.020.

Savings—2005 c 136: "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [2005 c 136 § 19.]

Effective date—2005 c 136: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005." [2005 c 136 § 20.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Findings—1991 c 314: See note following RCW 43.160.020.

Additional notes found at www.leg.wa.gov

43.168.040 Approval of applications for federal community development block grant funds for projects. Subject to the restrictions contained in this chapter, the director is authorized to approve applications of local governments for federal community development block grant funds which the local governments would use to make loans to finance business projects within their jurisdictions. Applications approved by the director under this chapter shall conform to applicable federal requirements. [2005 c 136 § 4; 1987 c 461 § 3; 1985 c 164 § 4.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

43.168.050 Application approval—Conditions and limitations. (1) The director may only approve an application providing a loan for a project which the director finds:

(a) Will result in the creation of employment opportunities, the maintenance of threatened employment, or development or expansion of business ownership by minorities and women;

(b) Will conform to federal rules and regulations governing the spending of federal community development block grant funds;

(c) Will be of public benefit and for a public purpose, and that the benefits, including increased or maintained employment, improved standard of living, the employment of disadvantaged workers, and development or expansion of business ownership by minorities and women, will primarily accrue to residents of the area;

(d) Will probably be successful;

(e) Would probably not be completed without the loan because other capital or financing at feasible terms is unavailable or the return on investment is inadequate.

(2) The director shall, subject to federal block grant criteria, give higher priority to economic development projects that contain provisions for child care.

(3) The director may not approve an application if it fails to provide for adequate reporting or disclosure of financial data to the director. The director may require an annual or other periodic audit of the project books.

(4) The director may require that the project be managed in whole or in part by a local development organization and may prescribe a management fee to be paid to such organization by the recipient of the loan or grant.

(5) The director may approve an application which results in a loan or grant of up to one million dollars.

(6) The director shall fix the terms and rates pertaining to fund loans.

(7) Should there be more demand for loans than funds available for lending, the director shall provide loans for those projects which will lead to the greatest amount of employment or benefit to a community. In determining the "greatest amount of employment or benefit" the director shall also consider the employment which would be saved by its loan and the benefit relative to the community, not just the total number of new jobs or jobs saved.

(8) To the extent permitted under federal law the director shall require applicants to provide for the transfer of all payments of principal and interest on loans to the fund created under this chapter. Under circumstances where the federal law does not permit the director to require such transfer, the director shall give priority to applications where the applicants on their own volition make commitments to provide for the transfer.

(9) The director shall not approve any application to finance or help finance a shopping mall.

(10) For loans not made to minority and women-owned businesses, the director shall make at least eighty percent of the appropriated funds available to projects located in distressed areas, and may make up to twenty percent available to projects located in areas not designated as distressed. For

loans not made to minority and women-owned businesses, the director shall not make funds available to projects located in areas not designated as distressed if the fund's net worth is less than seven million one hundred thousand dollars.

(11) If an objection is raised to a project on the basis of unfair business competition, the director shall evaluate the potential impact of a project on similar businesses located in the local market area. A grant may be denied by the director if a project is not likely to result in a net increase in employment within a local market area.

(12) For loans to minority and women-owned businesses who do not meet the credit criteria, the director may consider nontraditional credit standards to offset past discrimination that has precluded full participation of minority or women-owned businesses in the economy. For applicants with high potential who do not meet the credit criteria, the director shall consider developing alternative borrowing methods. For applicants denied loans due to credit problems, the department shall provide financial counseling within available resources and provide referrals to credit rehabilitation services. In circumstances of competing applications, priority shall be given to members of eligible groups which previously have been least served by this fund. [2005 c 136 § 5; 1993 c 512 § 12; 1990 1st ex.s. c 17 § 74; 1989 c 430 § 9; 1987 c 461 § 4; 1986 c 204 § 2; 1985 c 164 § 5.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

Additional notes found at www.leg.wa.gov

43.168.055 Application priorities. In addition to the requirements of RCW 43.168.050, the department shall, subject to applicable federal funding criteria, give priority to applications that capitalize or recapitalize an existing or new local revolving fund based on criteria established by the department. [1999 c 164 § 503.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

43.168.060 Local development organizations—Duties of department—Rules. The department is encouraged to work with local development organizations to promote applications for loans by the fund. The department shall also provide assistance to local development organizations and local governments to identify viable projects for consideration. The department shall adopt such rules and regulations as are appropriate for implementation of this chapter. [2005 c 136 § 6; 1985 c 164 § 6.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

43.168.070 Processing of applications—Contents of applications. The director may receive and approve applications on a monthly basis but shall receive and approve applications on at least a quarterly basis for each fiscal year. The director shall make every effort to simplify the loan process for applicants. Department staff shall process and assist in the preparation of applications. Each application shall show

in detail the nature of the project, the types and numbers of jobs to be created, wages to be paid to new employees, and methods to hire unemployed persons from the area. Each application shall contain a credit analysis of the business to receive the loan. The director may respond on short notice to applications of a serious or immediate nature. [2005 c 136 § 7; 1993 c 512 § 14; 1987 c 461 § 5; 1985 c 164 § 7.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

43.168.090 Use of federal community development block grant funds. The department shall use for the fund an amount of federal community development block grant funds equal to the amount of state funds transferred or appropriated to the department for purposes of supplementing the department's block grant funds. [2005 c 136 § 8; 1985 c 164 § 9.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

43.168.100 Entitlement community grants—Conditions. The director may make grants of state funds to local governments which qualify as "entitlement communities" under the federal law authorizing community development block grants. These grants may only be made on the condition that the entitlement community provide the director with assurances that it will: (1) Spend the grant moneys for purposes and in a manner which satisfies state constitutional requirements; (2) spend the grant moneys for purposes and in a manner which would satisfy federal requirements; and (3) spend at least the same amount of the grant for loans to businesses from the federal funds received by the entitlement community. [2005 c 136 § 9; 1993 c 512 § 15; 1986 c 204 § 1; 1985 c 164 § 10.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

43.168.110 Rural Washington loan fund. There is established the rural Washington loan fund which shall be an account in the state treasury. All loan payments of principal and interest which are transferred under RCW 43.168.050 shall be deposited into the account. Moneys in the account may be spent only after legislative appropriation for loans under this chapter. Any expenditures of these moneys shall conform to federal law. [1999 c 164 § 504; 1992 c 235 § 11; 1985 c 164 § 11.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

43.168.120 Guidelines for use of funds for existing economic development revolving loan funds—Grants to local governments to assist existing economic development revolving loan funds. (1) The department shall develop guidelines for rural Washington loan funds to be used to fund existing economic development revolving loan funds. Consideration shall be given to the selection process for grantees, loan quality criteria, legal and regulatory issues, and ways to minimize duplication between rural Washington loan funds and local economic development revolving loan funds.

(2) If it appears that all of the funds appropriated to the fund for a biennium will not be fully granted to local governments within that biennium, the department may make available up to twenty percent of the eighty percent of the funds available to projects in distressed areas under RCW 43.168.050(10) for grants to local governments to assist existing economic development revolving loan funds in distressed areas. The grants to local governments shall be utilized to make loans to businesses that meet the specifications for loans under this chapter. The local governments shall, to the extent permitted under federal law, agree to convey to the fund the principal and interest payments from existing loans that the local governments have made through their revolving loan funds. Under circumstances where the federal law does not permit the department to require such transfer, the department shall give priority to applications where the applicants on their own volition make commitments to provide for the transfer. [1999 c 164 § 505; 1987 c 461 § 6.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

43.168.130 Development of performance standards.

The director shall develop performance standards for judging the effectiveness of the program. Such standards shall include, to the extent possible, examining the effectiveness of grants in regard to:

- (1) Job creation for individuals of low and moderate income;
- (2) Retention of existing employment;
- (3) The creation of new employment opportunities;
- (4) The diversification of the economic base of local communities;
- (5) The establishment of employee cooperatives;
- (6) The provision of assistance in cases of employee buy-outs of firms to prevent the loss of existing employment;
- (7) The degree of risk assumed by the fund, with emphasis on loans which did not receive financing from commercial lenders, but which are considered financially sound. [2005 c 136 § 10; 1998 c 245 § 52; 1987 c 461 § 7.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

43.168.150 Minority and women-owned businesses—Application process—Joint loan guarantee program. Subject to the restrictions contained in this chapter, the director is authorized to approve applications of minority and women-owned businesses for loans or loan guarantees from the fund. Applications approved by the director under this chapter shall conform to applicable federal requirements. The director shall prioritize available funds for loan guarantees rather than loans when possible. The director may enter into agreements with other public or private lending institutions to develop a joint loan guarantee program for minority and women-owned businesses. If such a program is developed, the director may provide funds, in conjunction with the other organizations, to operate the program. This section does not preclude the director from making individual loan guarantees.

To the maximum extent practicable, the funds available under this section shall be made available on an equal basis to

minority and women-owned businesses. The director shall submit to the appropriate committees of the senate and house of representatives quarterly reports that detail the number of loans approved and the characteristics of the recipients by ethnic and gender groups. [2005 c 136 § 11; 1993 c 512 § 13.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

43.168.900 Severability—1985 c 164. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 164 § 15.]

Chapter 43.176 RCW

SMALL BUSINESS INCUBATOR PROGRAM

Sections

- 43.176.010 Policy.
- 43.176.020 Definitions.
- 43.176.030 Small business incubator program—Grants.
- 43.176.040 Small business incubator account.
- 43.176.900 Short title—2004 c 237.
- 43.176.901 Services dependent on legislative funding.

43.176.010 Policy. It is hereby declared to be the policy of the state of Washington to assist in the creation and expansion of innovative small commercial enterprises that produce marketable goods and services through the employment of Washington residents, the use of technology, and the application of best management practices. This policy is to be implemented through the use of small business incubators. [2004 c 237 § 1.]

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

- (1) "Business incubator" means a facility that offers:
 - (a) Space for start-up and expanding firms;
 - (b) The shared use of equipment and work areas;
 - (c) Daily management support services essential to high-quality commercial operations; and
 - (d) Technical assistance.
- (2) "Qualified small business incubator" means an incubator that is:
 - (a)(i) Designated as a nonprofit organization under section 501(c)(3) of the internal revenue code, or (ii) consists of a partnership between a designated nonprofit organization under section 501(c)(3) of the internal revenue code and a government or quasi-government agency;
 - (b) Focused on developing small businesses in an economically distressed or disadvantaged area; and
 - (c) Structured around a sound business plan. [2004 c 237 § 2.]

43.176.030 Small business incubator program—Grants. (1) The small business incubator program is created in the *department of community, trade, and economic development to provide start-up and operating assistance to qualified small business incubators.

(2) The department shall award grants to qualified small business incubator organizations for:

(a) Construction and equipment costs, up to a maximum of three million dollars per recipient; and

(b) Provision of technical assistance to small businesses, up to a maximum of one hundred twenty-five thousand dollars per year per recipient.

(3) The department shall:

(a) Require a grant recipient to show that it has the resources to complete the project in a timely manner and the state grant is not the sole source of funds;

(b) Develop, in conjunction with the Washington association of small business incubators, criteria for receipt of grant funds, including criteria related to organizational capacity, community need, and the availability of other economic development resources;

(c) Accept and receive grants, gifts, and pledges of funds for the support of the small business incubator program, which shall be deposited in the small business incubator account established in RCW 43.176.040; and

(d) Integrate the promotion of small business incubators as economic development tools in its strategic plan. [2004 c 237 § 3.]

**Reviser's note:* The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.176.040 Small business incubator account. The small business incubator account is created in the custody of the state treasurer. All money received for the incubator program under RCW 43.176.030 must be deposited in the account. Expenditures from the account may be used only for the small business incubator program. Only the director of the *department of community, trade, and economic development or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2004 c 237 § 4.]

**Reviser's note:* The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.176.900 Short title—2004 c 237. This act may be known as the Washington small business incubator and entrepreneurship assistance act of 2004. [2004 c 237 § 5.]

43.176.901 Services dependent on legislative funding. The *department of community, trade, and economic development shall have no duty to provide services related to the small business incubator and entrepreneurship assistance act of 2004 unless and until the small business incubator program and related administrative expenses are funded by the legislature. [2004 c 237 § 6.]

**Reviser's note:* The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Chapter 43.180 RCW

HOUSING FINANCE COMMISSION

Sections

- 43.180.010 Declaration of public policies—Purpose.
- 43.180.020 Definitions.
- 43.180.030 Bonds not debt of state.

- 43.180.040 Commission created.
- 43.180.050 Housing financing powers—Annual audit.
- 43.180.060 No power of eminent domain or taxation.
- 43.180.070 Housing finance plan.
- 43.180.080 General powers.
- 43.180.090 Selection of bond counsel—Written policies to be adopted.
- 43.180.100 Selection of underwriters—Written policies to be adopted.
- 43.180.110 Review of initial policies adopted under RCW 43.180.090 and 43.180.100—Adoption—Change.
- 43.180.120 Rules for fair allocation of bond proceeds for nonrental single family housing.
- 43.180.130 Protection of bondholders—Mortgage insurance.
- 43.180.140 Rules for energy efficiency.
- 43.180.150 Bond issues—Terms—Issuance—Purchase, etc.
- 43.180.160 Debt limitation—Washington works housing program.
- 43.180.170 Bond issues—Disposition of proceeds—Special fund.
- 43.180.180 Bond issues—Disposition of revenues—Special trust fund.
- 43.180.190 Legal investments.
- 43.180.200 Internal revenue code.
- 43.180.220 Housing finance program—Mortgage financing—Investments—Flexible loan underwriting guidelines.
- 43.180.230 Housing finance program—Program elements.
- 43.180.240 Housing finance program—Report to legislature annually—Implementation.
- 43.180.250 Veteran homeownership downpayment assistance program—Rules.
- 43.180.260 Sustainable energy trust program.
- 43.180.290 Beginning farmer financing program.

NONPROFIT CORPORATION FACILITIES

- 43.180.300 Definitions.
- 43.180.310 Commission powers.
- 43.180.320 Revenue bonds.
- 43.180.330 Revenue refunding bonds.
- 43.180.340 Trust agreements.
- 43.180.350 Lessees or assignees.
- 43.180.360 Default.
- 43.180.900 Conflict with federal requirements.
- 43.180.901 Liberal construction.
- 43.180.902 Captions not part of law.
- 43.180.903 Severability—1983 c 161.
- 43.180.904 Effective dates—1983 c 161.
- 43.180.905 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Prevent or reduce owner-occupied foreclosure program—Interagency agreement: RCW 43.320.160 through 43.320.170.

43.180.010 Declaration of public policies—Purpose.

It is declared to be the public policy of the state and a recognized governmental function to assist in making affordable and decent housing available throughout the state and by so doing to contribute to the general welfare. Decent housing for the people of our state is a most important public concern. Interest rates and construction costs have made it impossible for many Washington citizens to purchase their own homes. Older people, disabled persons, and low and moderate income families often cannot afford to rent decent housing. There exists throughout the state a serious shortage of safe, sanitary and energy efficient housing available at prices within the financial means of our citizens. General economic development within the state is also impeded by a lack of affordable housing. The state's economy, which is dependent on the timber, wood products, and construction industries, has been damaged by inadequate investment in housing construction and rehabilitation. The result has been high unemployment and economic hardship affecting the prosperity of all the people of the state, particularly those in the wood products industry.

It is the purpose of this chapter to establish a state housing finance commission to act as a financial conduit which, without using public funds or lending the credit of the state or local government, can issue nonrecourse revenue bonds and participate in federal, state, and local housing programs and

thereby make additional funds available at affordable rates to help provide housing throughout the state. It is also a primary purpose of this chapter to encourage the use of Washington state forest products in residential construction. This chapter is enacted to accomplish these and related purposes and shall be liberally construed to carry out its purposes and objectives. [1983 c 161 § 1.]

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

(1) "Bonds" means the bonds, notes, or other evidences of indebtedness of the commission, the interest paid on which may or may not qualify for tax exemption.

(2) "Certifying authority" means: (a) For improvements involving solar electric systems, the Washington climate and rural energy development center at Washington State University, established under RCW 28B.30.642; or (b) for all other energy efficiency and renewable energy improvements, any utility company or other institution qualified to assess and certify the feasibility and benefit of energy efficiency and renewable energy improvements in a manner that is efficient and minimizes the amount of time or cost.

(3) "Code" means the federal internal revenue code of 1954, as now or hereafter amended, and the regulations and rulings promulgated thereunder.

(4) "Commission" means the Washington state housing finance commission or any board, body, commission, department, or officer succeeding to the principal functions thereof or to whom the powers conferred upon the commission shall be given by law.

(5) "Costs of housing" means all costs related to the development, design, acquisition, construction, reconstruction, leasing, rehabilitation, and other improvements of housing, as determined by the commission.

(6) "Eligible applicant" means, with respect to the sustainable energy trust program, an owner of a residential, agricultural, commercial, state, or municipal property.

(7) "Eligible person" means a person or family eligible in accordance with standards promulgated by the commission. Such persons shall include those persons whose income is insufficient to obtain at a reasonable cost, without financial assistance, decent, safe, and sanitary housing in the area in which the person or family resides, and may include such other persons whom the commission determines to be eligible.

(8) "Energy efficiency improvement" means an installation or modification that is designed to reduce energy consumption in residential, agricultural, commercial, state, or municipal properties. The term includes, but is not limited to: Insulation; storm windows and doors; automatic energy control systems; heating, ventilating, or air conditioning and distribution system modifications or replacements in buildings or central plants; caulking and weather stripping; energy recovery systems; geothermal heat pumps; and day lighting systems.

(9) "Housing" means specific new, existing, or improved residential dwellings within this state or dwellings to be constructed within this state. The term includes land, buildings, and manufactured dwellings, and improvements, furnishings, and equipment, and such other nonhousing facilities, furnish-

ings, equipment, and costs as may be incidental or appurtenant thereto if in the judgment of the commission the facilities, furnishings, equipment and costs are an integral part of the project. Housing may consist of single-family or multi-family dwellings in one or more structures located on contiguous or noncontiguous parcels or any combination thereof. Improvements may include such equipment and materials as are appropriate to accomplish energy efficiency within a dwelling. The term also includes a dwelling constructed by a person who occupies and owns the dwelling, and nursing homes licensed under chapter 18.51 RCW.

(10) "Mortgage" means a mortgage, mortgage deed, deed of trust, security agreement, or other instrument securing a mortgage loan and constituting a lien on or security interest in housing. The property may be held in fee simple or on a leasehold under a lease having a remaining term, at the time the mortgage is acquired, of not less than the term of repayment of the mortgage loan secured by the mortgage. The property may also be housing which is evidenced by an interest in a cooperative association or corporation if ownership of the interest entitles the owner of the interest to occupancy of a dwelling owned by the association or corporation.

(11) "Mortgage lender" means any of the following entities which customarily provide service or otherwise aid in the financing of housing and which are approved as a mortgage lender by the commission: A bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, mortgage company, credit union, life insurance company, or any other financial institution, governmental agency, municipal corporation, or any holding company for any of the entities specified in this subsection.

(12) "Mortgage loan" means an interest-bearing loan or a participation therein, made to a borrower, for the purpose of financing the costs of housing, evidenced by a promissory note, and which may or may not be secured (a) under a mortgage agreement, (b) under any other security agreement, regardless of whether the collateral is personal or real property, or (c) by insurance or a loan guarantee of a third party. However, an unsecured loan shall not be considered a mortgage loan under this definition unless the amount of the loan is under two thousand five hundred dollars.

(13) "Qualified improvement" means an energy efficiency improvement which has been approved by a certifying authority or a net metering system as defined under RCW 80.60.010. [2009 c 65 § 2; 1990 c 167 § 1; 1983 c 161 § 2.]

Intent—Finding—2009 c 65: "The legislature intends to promote the development of renewable energy technologies and the application of energy efficiency measures by authorizing the issuance of revenue bonds to finance renewable energy and energy efficiency improvement costs. The legislature finds that by providing access to low-cost capital to finance renewable energy and energy efficiency projects, a key barrier is eliminated." [2009 c 65 § 1.]

43.180.030 Bonds not debt of state. Bonds issued under this chapter shall be issued in the name of the commission. The bonds shall not be obligations of the state of Washington and shall be obligations only of the commission payable from the special fund or funds created by the commission for their payment. Such funds shall not be or constitute public moneys or funds of the state of Washington but at all times shall be kept segregated and set apart from other funds.

Bonds issued under this chapter shall contain a recital on their face to the effect that payment of the principal of, interest on, and prepayment premium, if any, on the bonds, shall be a valid claim only as against the special fund or funds relating thereto, that neither the faith and credit nor the taxing power of the state or any municipal corporation, subdivision, or agency of the state, other than the commission as set forth in this chapter, is pledged to the payment of the principal of, interest on, and prepayment premium, if any, on the bonds.

Contracts entered into by the commission shall be entered into in the name of the commission and not in the name of the state of Washington. The obligations of the commission under the contracts shall be obligations only of the commission and are not in any way obligations of the state of Washington. [1983 c 161 § 3.]

43.180.040 Commission created. (1) There is hereby established a public body corporate and politic, with perpetual corporate succession, to be known as the Washington state housing finance commission. The commission is an instrumentality of the state exercising essential government functions and, for purposes of the code, acts as a constituted authority on behalf of the state when it issues bonds pursuant to this chapter. The commission is a "public body" within the meaning of RCW 39.53.010.

(2) The commission shall consist of the following voting members:

- (a) The state treasurer, ex officio;
- (b) The *director of community, trade, and economic development, ex officio;
- (c) An elected local government official, ex officio, with experience in local housing programs, who shall be appointed by the governor with the consent of the senate;
- (d) A representative of housing consumer interests, appointed by the governor with the consent of the senate;
- (e) A representative of labor interests, appointed by the governor, with the consent of the senate, after consultation with representatives of organized labor;
- (f) A representative of low-income persons, appointed by the governor with the consent of the senate;
- (g) Five members of the public appointed by the governor, with the consent of the senate, on the basis of geographic distribution and their expertise in housing, real estate, finance, energy efficiency, or construction, one of whom shall be appointed by the governor as chair of the commission and who shall serve on the commission and as chair of the commission at the pleasure of the governor.

The term of the persons appointed by the governor, other than the chair, shall be four years from the date of their appointment, except that the terms of three of the initial appointees shall be for two years from the date of their appointment. The governor shall designate the appointees who will serve the two-year terms. An appointee may be removed by the governor for cause pursuant to RCW 43.06.070 and 43.06.080. The governor shall fill any vacancy in an appointed position by appointment for the remainder of the unexpired term. If the **department of community development is abolished, the resulting vacancy shall be filled by a state official who shall be appointed to the commission by the governor. If this official occupies an office or position for which senate confirmation is not required, then his or her

appointment to the commission shall be subject to the consent of the senate. The members of the commission shall be compensated in accordance with RCW 43.03.240 and may be reimbursed, solely from the funds of the commission, for expenses incurred in the discharge of their duties under this chapter, subject to the provisions of RCW 43.03.050 and 43.03.060. A majority of the commission constitutes a quorum. Designees shall be appointed in such manner and shall exercise such powers as are specified by the rules of the commission.

(3) The commission may adopt an official seal and may select from its membership a vice chair, a secretary, and a treasurer. The commission shall establish rules concerning its exercise of the powers authorized by this chapter. The rules shall be adopted in conformance with chapter 34.05 RCW. [1995 c 399 § 98; 1985 c 6 § 14; 1984 c 287 § 90; 1983 c 161 § 4.]

Reviser's note: *(1) The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

** (2) Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994. The department of community, trade, and economic development was renamed the department of commerce by 2009 c 565.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.180.050 Housing financing powers—Annual audit. (1) In addition to other powers and duties prescribed in this chapter, and in furtherance of the purposes of this chapter to provide decent, safe, sanitary, and affordable housing for eligible persons, the commission is empowered to:

- (a) Issue bonds in accordance with this chapter;
- (b) Invest in, purchase, or make commitments to purchase or take assignments from mortgage lenders of mortgages or mortgage loans;
- (c) Make loans to or deposits with mortgage lenders for the purpose of making mortgage loans; and
- (d) Participate fully in federal and other governmental programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and to meet their requirements, including such actions as the commission considers appropriate in order to have the interest payments on its bonds and other obligations treated as tax exempt under the code.

(2) The commission shall establish eligibility standards for eligible persons, considering at least the following factors:

- (a) Income;
- (b) Family size;
- (c) Cost, condition and energy efficiency of available residential housing;
- (d) Availability of decent, safe, and sanitary housing;
- (e) Age or infirmity; and
- (f) Applicable federal, state, and local requirements.

The state auditor shall audit the books, records, and affairs of the commission annually to determine, among other things, if the use of bond proceeds complies with the general plan of housing finance objectives including compliance with the objective for the use of financing assistance for imple-

mentation of cost-effective energy efficiency measures in dwellings. [1986 c 264 § 1; 1983 c 161 § 5.]

43.180.060 No power of eminent domain or taxation.

The commission does not have the power of eminent domain and the commission does not have the power to levy any taxes of any kind. [1983 c 161 § 6.]

43.180.070 Housing finance plan. The commission shall adopt a general plan of housing finance objectives to be implemented by the commission during the period of the plan. The commission may exercise the powers authorized under this chapter prior to the adoption of the initial plan. In developing the plan, the commission shall consider and set objectives for:

(1) The use of funds for single-family and multifamily housing;

(2) The use of funds for new construction, rehabilitation, including refinancing of existing debt, and home purchases;

(3) The housing needs of low-income and moderate-income persons and families, and of elderly or mentally or physically handicapped persons;

(4) The use of funds in coordination with federal, state, and local housing programs for low-income persons;

(5) The use of funds in urban, rural, suburban, and special areas of the state;

(6) The use of financing assistance to stabilize and upgrade declining urban neighborhoods;

(7) The use of financing assistance for economically depressed areas, areas of minority concentration, reservations, and in mortgage-deficient areas;

(8) The geographical distribution of bond proceeds so that the benefits of the housing programs provided under this chapter will be available to address demand on a fair basis throughout the state;

(9) The use of financing assistance for implementation of cost-effective energy efficiency measures in dwellings.

The plan shall include an estimate of the amount of bonds the commission will issue during the term of the plan and how bond proceeds will be expended.

The plan shall be adopted by resolution of the commission following at least one public hearing thereon, notice of which shall be made by mailing to the clerk of the governing body of each county and by publication in the Washington State Register no more than forty and no less than twenty days prior to the hearing. A draft of the plan shall be made available not less than thirty days prior to any such public hearing. At least every two years, the commission shall report to the legislature regarding implementation of the plan.

The commission may periodically update the plan.

The commission shall adopt rules designed to result in the use of bond proceeds in a manner consistent with the plan. The commission may periodically update its rules.

This section is designed to deal only with the use of bond proceeds and nothing in this section shall be construed as a limitation on the commission's authority to issue bonds. [1999 c 372 § 11; 1999 c 131 § 1; 1983 c 161 § 7.]

Reviser's note: This section was amended by 1999 c 131 § 1 and by 1999 c 372 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

43.180.080 General powers. In addition to other powers and duties specified in this chapter, the commission may:

(1) Establish in resolutions relating to any issuance of bonds, or in any financing documents relating to such issuance, such standards and requirements applicable to the purchase of mortgages and mortgage loans or the making of loans to mortgage lenders as the commission deems necessary or desirable, including but not limited to: (a) The time within which mortgage lenders must make commitments and disbursements for mortgages or mortgage loans; (b) the location and other characteristics of single-family housing or multifamily housing to be financed by mortgages and mortgage loans; (c) the terms and conditions of mortgages and mortgage loans to be acquired; (d) the amounts and types of insurance coverage required on mortgages, mortgage loans, and bonds; (e) the representations and warranties of mortgage lenders confirming compliance with such standards and requirements; (f) restrictions as to interest rate and other terms of mortgages or mortgage loans or the return realized therefrom by mortgage lenders; (g) the type and amount of collateral security to be provided to assure repayment of any loans from the commission and to assure repayment of bonds; and (h) any other matters related to the purchase of mortgages or mortgage loans or the making of loans to lending institutions as shall be deemed relevant by the commission;

(2) Sue and be sued in its own name;

(3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its purposes or powers, including but not limited to contracts or agreements for the origination, servicing, and administration of mortgages or mortgage loans, and the borrowing of money;

(4) Procure such insurance, including but not limited to insurance: (a) Against any loss in connection with its property and other assets, including but not limited to mortgages or mortgage loans, in such amounts and from such insurers as the commission deems desirable, and (b) to indemnify members of the commission for acts done in the course of their duties;

(5) Provide for the investment of any funds, including funds held in reserve, not required for immediate disbursement, and provide for the selection of investments;

(6) Fix, revise, and collect fees and charges in connection with the investigation and financing of housing or in connection with assignments, contracts, purchases of mortgages or mortgage loans, or any other actions permitted under this chapter or by the commission; and receive grants and contributions;

(7) Make such expenditures as are appropriate for paying the administrative costs of the commission and for carrying out the provisions of this chapter. These expenditures may be made only from funds consisting of the commission's receipts from fees and charges, grants and contributions, the proceeds of bonds issued by the commission, and other revenues; these expenditures shall not be made from funds of the state of Washington;

(8) Establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;

(9) Conduct such investigations and feasibility studies as it deems appropriate;

(10) Proceed with foreclosure actions or accept deeds in lieu of foreclosure together with the assignments of leases and rentals incidental thereto. Any properties acquired by the commission through such actions shall be sold as soon as practicable through persons licensed under chapter 18.85 RCW or at public auction, or by transfer to a public agency. In preparation for the disposition of the properties, the commission may own, lease, clear, construct, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, or encumber the properties;

(11) Take assignments of leases and rentals;

(12) Subject to any provisions of the commission's contracts with the holders of obligations of the commission, consent to any modification with respect to rate of interest, time, and payment of any installment of principal or interest or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract, or agreement of any kind;

(13) Subject to provisions of the commission's contracts with the holders of bonds, permit the reduction of rental or carrying charges to persons unable to pay the regular rent or schedule of charges if, by reason of other income of the commission or by reason of payment by any department, agency, or instrumentality of the United States or of this state, the reduction can be made without jeopardizing the economic stability of the housing being financed;

(14) Sell, at public or private sale, with or without public bidding, any mortgage, mortgage loan, or other instrument or asset held by the commission;

(15) Employ, contract with, or engage engineers, architects, attorneys, financial advisors, bond underwriters, mortgage lenders, mortgage administrators, housing construction or financing experts, other technical or professional assistants, and such other personnel as are necessary. The commission may delegate to the appropriate persons the power to execute legal instruments on its behalf;

(16) Receive contributions or grants from any source unless otherwise prohibited;

(17) Impose covenants running with the land in order to satisfy and enforce the requirements of applicable state and federal law and commission policy with respect to housing or other facilities financed by the commission or assisted by federal, state, or local programs administered by the commission, by executing and recording regulatory agreements or other covenants between the commission and the person or entity to be bound. These regulatory agreements and covenants shall run with the land and be enforceable by the commission or its successors or assigns against the person or entity making the regulatory agreement or covenants or its successors or assigns, even though there may be no privity of estate or privity of contract between the commission or its successors or assigns and the person or entity against whom enforcement is sought. The term of any such covenant shall be set forth in the recorded agreement containing the covenant. This subsection shall apply to regulatory agreements and covenants previously entered into by the commission as well as regulatory agreements and covenants entered into by the commission on or after July 27, 1997;

(18) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(19) Exercise any other power reasonably required to implement the purposes of this chapter.

(2010 Ed.)

From February 15, 2010, through June 30, 2011, neither the commission nor its designees may grant any monetary performance-based awards or incentives to any employee. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW. [2010 c 2 § 5; 1997 c 163 § 1; 1983 c 161 § 8.]

Findings—Effective date—2010 c 2: See notes following RCW 41.06.070.

43.180.090 Selection of bond counsel—Written policies to be adopted. (1) The commission shall adopt written policies to provide for the selection of bond counsel. The policies shall provide for the creation and maintenance of a roster of attorneys whom the commission believes possess the requisite special expertise and professional standing to provide bond counsel opinions which would be accepted by the underwriters, bondholders, and other members of the financial community, and which would be in furtherance of the public interest in obtaining the lowest possible interest rates on the bonds issued by the commission. Any attorney may apply to have his or her name placed on the roster, but may not be placed on the roster unless the attorney demonstrates to the commission's satisfaction that the attorney would issue the kind of opinions required by this section.

(2) Prior to selecting an attorney or attorneys to provide bond counsel services, the commission shall provide all attorneys on the roster with a notice of its intentions to select bond counsel and shall invite each of them to submit to the commission his or her fee schedule for providing bond counsel services. The commission shall have wide discretion in selecting the attorney or attorneys it considers to be most appropriate to provide the services, but in the exercise of this discretion the commission shall consider all submitted fee schedules and the public interest in achieving both savings in bond counsel fees and issuance of bonds on terms most favorable to the commission. At least once every two calendar years, the commission shall select anew an attorney or attorneys to serve as bond counsel. However, the commission may retain an attorney for longer than two years when necessary to complete work on a particular bond issue. An attorney previously retained may be selected again but only after the commission has provided other attorneys on the roster with an opportunity to be selected and has made the fee schedule review required under this subsection. In addition to or as an alternative to retaining counsel for a period of time, the commission may appoint an attorney to serve as counsel in respect to only a particular bond issue. [1983 c 161 § 9.]

43.180.100 Selection of underwriters—Written policies to be adopted. (1) The commission shall adopt written policies to provide for the selection of underwriters. The policies shall provide for the creation of a roster of underwriters whom the commission believes possess the requisite special expertise and professional standing to provide bond marketing services which would be accepted by bondholders and other members of the financial community, and which would be in furtherance of the public interest in marketing the commission's bonds at the lowest possible costs. Any underwriter may apply to have its name placed on the roster, but may not be placed on the roster unless it demonstrates to the commis-

sion's satisfaction that it meets the requirements of this section.

(2) Whenever the commission decides that it needs the services of an underwriter, it shall provide all underwriters on the roster with a notice of its intentions and shall invite each of them to submit to the commission an itemization of its fees and other charges for providing underwriting services on the issue. The itemization shall be by categories designed by the commission. The commission shall have wide discretion in selecting the underwriter it considers to be most appropriate to provide the services, but in the exercise of this discretion the commission shall consider the underwriter's fees and other charges and the public interest in achieving both savings in the total costs of underwriting services and issuance of bonds on terms most favorable to the commission. [1983 c 161 § 10.]

43.180.110 Review of initial policies adopted under RCW 43.180.090 and 43.180.100—Adoption—Change.

The commission shall submit the initial policies adopted under RCW 43.180.090 and 43.180.100 to the chief clerk of the house and the secretary of the senate for transmittal to and review by the appropriate standing committees and the joint administrative rules review committee. By January 1, 1984 the commission shall have adopted policies in the form of rules and regulations under chapter 34.05 RCW. Such rules and regulations may only be changed or revised in accordance with chapter 34.05 RCW. [1983 c 161 § 11.]

43.180.120 Rules for fair allocation of bond proceeds for nonrental single family housing.

The legislature recognizes that the demand for mortgage loans for nonrental single family housing will probably greatly exceed the supply of bond proceeds available to satisfy the demand. Therefore, the commission shall adopt rules providing procedures to assure that the bond proceeds available for that kind of housing shall be made available to qualified mortgagors in a fair and equitable manner. [1983 c 161 § 12.]

43.180.130 Protection of bondholders—Mortgage insurance.

The commission is encouraged to adopt policies which will assure that bondholders will be protected against the failure to make mortgage payments financed under this chapter. Such policies may require, among other things, mortgage insurance. [1983 c 161 § 13.]

43.180.140 Rules for energy efficiency. The commission shall adopt rules providing for financing assistance to implement cost-effective energy efficiency improvements. [1983 c 161 § 14.]

43.180.150 Bond issues—Terms—Issuance—Purchase, etc.

(1) The commission's bonds shall bear such date or dates, mature at such time or times, be in such denominations, be in such form, be registered or registrable in such manner, be made transferable, exchangeable, and interchangeable, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, bear such fixed or variable rate or rates of interest, be payable at such time or times, and be sold in such manner and at such

price or prices, as the commission determines. The bonds shall be executed by the chair, by either its duly elected secretary or its treasurer, and by the trustee or paying agent if the commission determines to use a trustee or paying agent for the bonds. Execution of the bonds may be by manual or facsimile signature.

(2) The bonds of the commission shall be subject to such terms, conditions, covenants, and protective provisions as are found necessary or desirable by the commission, including, but not limited to, pledges of the commission's assets, setting aside of reserves, limitations on additional forms of indebtedness, and the mortgaging of all or any part of the commission's real or personal property, then owned or thereafter acquired, and other provisions the commission finds are necessary or desirable for the security of bond holders.

(3) Any security interest created in the unexpended bond proceeds and in the special funds created by the commission shall be immediately valid and binding against such moneys and any securities in which such moneys may be invested without commission or trustee possession thereof, and the security interest shall be prior to any party having any competing claim in such moneys or securities, without filing or recording pursuant to *chapter 62A.9 RCW and regardless of whether the party has notice of the security interest.

(4) When issuing bonds, the commission may provide for the future issuance of additional bonds or parity debt on a parity with outstanding bonds, and the terms and conditions of their issuance. The commission may refund or advance refund any bond of the commission in accordance with chapter 39.53 RCW or issue bonds with a subordinate lien against the fund or funds securing outstanding bonds.

(5) The chair of the state finance committee or the chair's designee shall be notified in advance of the issuance of bonds by the commission in order to promote the orderly offering of obligations in the financial markets.

(6) The members of the commission and any person executing the bonds are not liable personally on the indebtedness or subject to any personal liability or accountability by reason of the issuance thereof.

(7) The commission may, out of any fund available therefor, purchase its bonds in the open market. [1983 c 161 § 15.]

**Reviser's note:* Chapter 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see chapter 62A.9A RCW.

43.180.160 Debt limitation—Washington works housing program.

(1) The total amount of outstanding indebtedness of the commission may not exceed six billion dollars at any time. The calculation of outstanding indebtedness shall include the initial principal amount of an issue and shall not include interest that is either currently payable or that accrues as a part of the face amount of an issue payable at maturity or earlier redemption. Outstanding indebtedness shall not include notes or bonds as to which the obligation of the commission has been satisfied and discharged by refunding or for which payment has been provided by reserves or otherwise.

(2)(a) The Washington works housing program is created to increase opportunities for nonprofit organizations and public agencies to purchase, acquire, build, and own real

property to be used for affordable housing for low and moderate-income households. The Washington works housing program is intended to provide access to new funding mechanisms and build long-term community equity by increasing the stock of permanently affordable housing owned by non-profit organizations and public agencies.

(b) The Washington works housing program is intended to provide these opportunities for public agencies and non-profit organizations, including those materially participating as a managing member or general partner of a partnership, limited liability company, or equivalent organization, through the issuance of tax exempt or taxable revenue bonds issued by the commission in conjunction with a subsidy necessary to make bond issues to finance affordable housing properties financially feasible. The program is intended to provide financing for affordable housing that will meet the following income and rent restrictions during the period of initial bond indebtedness and thereafter:

(c) During the period of initial bond indebtedness under the program, the owner of the property must meet one of the following requirements: A minimum of twenty percent of the units will be occupied by households earning less than fifty percent of area median income and an additional thirty-one percent of the units will be occupied by persons earning less than eighty percent of area median income; or forty percent of the units will be occupied by households earning less than sixty percent of area median income and an additional eleven percent of the units will be occupied by households earning less than eighty percent of area median income.

(d) After the initial bond indebtedness is retired, the rents charged for units in the project will be adjusted to be sufficient to pay reasonable operation and maintenance expenses, including necessary capital needs, and to make reasonable deposits into a reserve account with the intent of providing affordable housing to very low or low-income households for the remaining useful life of the property. The reasonableness of the rent levels must be periodically approved by the commission based on information provided by the owner of the property about income, expenses, and necessary reserve levels. The determination of the commission regarding the reasonableness of the rent levels will be final.

(e) The commission will enter into a recorded regulatory agreement with the borrower at the time of the issuance of bonds under the program for the purpose of ensuring that the property will meet the income and rent restrictions established in this section. The commission may charge such compliance fees as necessary to ensure enforcement of the income and rent restrictions during the useful life of the property.

(3) One billion dollars of the outstanding indebtedness of the commission is for the primary purpose of implementing the Washington works housing program.

(4) If no subsidies are available to make the program in subsection (2) of this section feasible, then the commission may pass a resolution stating these facts and authorize the use of a portion of the one billion dollars of indebtedness intended for the program to support its other bond programs until such time as the one billion dollars is exhausted or subsidies are available to make the program feasible. [2010 1st sp.s. c 6 § 2; 2009 c 291 § 1; 2008 c 111 § 1; 2006 c 262 § 1;

(2010 Ed.)

1999 c 131 § 2; 1996 c 310 § 2; 1986 c 264 § 2; 1983 c 161 § 16.]

Short title—2010 1st sp.s. c 6: "This act may be known and cited as the Washington works housing act of 2010." [2010 1st sp.s. c 6 § 1.]

43.180.170 Bond issues—Disposition of proceeds—Special fund. Proceeds from the sale of all bonds issued under this chapter received by the commission shall be deposited forthwith by the commission in any trust company, savings bank, savings and loan association, or bank having the powers of a trust company within or without the state, in a special fund or funds established for the particular purposes for which the bonds were issued and sold, which money shall not be funds of the state of Washington. Such fund or funds shall at all times be segregated and set apart from all other funds and held in trust for the purposes for which such bonds were issued as determined by the commission. Money other than bond sale proceeds received by the commission for these same purposes, such as private contributions or grants from the federal government, may be deposited in such fund or funds. Proceeds received from the sale of the bonds may also be used to defray the expenses of the commission in connection with and incidental to the issuance and sale of bonds, as well as expenses for studies, surveys, estimates, plans, inspections, and examinations of or incidental to the purposes for which the bonds were issued, and other costs advanced therefor by third parties or by the commission. In lieu of the commission receiving and handling these moneys in the manner outlined in this section, the commission may appoint trustees, depositories, paying agents, and other financial institutions within or without the state to perform the functions outlined and to receive, hold, disburse, invest, and reinvest such funds on its behalf and for the protection of the bondholders. [1983 c 161 § 17.]

43.180.180 Bond issues—Disposition of revenues—Special trust fund. All revenues received by the commission including funds received from contributions or grants or in any other form to pay principal of and interest on bonds or for other bond requirements such as reserves shall be deposited by the commission in any trust company, savings bank, savings and loan association, or bank having the powers of a trust company within or without the state, to the credit of a special trust fund or funds. The commission may establish a bond fund or funds, and a reserve, sinking fund and other accounts therein, for payment of principal and interest and for other special requirements of the bonds as determined by the commission. In lieu of the commission receiving and handling these moneys as outlined in this section, the commission may appoint trustees, depositories, paying agents, and other financial institutions to perform the functions outlined and to receive, hold, disburse, invest, and reinvest such funds on its behalf and for the protection of the bondholders. Such revenues and funds, whether received and held by the commission or by others on its behalf, shall not be or constitute public funds of the state of Washington but at all times shall be kept segregated and apart from all other funds. [1983 c 161 § 18.]

43.180.190 Legal investments. Bonds issued under this chapter are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in obligations of the state may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivisions of the state for any purpose for which the deposit of bonds and other obligations of the state are now or may hereafter be authorized by law. [1983 c 161 § 19.]

43.180.200 Internal revenue code. For purposes of the code:

(1) The legislature reserves the right at any time to alter or change the structure, organization, programs, or activities of the commission and to terminate the commission, so long as the action does not impair any outstanding contracts entered into by the commission;

(2) Any net earnings of the commission beyond that necessary to retire its bonds and to carry out the purposes of this chapter shall not inure to the benefit of any person other than the state;

(3) Upon dissolution of the commission, title to all of its remaining property shall vest in the state;

(4) The commission constitutes the only housing finance agency of the state of Washington; and

(5) In order to take advantage of the maximum amount of tax exempt bonds for housing financing available pursuant to the code, any state ceiling with respect to housing shall be allocated in accordance with the following formula:

(a) Eighty percent of the state ceiling shall be allocated to the commission and twenty percent shall be allocated to the other issuing authorities in the state.

(b) The allocation to the issuing authorities other than the commission shall be distributed to such issuing authorities in amounts as determined following public notice by the *department of community, trade, and economic development pursuant to rules promulgated by it. The distribution shall be in response to applications received from such issuing authorities and shall be based on the following factors: (i) The amount of housing to be made available by such applicant; (ii) the population within the jurisdiction of the applicant; (iii) coordination with other applicable federal and state housing programs; (iv) the likelihood of implementing the proposed financing during that year; and (v) consistency with the plan of the commission. On or before February 1 of each year, the *department of community, trade, and economic development shall distribute the state ceiling allocation among such issuing authorities and any unused portion shall be added to the allocation of the commission. Each issuing authority other than the commission shall confirm its allocation distribution by providing to the *department of community, trade, and economic development no later than June 1 a copy of an executed bond purchase contract or alternative documentation deemed sufficient by the commission to evi-

dence the reasonable likelihood of the allocation distribution being fully used. Any portion of such allocation not so confirmed shall be added to the allocation of the commission on July 1. Prior to July 1, the commission shall provide written notice of the allocation decrease to the affected issuing authority. The reallocation shall not limit the authority of the commission to assign a portion of its allocation pursuant to subsection (5)(c) of this section.

(c) The commission may assign a portion of its allocation to another issuing agency. [1995 c 399 § 99; 1986 c 264 § 3; 1985 c 6 § 15; 1984 c 28 § 1; 1983 c 161 § 20.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.180.220 Housing finance program—Mortgage financing—Investments—Flexible loan underwriting guidelines. The commission, in cooperation with the *department of community, trade, and economic development, and the state investment board, shall develop and implement a housing finance program that:

(1) Provides subsidized or unsubsidized mortgage financing for single-family home ownership, including a single condominium unit, located in the state of Washington;

(2) Requests the state investment board to make investments, within its policies and investment guidelines, in mortgage-backed securities that are collateralized by loans made within the state of Washington; and

(3) Provides flexible loan underwriting guidelines, including but not limited to provisions that will allow reduced downpayment requirements for the purchaser. [1994 c 235 § 1.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.180.230 Housing finance program—Program elements. The housing finance program developed under RCW 43.180.220 shall:

(1) Be limited to borrowers with incomes that do not exceed one hundred fifteen percent of the state or county median family income, whichever is higher, adjusted for family size;

(2) Be limited to first-time home buyers as defined in RCW 43.185A.010;

(3) Be targeted so that priority is given to low-income households as defined in RCW 43.185A.010;

(4) To the extent funds are made available, provide either downpayment or closing costs assistance to households eligible for assistance under chapter 43.185A RCW and this chapter; and

(5) Provide notification to active participants of the state retirement systems managed by the department of retirement systems under chapter 41.50 RCW. [1994 c 235 § 2.]

Additional notes found at www.leg.wa.gov

43.180.240 Housing finance program—Report to legislature annually—Implementation. (1) The commission shall submit to the legislature in its annual report a summary of the progress of the housing finance program developed under RCW 43.180.220. The report shall include, but not be

limited to the number of loans made and location of property financed under RCW 43.180.220 and 43.180.230.

(2) The commission shall take such steps as are necessary to ensure that RCW 43.180.220 and 43.180.230 are implemented on June 9, 1994. [1994 c 235 § 3.]

Additional notes found at www.leg.wa.gov

43.180.250 Veteran homeownership downpayment assistance program—Rules. (1) By January 1, 2007, the Washington state housing finance commission shall create and implement a veteran homeownership downpayment assistance program to work in conjunction with the commission's housing finance programs. The program will assist the following individuals purchase a home:

(a) Washington state residents who are veterans, as defined by RCW 41.04.007;

(b) Members and former members of the Washington national guard and reserve; and

(c) Never remarried spouses and dependent children of deceased veterans, as defined by RCW 41.04.007.

(2) The commission shall adopt rules providing procedures to assure that the downpayment assistance program is available for qualified veterans in a fair and equitable manner. [2006 c 252 § 1.]

43.180.260 Sustainable energy trust program. (1) If economically feasible, the commission shall develop and implement a sustainable energy trust program to provide financing for qualified improvement projects. In developing the sustainable energy trust program, the commission shall establish eligibility criteria for financing that will enable it to choose eligible applicants who are likely to repay loans made or acquired by the commission and funded from the proceeds of commission bonds.

(2) The commission shall, if economically feasible:

(a) Issue bonds, as defined in RCW 43.180.020, for the purpose of financing loans for qualified energy efficiency and renewable energy improvement projects in accordance with RCW 43.180.150;

(b) Participate fully in federal and other governmental programs and take actions that are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of programs to promote energy efficiency and renewable energy technologies;

(c) Contract with a certifying authority to accept applications for energy efficiency and renewable energy improvement projects, to review applications, including binding fixed price bids for the improvements, and to approve qualified improvements for financing by the commission. For solar electric systems, the certifying authority must use an application certification process similar to the investment cost recovery incentive application process provided under RCW 82.16.120. No work by a certifying authority may commence under this section until a request has been made by the commission; and

(d) Before entering into a contract with a certifying authority as defined in RCW 43.180.020(2)(b), consult with the Washington State University energy extension [extension energy] program to determine which potential improvement technologies are appropriate.

(2010 Ed.)

(3) No general fund resources may be expended to implement this section. [2009 c 65 § 3.]

Intent—Finding—2009 c 65: See note following RCW 43.180.020.

43.180.290 Beginning farmer financing program. (1) The commission may develop and implement a program to provide financing for beginning farmers. In developing the program, the commission shall establish eligibility criteria for financing that will enable it to choose applicants who are likely to repay loans made or acquired by the commission and funded from the proceeds of commission bonds.

(2) The commission may:

(a) Issue revenue bonds as defined in RCW 43.180.020(1) for the purpose of financing loans to beginning farmers in accordance with RCW 43.180.150;

(b) Do all things necessary to provide for the exemption of interest on its bonds from federal income taxation; and

(c) Participate fully in federal and other governmental programs and take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs for beginning farmers. [2005 c 120 § 2.]

Findings—Purpose—2005 c 120: "The legislature finds that there are a significant number of people from both urban and rural areas of the state with the training, expertise, and interest in initiating a livelihood in farming but who lack the financial resources to get started. The legislature also finds that the average age of existing farmers is increasing, the number of full-time commercial farms is decreasing, and an increasing concern that there will be insufficient young people who have both the capability and interest to fulfill the needs for the next generation.

The legislature finds that there are a significant number of new small farms in the state and a significant enrollment in agricultural courses offered by public community colleges and universities and the beginning farmer program offered by Washington State University cooperative extension.

The purpose of this act is to establish a program to test the feasibility, interest, and results of a beginning farmer loan program." [2005 c 120 § 1.]

NONPROFIT CORPORATION FACILITIES

43.180.300 Definitions. As used in RCW 43.180.310 through 43.180.360, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Construction" or "construct" means construction and acquisition, whether by device, purchase, gift, lease, or otherwise.

(2) "Facilities" means land, rights in land, buildings, structures, equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities.

(3) "Financing document" means a lease, sublease, installment sale agreement, conditional sale agreement, loan agreement, mortgage, deed of trust guaranty agreement, or other agreement for the purpose of providing funds to pay or secure debt service on revenue bonds.

(4) "Improvement" means reconstruction, remodeling, rehabilitation, extension, and enlargement. "To improve" means to reconstruct, to remodel, to rehabilitate, to extend, and to enlarge.

(5) "Nonprofit corporation" means a nonprofit organization described under section 501(c)(3) of the Internal Revenue Code, or similar successor provisions.

(6) "Nonprofit facilities" means facilities owned or used by a nonprofit corporation for any nonprofit activity

described under section 501(c)(3) of the Internal Revenue Code that qualifies such a corporation for an exemption from federal income taxes under section 501(a) of the Internal Revenue Code, or similar successor provisions provided that facilities which may be funded pursuant to chapter 28B.07, 35.82, 43.180, or 70.37 RCW shall not be included in this definition.

(7) "Project costs" means costs of (a) acquisition, construction, and improvement of any facilities included in a nonprofit facility; (b) architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, and construction of a nonprofit facility, including costs of studies assessing the feasibility of a nonprofit facility; (c) finance costs, including discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any trust agreement; (d) interest during construction and during the six months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves; (e) the refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and (f) other costs incidental to any of the costs listed in this section.

(8) "Revenue bond" means a taxable or tax-exempt non-recourse revenue bond, nonrecourse revenue note, or other nonrecourse revenue obligation issued for the purpose of providing financing to a nonprofit corporation on an interim or permanent basis.

(9) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and may include a party who transfers the right of use and occupancy to another party by lease, sublease, or otherwise. [1997 c 44 § 1; 1990 c 167 § 2.]

43.180.310 Commission powers. The commission has the following powers with respect to nonprofit facilities together with all powers incidental thereto or necessary for the performance thereof:

(1) To make secured loans to nonprofit corporations for the purpose of providing temporary or permanent financing or refinancing of all or part of the project cost of any nonprofit facility, including the refunding of any outstanding obligations, mortgages, or advances issued, made, or given by any person for the project costs of a nonprofit corporation; and to charge and collect interest on the loans for the loan payments upon such terms and conditions as its commissioners consider advisable which are not in conflict with this subchapter;

(2) To issue revenue bonds for the purpose of financing all or part of the project cost of any nonprofit facility and to secure the payment of the revenue bonds as provided in this subchapter;

(3) To collect fees or charges from users or prospective users of nonprofit facilities to recover actual or anticipated administrative costs;

(4) To execute financing documents incidental to the powers enumerated in this section;

(5) To accept grants and gifts;

(6) To establish such special funds with any financial institution providing fiduciary services within or without the state as it deems necessary and appropriate and invest money therein. [1990 c 167 § 3.]

43.180.320 Revenue bonds. (1) The proceeds of the revenue bonds of each issue shall be used solely for the purposes set forth in this subchapter and shall be disbursed in such manner and under such restrictions, if any, provided in the resolution authorizing the issuance of the revenue bonds or in the trust agreement securing the bonds. If the proceeds of the revenue bonds of any series issued with respect to the cost of any nonprofit facility exceeds the cost of the nonprofit facility for which issued, the surplus shall be deposited to the credit of the debt service fund for the revenue bonds or used to purchase the revenue bonds in the open market.

(2) The commission may issue interim notes in the manner provided for the issuance of revenue bonds to fund nonprofit facilities prior to issuing other revenue bonds to fund such facilities. The commission may issue revenue bonds to fund nonprofit facilities that are exchangeable for other revenue bonds, when these other revenue bonds are executed and available for delivery.

(3) The principal of and interest on any revenue bonds issued by the commission shall be secured by a pledge of unexpended bond proceeds and the revenues and receipts derived from the nonprofit facilities funded by the revenue bonds pursuant to financing documents. The resolution under which the revenue bonds are authorized to be issued and any financing document may contain agreements and provisions respecting the maintenance or use of the nonprofit facility covered thereby, the fixing and collection of rents, purchase price payments or loan payments, the creation and maintenance of special funds from such revenues or from revenue bond proceeds, the rights and remedies available in the event of default, and other provisions relating to the security for the bonds, all as the commission considers advisable which are not in conflict with this subchapter.

(4) All revenue bonds issued under this subchapter and any interest coupons applicable thereto are negotiable instruments within the meaning of Article 8 of the uniform commercial code, Title 62A RCW, regardless of form or character.

(5) Notwithstanding subsection (1) of this section, such bonds and interim notes may be issued and sold in accordance with chapter 39.46 RCW. [1990 c 167 § 4.]

43.180.330 Revenue refunding bonds. The commission may provide by resolution for the issuance of revenue refunding bonds for the purpose of refunding any obligations issued for a nonprofit facility, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption or maturity of the revenue bonds and, if considered advisable by the commission, for the additional purpose of financing improvements, extensions, or enlargements to the nonprofit facility for another nonprofit facility. The issuance of the revenue refunding bonds, the maturities and other details thereof, the rights of the owners thereof, and the rights, duties, and obligations of the commission in respect to the same shall be governed by this chapter insofar as applicable. [1990 c 167 § 5.]

43.180.340 Trust agreements. Any bonds issued under this subchapter may be secured by a trust agreement between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company

within or without the state. The trust agreement may evidence a pledge or assignment of the financing documents and lease, sale, or loan revenues to be received from a lessee or purchaser of or borrower with respect to a nonprofit facility for the payment of principal of and interest and any premium on the bonds as the same shall become due and payable and may provide for creation and maintenance of reserves for these purposes. A trust agreement or resolution providing for the issuance of the revenue bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondowners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties in relation to the acquisition of property and the construction, improvement, maintenance, use, repair, operation, and insurance of the nonprofit facility for which the bonds are authorized, and the custody, safeguarding, and application of all money. Any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of revenue bonds or of revenues may furnish such indemnifying bonds or pledge such securities as may be required by the commission. A trust agreement may set forth the rights and remedies of the bondowners and of the trustee and may restrict the individual right of action by bondowners as is customary in trust agreements or trust indentures securing bonds and debentures of private corporations. In addition, a trust agreement may contain such provisions as the commission considers reasonable and proper for the security of the bondowners which are not in conflict with this subchapter. [1990 c 167 § 6.]

43.180.350 Lessees or assignees. A lessee or contracting party under a sale contract or loan agreement shall not be required to be the eventual user of a nonprofit facility if any sublessee or assignee assumes all of the obligations of the lessee or contracting party under the lease, sale contract, or loan agreement, but the lessee or contracting party or their successors shall remain primarily liable for all of its obligations under the lease, sale contract, or loan agreement and the use of the nonprofit facility shall be consistent with the purposes of this subchapter. [1990 c 167 § 7.]

43.180.360 Default. The proceedings authorizing any revenue bonds under this subchapter or any financing document securing the revenue bonds may provide that if there is a default in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained in the proceedings or financing document, the payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan repayments, and to apply the revenues from the nonprofit facility in accordance with the proceedings or provisions of the financing document. Any financing document entered into under this subchapter may also provide that if there is a default in the payment thereof or a violation of any agreement contained in the financing document, the nonprofit facility may be foreclosed and sold under proceedings in equity or in any other manner now or hereafter permitted by law. Any financing document may also provide that any trustee under the financing document or the holder of any revenue bonds secured

thereby may become the purchaser at any foreclosure sale if it is the highest bidder. [1990 c 167 § 8.]

43.180.900 Conflict with federal requirements. If any part of this chapter is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this chapter is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The rules under this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1983 c 161 § 21.]

43.180.901 Liberal construction. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof. [1983 c 161 § 23.]

43.180.902 Captions not part of law. As used in this chapter and RCW 82.04.408, section captions constitute no part of the law. [1983 c 161 § 24.]

43.180.903 Severability—1983 c 161. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 c 161 § 31.]

43.180.904 Effective dates—1983 c 161. (1) Except as provided in subsection (2) of this section, this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

(2) Section 10 of this act shall take effect on January 1, 1984. [1983 c 161 § 32.]

43.180.905 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 109.]

Chapter 43.185 RCW

HOUSING ASSISTANCE PROGRAM

Sections

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- 43.185.030 Washington housing trust fund.
- 43.185.050 Use of moneys for loans and grant projects to provide housing—Eligible activities.
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- 43.185.070 Notice of grant and loan application period—Priorities—Criteria for evaluation (*as amended by 2005 c 219*).
- 43.185.070 Notice of grant and loan application period—Priorities—Criteria for evaluation (*as amended by 2005 c 518*).
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- 43.185.110 Affordable housing advisory board—State housing needs.
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- 43.185.900 Severability—1986 c 298.
- 43.185.910 Conflict with federal requirements—1991 c 356.
- 43.185.911 Severability—1991 c 356.

Donations of surplus state property: RCW 43.19.1920.

Funding: RCW 43.79.201 and 79.02.410.

43.185.010 Findings. The legislature finds that current economic conditions, federal housing policies and declining resources at the federal, state, and local level adversely affect the ability of low and very low-income persons to obtain safe, decent, and affordable housing.

The legislature further finds that members of over one hundred twenty thousand households live in housing units which are overcrowded, lack plumbing, are otherwise threatening to health and safety, and have rents and utility payments which exceed thirty percent of their income.

The legislature further finds that minorities, rural households, and migrant farm workers require housing assistance at a rate which significantly exceeds their proportion of the general population.

The legislature further finds that one of the most dramatic housing needs is that of persons needing special housing-related services, such as the mentally ill, recovering alcoholics, frail elderly persons, families with members who have disabilities, and single parents. These services include medical assistance, counseling, chore services, and child care.

The legislature further finds that housing assistance programs in the past have often failed to help those in greatest need.

The legislature declares that it is in the public interest to establish a continuously renewable resource known as the housing trust fund and housing assistance program to assist low and very low-income citizens in meeting their basic housing needs, and that the needs of very low-income citizens should be given priority and that whenever feasible, assistance should be in the form of loans. [1991 c 356 § 1; 1986 c 298 § 1.]

43.185.015 Housing assistance program. There is created within the department the housing assistance program to carry out the purposes of this chapter. [1995 c 399 § 100; 1991 c 356 § 2.]

43.185.020 Definitions. "Department" means the department of commerce. "Director" means the director of the department of commerce. [2009 c 565 § 37; 1995 c 399 § 101; 1986 c 298 § 3.]

43.185.030 Washington housing trust fund. There is hereby created in the state treasury an account to be known as the Washington housing trust fund. The housing trust fund shall include revenue from the sources established by this chapter, appropriations by the legislature, private contributions, repayment of loans, and all other sources. [1991 sp.s. c 13 § 87; 1991 c 356 § 3; 1987 c 513 § 6; 1986 c 298 § 2.]

Distribution of interest from real estate brokers' trust accounts: RCW 18.85.285.

Additional notes found at www.leg.wa.gov

43.185.050 Use of moneys for loans and grant projects to provide housing—Eligible activities. (1) The department shall use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loans or grant projects that will provide housing for persons and families with special housing needs and with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located. At least thirty percent of these moneys used in any given funding cycle shall be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in nonrural areas of the state.

(2) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

- (a) New construction, rehabilitation, or acquisition of low and very low-income housing units;
- (b) Rent subsidies;
- (c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;
- (d) Technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;
- (e) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;
- (f) Shelters and related services for the homeless, including emergency shelters and overnight youth shelters;
- (g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;
- (h) Mortgage insurance guarantee or payments for eligible projects;
- (i) Down payment or closing cost assistance for eligible first-time home buyers;
- (j) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing;
- (k) Projects making housing more accessible to families with members who have disabilities; and

(1) During the 2005-2007 fiscal biennium, a manufactured/mobile home landlord-tenant ombudsman conflict resolution and park registration program.

(3) During the 2005-2007 fiscal biennium, revenues generated under RCW 36.22.178 may be used for the development of affordable housing projects and other activities funded in section 108, chapter 371, Laws of 2006.

(4) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2)(a), (i), and (j) of this section, and not for the administrative costs of the department.

(5) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the housing assistance program except for activities authorized under subsection (2)(b) and (c) of this section.

(6) Administrative costs of the department shall not exceed five percent of the annual funds available for the housing assistance program. [2006 c 371 § 236. Prior: 2005 c 518 § 1801; 2005 c 219 § 1; 2002 c 294 § 6; 1994 c 160 § 1; 1991 c 356 § 4; 1986 c 298 § 6.]

Part headings not law—Severability—Effective date—2006 c 371: See notes following RCW 43.325.040.

Severability—Effective date—2005 c 518: See notes following RCW 28A.500.030.

Findings—2002 c 294: See note following RCW 36.22.178.

43.185.060 Eligible organizations. Organizations that may receive assistance from the department under this chapter are local governments, local housing authorities, regional support networks established under chapter 71.24 RCW, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or statewide nonprofit housing assistance organizations.

Eligibility for assistance from the department under this chapter also requires compliance with the revenue and taxation laws, as applicable to the recipient, at the time the grant is made. [1994 c 160 § 2; 1991 c 295 § 1; 1986 c 298 § 7.]

43.185.070 Notice of grant and loan application period—Priorities—Criteria for evaluation (as amended by 2005 c 219). (1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the housing assistance program, the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department. Administrative costs paid out of the housing trust fund may not exceed ~~(four)~~ five percent of annual revenues available for distribution to housing trust fund projects. In awarding funds under this chapter, the department shall provide for a geographic distribution on a statewide basis.

(2) The department shall give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities shall be evaluated under subsection (3) of this section. Second priority shall be given to activities and projects which utilize existing publicly owned housing stock. All projects and activities shall be evaluated by some or all of the criteria under subsection (3) of this section, and similar projects and activities shall be evaluated under the same criteria.

(3) The department shall give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities shall be evaluated under the same criteria:

(a) The degree of leveraging of other funds that will occur;

(b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;

(c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Local government project contributions in the form of infrastructure improvements, and others;

(e) Projects that encourage ownership, management, and other project-related responsibility opportunities;

(f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;

(g) The applicant has the demonstrated ability, stability and resources to implement the project;

(h) Projects which demonstrate serving the greatest need;

(i) Projects that provide housing for persons and families with the lowest incomes;

(j) Projects serving special needs populations which are under statutory mandate to develop community housing;

(k) Project location and access to employment centers in the region or area;

(l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in RCW 50.72.020; and

(m) Project location and access to available public transportation services.

(4) The department shall only approve applications for projects for mentally ill persons that are consistent with a regional support network six-year capital and operating plan. [2005 c 219 § 2; 1994 sp.s. c 3 § 9. Prior: 1991 c 356 § 5; 1991 c 295 § 2; 1988 c 286 § 1; 1986 c 298 § 8.]

43.185.070 Notice of grant and loan application period—Priorities—Criteria for evaluation (as amended by 2005 c 518). (1) During each

calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the housing assistance program, the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department. Administrative costs paid out of the housing trust fund may not exceed four percent of annual revenues available for distribution to housing trust fund projects, except in fiscal year 2005 when administrative costs shall not exceed five percent. In awarding funds under this chapter, the department shall provide for a geographic distribution on a statewide basis.

(2) The department shall give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities shall be evaluated under subsection (3) of this section. Second priority shall be given to activities and projects which utilize existing publicly owned housing stock. All projects and activities shall be evaluated by some or all of the criteria under subsection (3) of this section, and similar projects and activities shall be evaluated under the same criteria.

(3) The department shall give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities shall be evaluated under the same criteria:

(a) The degree of leveraging of other funds that will occur;

(b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;

(c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Local government project contributions in the form of infrastructure improvements, and others;

(e) Projects that encourage ownership, management, and other project-related responsibility opportunities;

(f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;

(g) The applicant has the demonstrated ability, stability and resources to implement the project;

(h) Projects which demonstrate serving the greatest need;

(i) Projects that provide housing for persons and families with the low-est incomes;

(j) Projects serving special needs populations which are under statutory mandate to develop community housing;

(k) Project location and access to employment centers in the region or area;

(l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in RCW 50.72.020; and

(m) Project location and access to available public transportation services.

(4) The department shall only approve applications for projects for mentally ill persons that are consistent with a regional support network six-year capital and operating plan. [2005 c 518 § 1802; 1994 sp.s. c 3 § 9. Prior: 1991 c 356 § 5; 1991 c 295 § 2; 1988 c 286 § 1; 1986 c 298 § 8.]

Reviser's note: RCW 43.185.070 was amended twice during the 2005 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Severability—Effective date—2005 c 518: See notes following RCW 28A.500.030.

43.185.074 Low-income housing grants and loans—Applications. The director shall designate grant and loan applications for approval and for funding under the revenue from remittances made pursuant to *RCW 18.85.310. These applications shall then be reviewed for final approval by the broker's trust account board created by **RCW 18.85.500.

The director shall submit to the broker's trust account board within any fiscal year only such applications which in their aggregate total funding requirements do not exceed the revenue to the housing trust fund [fund] from remittances made pursuant to *RCW 18.85.310 for the previous fiscal year. [1987 c 513 § 11. Formerly RCW 18.85.505.]

Reviser's note: *(1) RCW 18.85.310 was recodified as RCW 18.85.285 pursuant to 2008 c 23 § 49, effective July 1, 2010.

** (2) RCW 18.85.500 was repealed by 1994 sp.s. c 9 § 857, effective July 1, 1994.

Additional notes found at www.leg.wa.gov

43.185.076 Low-income housing grants and loans—Approval—License education programs. The broker's trust account board shall review grant and loan applications placed before it by the director for final approval pursuant to RCW 43.185.074.

The decisions of the board shall be subject to the provisions of RCW 43.185.050, 43.185.060, and 43.185.070 with regard to eligible activities, eligible recipients, and criteria for evaluation.

The broker's trust account board shall serve in an advisory capacity to the real estate commission with regard to licensee education programs established pursuant to *RCW 18.85.040 and 18.85.220. [1988 c 286 § 3; 1987 c 513 § 10. Formerly RCW 18.85.510.]

***Reviser's note:** RCW 18.85.040 and 18.85.220 were recodified as RCW 18.85.041 and 18.85.061, respectively, pursuant to 2008 c 23 § 49, effective July 1, 2010.

Additional notes found at www.leg.wa.gov

43.185.080 Preconstruction technical assistance. (1)

The department may use moneys from the housing trust fund and other legislative appropriations, but not appropriations from capital bond proceeds, to provide preconstruction technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing-related services for very low and low-income persons. The department shall emphasize providing preconstruction technical assistance services to rural areas and small cities and towns. The department may contract with nonprofit organizations to provide this technical assistance. The department may contract for any of the following services:

(a) Financial planning and packaging for housing projects, including alternative ownership programs, such as limited equity partnerships and syndications;

(b) Project design, architectural planning, and siting;

(c) Compliance with planning requirements;

(d) Securing matching resources for project development;

(e) Maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, locally and state-managed funds, zoning variances, or creative local planning;

(f) Coordination with local planning, economic development, and environmental, social service, and recreational activities;

(g) Construction and materials management; and

(h) Project maintenance and management.

(2) The department shall publish requests for proposals which specify contract performance standards, award criteria, and contractor requirements. In evaluating proposals, the department shall consider the ability of the contractor to provide technical assistance to low and very low-income persons and to persons with special housing needs. [1991 c 356 § 6; 1986 c 298 § 9.]

43.185.090 Compliance monitoring. The director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms and conditions set forth in its application or stated by the department in connection with the grant or loan. [1986 c 298 § 10.]

43.185.100 Rule-making authority. The department shall have the authority to promulgate rules pursuant to chapter 34.05 RCW, regarding the grant and loan process, and the substance of eligible projects, consistent with this chapter. The department shall consider the recommendations of cities and counties regarding how the funds shall be used in their geographic areas. [1987 c 513 § 2; 1986 c 298 § 11.]

Additional notes found at www.leg.wa.gov

43.185.110 Affordable housing advisory board—State housing needs. The affordable housing advisory board established in RCW 43.185B.020 shall advise the director on housing needs in this state, including housing needs for persons who are mentally ill or developmentally disabled or youth who are blind or deaf or otherwise disabled, operational aspects of the grant and loan program or revenue col-

lection programs established by this chapter, and implementation of the policy and goals of this chapter. Such advice shall be consistent with policies and plans developed by regional support networks according to chapter 71.24 RCW for the mentally ill and the developmental disabilities planning council for the developmentally disabled. [1993 c 478 § 15; 1991 c 204 § 4; 1987 c 513 § 3.]

Additional notes found at www.leg.wa.gov

43.185.120 Protection of state's interest. The department shall adopt policies to ensure that the state's interest will be protected upon either the sale or change of use of projects financed in whole or in part under RCW 43.185.050(2) (a), (i), and (j). These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project; (2) requiring a lump-sum repayment of the loan or grant upon the sale or change of use of the project; or (3) requiring a deferred payment of principal or principal and interest on loans after a specified time period. [1991 c 356 § 7.]

43.185.130 Application process—Distribution procedure. The application process and distribution procedure for the allocation of funds are the same as the competitive application process and distribution procedure for the housing trust fund, described in this chapter and chapter 43.185A RCW, except for the funds applied to the homeless families services fund created in RCW 43.330.167, dollars appropriated to weatherization administered through the energy matchmaker program, dollars appropriated for housing vouchers for homeless persons, victims of domestic violence, and low-income persons or seasonal farm workers, and dollars appropriated to any program to provide financial assistance for grower-provided on-farm housing for low-income migrant or seasonal farm workers. [2006 c 349 § 3.]

Finding—2006 c 349: "The legislature finds that Washington is experiencing an affordable housing crisis and that this crisis is growing exponentially every year as the population of the state expands and housing values increase at a rate that far exceeds most households' proportionate increase in income.

The fiscal and societal costs of the lack of adequate affordable housing are high for both the public and private sectors. Current levels of funding for affordable housing programs are inadequate to meet the housing needs of many low-income Washington households." [2006 c 349 § 1.]

43.185.140 Findings—Review of all housing properties—Energy audits. (1) The legislature finds that growing preservation and rehabilitation needs in the housing trust fund property portfolio provide opportunities to advance energy efficiency and weatherization efforts for low-income individuals in Washington state while protecting the state's six hundred million dollars in affordable housing investments. Preservation of existing affordable housing, when done in conjunction with weatherization activities, is a cost-effective, prudent, and environmentally friendly strategy to ensure that low-income housing remains durable, safe, and affordable. Therefore, the legislature intends that where federal funds are available for increasing and improving energy efficiency of low-income housing that these funds must be utilized, subject to federal requirements, for energy audits

and implementing energy efficiency measures in the state housing trust fund real estate portfolio.

(2) The department shall review all housing properties in the housing trust fund real estate portfolio and identify those in need of major renovation or rehabilitation. In its review, the department shall survey property owners for information including, but not limited to, the age of the building and the type of heating, cooling, plumbing, and electrical systems contained in the property. The department shall prioritize all renovation or rehabilitation projects identified in the review by the department's ability to:

(a) Achieve the greatest possible expected monetary and energy savings by low-income households and other energy consumers over the greatest period of time;

(b) Promote the greatest possible health and safety improvements for residents of low-income households; and

(c) Leverage, to the extent feasible, technologically advanced and environmentally friendly sustainable technologies, practices, and designs.

(3) Subject to the availability of amounts appropriated for this specific purpose, the department shall use the prioritization of potential energy efficiency needs and opportunities in subsection (2) of this section to make offers of energy audit services to project owners and operators. The department shall use all practicable means to achieve the completion of energy audits in at least twenty-five percent of the properties in its portfolio that exceed twenty-five years in age, by June 30, 2011. Where the energy audits identify cost-effective weatherization and other energy efficiency measures, the department shall accord a priority within appropriated funding levels to include funding for energy efficiency improvements when the department allocates funding for renovation or rehabilitation of the property. [2009 c 379 § 301.]

Finding—Intent—Effective date—2009 c 379: See notes following RCW 70.260.010.

43.185.900 Severability—1986 c 298. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1986 c 298 § 13.]

43.185.910 Conflict with federal requirements—1991 c 356. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1991 c 356 § 8.]

43.185.911 Severability—1991 c 356. See RCW 43.185A.901.

Chapter 43.185A RCW
AFFORDABLE HOUSING PROGRAM

Sections

- 43.185A.010 Definitions.
- 43.185A.020 Affordable housing program—Purpose—Input.
- 43.185A.030 Activities eligible for assistance (*as amended by 2005 c 219*).
- 43.185A.030 Activities eligible for assistance (*as amended by 2005 c 518*).
- 43.185A.040 Eligible organizations.
- 43.185A.050 Grant and loan application process.
- 43.185A.060 Protection of state interest.
- 43.185A.070 Monitor recipient activities.
- 43.185A.080 Rules.
- 43.185A.090 Application process—Distribution procedure.
- 43.185A.100 Housing programs and services—Review of reporting requirements—Report to the legislature.
- 43.185A.110 Affordable housing land acquisition revolving loan fund program.
- 43.185A.120 Affordable housing and community facilities rapid response loan program.
- 43.185A.900 Short title.
- 43.185A.901 Severability—1991 c 356.
- 43.185A.902 Conflict with federal requirements—1991 c 356.

43.185A.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affordable housing" means residential housing for rental occupancy which, as long as the same is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the family's income. The department shall adopt policies for residential homeownership housing, occupied by low-income households, which specify the percentage of family income that may be spent on monthly housing costs, including utilities other than telephone, to qualify as affordable housing.

(2) "Department" means the department of commerce.

(3) "Director" means the director of the department of commerce.

(4) "First-time home buyer" means an individual or his or her spouse or domestic partner who have not owned a home during the three-year period prior to purchase of a home.

(5) "Low-income household" means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the project is located. [2009 c 565 § 38; 2008 c 6 § 301; 2000 c 255 § 9; 1995 c 399 § 102; 1991 c 356 § 10.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Severability—Effective date—2000 c 255: See RCW 59.28.901 and 59.28.902.

43.185A.020 Affordable housing program—Purpose—Input. The affordable housing program is created in the department for the purpose of developing and coordinating public and private resources targeted to meet the affordable housing needs of low-income households in the state of Washington. The program shall be developed and administered by the department with advice and input from the affordable housing advisory board established in RCW 43.185B.020. [1995 c 399 § 103; 1993 c 478 § 16; 1991 c 356 § 11.]

43.185A.030 Activities eligible for assistance (*as amended by 2005 c 219*). (1) Using moneys specifically appropriated for such purpose, the department shall finance in whole or in part projects that will provide housing for low-income households.

(2) Activities eligible for assistance include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of housing for low-income households;

(b) Rent subsidies in new construction or rehabilitated multifamily units;

(c) Down payment or closing costs assistance for first-time home buyers;

(d) Mortgage subsidies for new construction or rehabilitation of eligible multifamily units; and

(e) Mortgage insurance guarantee or payments for eligible projects.

(3) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2) (a), (c), (d), and (e) of this section, and not for the administrative costs of the department.

(4) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the affordable housing program except for activities authorized under subsection (2)(b) of this section.

(5) Administrative costs of the department shall not exceed ~~(four)~~ five percent of the annual funds available for the affordable housing program. [2005 c 219 § 3; 1994 c 160 § 3; 1991 c 356 § 12.]

43.185A.030 Activities eligible for assistance (*as amended by 2005 c 518*). (1) Using moneys specifically appropriated for such purpose, the department shall finance in whole or in part projects that will provide housing for low-income households.

(2) Activities eligible for assistance include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of housing for low-income households;

(b) Rent subsidies in new construction or rehabilitated multifamily units;

(c) Down payment or closing costs assistance for first-time home buyers;

(d) Mortgage subsidies for new construction or rehabilitation of eligible multifamily units; and

(e) Mortgage insurance guarantee or payments for eligible projects.

(3) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2) (a), (c), (d), and (e) of this section, and not for the administrative costs of the department.

(4) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the affordable housing program except for activities authorized under subsection (2)(b) of this section.

(5) Administrative costs of the department shall not exceed four percent of the annual funds available for the affordable housing program, except in fiscal year 2005 when administrative costs shall not exceed five percent. [2005 c 518 § 1803; 1994 c 160 § 3; 1991 c 356 § 12.]

Reviser's note: RCW 43.185A.030 was amended twice during the 2005 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Severability—Effective date—2005 c 518: See notes following RCW 28A.500.030.

43.185A.040 Eligible organizations. Organizations that may receive assistance from the department under this chapter are local governments, local housing authorities, non-profit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or statewide nonprofit housing assistance organizations.

Eligibility for assistance from the department under this chapter also requires compliance with the revenue and taxation laws, as applicable to the recipient, at the time the grant is made. [1994 c 160 § 4; 1991 c 356 § 13.]

43.185A.050 Grant and loan application process. (1) During each calendar year in which funds are available for

use by the department for the affordable housing program, the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department, not to exceed five percent of moneys appropriated to the affordable housing program.

(2) The department shall develop, with advice and input from the *low-income [housing] assistance advisory committee established in RCW 43.185.110, criteria to evaluate applications for assistance under this chapter. [1991 c 356 § 14.]

***Reviser's note:** The "low-income housing assistance advisory committee" has been abolished and its powers, duties, and functions transferred to the affordable housing advisory board.

43.185A.060 Protection of state interest. The department shall adopt policies to ensure that the state's interest will be protected upon either the sale or change of use of projects financed in whole or in part under RCW 43.185A.030(2) (a), (b), (c), (d), and (e). These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project; (2) requiring a lump-sum repayment of the loan or grant upon the sale or change of use of the project; or (3) requiring a deferred payment of principal or principal and interest on loans after a specified time period. [1991 c 356 § 15.]

43.185A.070 Monitor recipient activities. The director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms and conditions set forth in its application or stated by the department in connection with the grant or loan. [1991 c 356 § 16.]

43.185A.080 Rules. The department shall have the authority to promulgate rules pursuant to chapter 34.05 RCW, regarding the grant and loan process, and the substance of eligible projects, consistent with this chapter. [1991 c 356 § 17.]

43.185A.090 Application process—Distribution procedure. The application process and distribution procedure for the allocation of funds are the same as the competitive application process and distribution procedure described in RCW 43.185.130. [2006 c 349 § 4.]

Finding—2006 c 349: See note following RCW 43.185.130.

43.185A.100 Housing programs and services—Review of reporting requirements—Report to the legislature. The department, the housing finance commission, the affordable housing advisory board, and all local governments, housing authorities, and other nonprofits receiving state housing funds or financing through the housing finance commission shall, by December 31, 2006, and annually thereafter, review current housing reporting requirements related to housing programs and services and give recom-

mendations to streamline and simplify all planning and reporting requirements to the *department of community, trade, and economic development, which will compile and present the recommendations annually to the legislature. The entities listed in this section shall also give recommendations for additional legislative actions that could promote affordable housing and end homelessness. [2006 c 349 § 11.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—2006 c 349: See note following RCW 43.185.130.

43.185A.110 Affordable housing land acquisition revolving loan fund program. (1) The affordable housing land acquisition revolving loan fund program is created in the department to assist eligible organizations, described under RCW 43.185A.040, to purchase land for affordable housing development. The department shall contract with the Washington state housing finance commission to administer the affordable housing land acquisition revolving loan fund program. Within this program, the Washington state housing finance commission shall establish and administer the Washington state housing finance commission land acquisition revolving loan fund.

(2) As used in this chapter, "market rate" means the current average market interest rate that is determined at the time any individual loan is closed upon using a widely recognized current market interest rate measurement to be selected for use by the Washington state housing finance commission with the department's approval. This interest rate must be noted in an attachment to the closing documents for each loan.

(3) Under the affordable housing land acquisition revolving loan fund program:

(a) Loans may be made to purchase land on which to develop affordable housing. In addition to affordable housing, facilities intended to provide supportive services to affordable housing residents and low-income households in the nearby community may be developed on the land.

(b) Eligible organizations applying for a loan must include in the loan application a proposed affordable housing development plan indicating the number of affordable housing units planned, a description of any other facilities being considered for the property, and an estimated timeline for completion of the development. The Washington state housing finance commission may require additional information from loan applicants and may consider the efficient use of land, project readiness, organizational capacity, and other factors as criteria in awarding loans.

(c) Forty percent of the loans shall go to eligible applicants operating homeownership programs for low-income households in which the households participate in the construction of their homes. Sixty percent of loans shall go to other eligible organizations. If the entire forty percent for applicants operating self-help homeownership programs cannot be lent to these types of applicants, the remainder shall be lent to other eligible organizations.

(d) Within five years of receiving a loan, a loan recipient must present the Washington state housing finance commission with an updated development plan, including a proposed development design, committed and anticipated additional financial resources to be dedicated to the development, and

an estimated development schedule, which indicates completion of the development within eight years of loan receipt. This updated development plan must be substantially consistent with the development plan submitted as part of the original loan application as required in (b) of this subsection.

(e) Within eight years of receiving a loan, a loan recipient must develop affordable housing on the property for which the loan was made and place the affordable housing into service.

(f) A loan recipient must preserve the affordable rental housing developed on the property acquired under this section as affordable housing for a minimum of thirty years.

(4) If a loan recipient does not place affordable housing into service on a property for which a loan has been received under this section within the eight-year period specified in subsection (3)(e) of this section, or if a loan recipient fails to use the property for the intended affordable housing purpose consistent with the loan recipient's original affordable housing development plan, then the loan recipient must pay to the Washington state housing finance commission an amount consisting of the principal of the original loan plus compounded interest calculated at the current market rate. The Washington state housing finance commission shall develop guidelines for the time period in which this repayment must take place, which must be noted in the original loan agreement. The Washington state housing finance commission may grant a partial or total exemption from this repayment requirement if it determines that a development is substantially complete or that the property has been substantially used in keeping with the original affordable housing purpose of the loan. Any repayment funds received as a result of non-compliance with loan requirements shall be deposited into the Washington state housing finance commission land acquisition revolving loan fund for the purposes of the affordable housing land acquisition revolving loan fund program.

(5) The Washington state housing finance commission, with approval from the department, may adopt guidelines and requirements that are necessary to administer the affordable housing land acquisition revolving loan fund program.

(6) Interest rates on property loans granted under this section may not exceed one percent. All loan repayment moneys received shall be deposited into the Washington state housing finance commission affordable housing land acquisition revolving loan fund for the purposes of the affordable housing land acquisition revolving loan fund program.

(7) The Washington state housing finance commission must develop performance measures for the program, which must be approved by the department, including, at a minimum, measures related to:

(a) The ability of eligible organizations to access land for affordable housing development;

(b) The total number of dwelling units by housing type and the total number of low-income households and persons served; and

(c) The financial efficiency of the program as demonstrated by factors, including the cost per unit developed for affordable housing units in different areas of the state and a measure of the effective use of funds to produce the greatest number of units for low-income households.

(8) By December 1st of each year, beginning in 2007, the Washington state housing finance commission shall report to the department and the appropriate committees of the legislature using, at a minimum, the performance measures developed under subsection (7) of this section. [2008 c 112 § 1; 2007 c 428 § 2.]

Findings—2007 c 428: "The legislature finds that protecting the public health, safety, and welfare by providing affordable housing resources to needy or vulnerable persons is a fundamental purpose of government. The legislature further finds that assisting eligible organizations to purchase land for affordable housing development and related supportive services facilities confers a valuable benefit on the public that constitutes consideration for financing assistance to eligible organizations in the form of low-interest loans, subject to restrictions that provide continued protection of the public interest." [2007 c 428 § 1.]

Contingency—2007 c 428: "If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void." [2007 c 428 § 3.] Funding was provided in 2007 c 520 § 1044 (capital budget).

43.185A.120 Affordable housing and community facilities rapid response loan program. (1) The affordable housing and community facilities rapid response loan program is created in the department to assist eligible organizations, described under RCW 43.185A.040, to purchase land or real property for affordable housing and community facilities preservation or development in rapidly gentrifying neighborhoods or communities with a significant low-income population that is threatened with displacement by such gentrification. The department shall contract with the Washington state housing finance commission to establish and administer the program.

(2) Loans or grants may be made through the affordable housing and community facilities rapid response loan program to purchase land or real property for the preservation or development of affordable housing or community facilities, including reasonable costs and fees.

(3) The Washington state housing finance commission, with approval from the department, may adopt guidelines and requirements that are necessary to administer the affordable housing and community facilities rapid response loan program.

(4) A loan or grant recipient must preserve affordable rental housing acquired or developed under this section as affordable housing for a minimum of thirty years.

(5) Interest rates on loans made under this section may be as low as zero percent but may not exceed three percent. All loan repayment moneys received must be deposited into a program account established by the Washington state housing finance commission for the purpose of making new loans and grants under this section.

(6) By December 1st of each year, beginning in 2008, the Washington state housing finance commission shall report to the department and the appropriate committees of the legislature: The number of loans and grants that were made in the program; for what purposes the loans and grants were made; to whom the loans and grants were made; and when the loans are expected to be paid back. [2008 c 112 § 2.]

43.185A.900 Short title. This chapter may be known and cited as the affordable housing act. [1991 c 356 § 9.]

43.185A.901 Severability—1991 c 356. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 356 § 18.]

43.185A.902 Conflict with federal requirements—1991 c 356. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1991 c 356 § 19.]

Chapter 43.185B RCW

WASHINGTON HOUSING POLICY ACT

Sections

43.185B.005	Finding.
43.185B.007	Goal.
43.185B.009	Objectives.
43.185B.010	Definitions.
43.185B.020	Affordable housing advisory board—Generally.
43.185B.030	Affordable housing advisory board—Duties.
43.185B.040	Housing advisory plan—Report to legislature.
43.185B.900	Short title.

43.185B.005 Finding. (1) The legislature finds that:

- (a) Housing is of vital statewide importance to the health, safety, and welfare of the residents of the state;
- (b) Reducing homelessness and moving individuals and families toward stable, affordable housing is of vital statewide importance;
- (c) Safe, affordable housing is an essential factor in stabilizing communities;
- (d) Residents must have a choice of housing opportunities within the community where they choose to live;
- (e) Housing markets are linked to a healthy economy and can contribute to the state's economy;
- (f) Land supply is a major contributor to the cost of housing;
- (g) Housing must be an integral component of any comprehensive community and economic development strategy;
- (h) State and local government must continue working cooperatively toward the enhancement of increased housing units by reviewing, updating, and removing conflicting regulatory language;
- (i) State and local government should work together in developing creative ways to reduce the shortage of housing;
- (j) The lack of a coordinated state housing policy inhibits the effective delivery of housing for some of the state's most vulnerable citizens and those with limited incomes; and
- (k) It is in the public interest to adopt a statement of housing policy objectives.

(2) The legislature declares that the purposes of the Washington housing policy act are to:

(a) Provide policy direction to the public and private sectors in their attempt to meet the shelter needs of Washington residents;

(b) Reevaluate housing and housing-related programs and policies in order to ensure proper coordination of those programs and policies to meet the housing needs of Washington residents;

(c) Improve the delivery of state services and assistance to very low-income and low-income households and special needs populations;

(d) Strengthen partnerships among all levels of government, and the public and private sectors, including for-profit and nonprofit organizations, in the production and operation of housing to targeted populations including low-income and moderate-income households;

(e) Increase the supply of housing for persons with special needs;

(f) Encourage collaborative planning with social service providers;

(g) Encourage financial institutions to increase residential mortgage lending; and

(h) Coordinate housing into comprehensive community and economic development strategies at the state and local level. [2005 c 484 § 22; 1993 c 478 § 1.]

Findings—Conflict with federal requirements—Effective date—2005 c 484: See RCW 43.185C.005, 43.185C.901, and 43.185C.902.

Persons with handicaps: RCW 35.63.220, 35A.63.240, 36.70.990, 36.70A.410.

43.185B.007 Goal. It is the goal of the state of Washington to coordinate, encourage, and direct, when necessary, the efforts of the public and private sectors of the state and to cooperate and participate, when necessary, in the attainment of a decent home in a healthy, safe environment for every resident of the state. The legislature declares that attainment of that goal is a state priority. [1993 c 478 § 2.]

43.185B.009 Objectives. The objectives of the Washington housing policy act shall be to attain the state's goal of a decent home in a healthy, safe environment for every resident of the state by strengthening public and private institutions that are able to:

- (1) Develop an adequate and affordable supply of housing for all economic segments of the population, including the destitute;
- (2) Identify and reduce the causal factors preventing the state from reaching its goal;
- (3) Assist very low-income and special needs households who cannot obtain affordable, safe, and adequate housing in the private market;
- (4) Encourage and maintain home ownership opportunities;
- (5) Reduce life-cycle housing costs while preserving public health and safety;
- (6) Preserve the supply of existing affordable housing;
- (7) Provide housing for special needs populations;
- (8) Ensure fair and equal access to the housing market;
- (9) Increase the availability of mortgage credit at low interest rates; and
- (10) Coordinate and be consistent with the goals, objectives, and required housing element of the comprehensive

plan in the state's growth management act in RCW 36.70A.070. [2005 c 484 § 23; 1993 c 478 § 3.]

Findings—Conflict with federal requirements—Effective date—2005 c 484: See RCW 43.185C.005, 43.185C.901, and 43.185C.902.

43.185B.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affordable housing" means residential housing that is rented or owned by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.

(2) "Department" means the department of commerce.

(3) "Director" means the director of commerce.

(4) "Nonprofit organization" means any public or private nonprofit organization that: (a) Is organized under federal, state, or local laws; (b) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and (c) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income, low-income, or moderate-income households and special needs populations.

(5) "Regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including those embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by the state or local government in connection with its strategy under section 105(b)(4) of the Cranston-Gonzalez national affordable housing act (42 U.S.C. 12701 et seq.).

(6) "Tenant-based organization" means a nonprofit organization whose governing body includes a majority of members who reside in the housing development and are considered low-income households. [2009 c 565 § 39; 1995 c 399 § 104; 1993 c 478 § 4.]

43.185B.020 Affordable housing advisory board—Generally. (1) The department shall establish the affordable housing advisory board to consist of twenty-two members.

(a) The following nineteen members shall be appointed by the governor:

(i) Two representatives of the residential construction industry;

(ii) Two representatives of the home mortgage lending profession;

(iii) One representative of the real estate sales profession;

(iv) One representative of the apartment management and operation industry;

(v) One representative of the for-profit housing development industry;

(vi) One representative of for-profit rental housing owners;

(vii) One representative of the nonprofit housing development industry;

(viii) One representative of homeless shelter operators;

(ix) One representative of lower-income persons;

(x) One representative of special needs populations;

(xi) One representative of public housing authorities as created under chapter 35.82 RCW;

(xii) Two representatives of the Washington association of counties, one representative shall be from a county that is located east of the crest of the Cascade mountains;

(xiii) Two representatives of the association of Washington cities, one representative shall be from a city that is located east of the crest of the Cascade mountains;

(xiv) One representative to serve as chair of the affordable housing advisory board;

(xv) One representative at large.

(b) The following three members shall serve as ex officio, nonvoting members:

(i) The director or the director's designee;

(ii) The executive director of the Washington state housing finance commission or the executive director's designee; and

(iii) The secretary of social and health services or the secretary's designee.

(2)(a) The members of the affordable housing advisory board appointed by the governor shall be appointed for four-year terms, except that the chair shall be appointed to serve a two-year term. The terms of five of the initial appointees shall be for two years from the date of appointment and the terms of six of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms. The members of the advisory board shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(b) The governor, when making appointments to the affordable housing advisory board, shall make appointments that reflect the cultural diversity of the state of Washington.

(3) The affordable housing advisory board shall serve as the department's principal advisory body on housing and housing-related issues, and replaces the department's existing boards and task forces on housing and housing-related issues.

(4) The affordable housing advisory board shall meet regularly and may appoint technical advisory committees, which may include members of the affordable housing advisory board, as needed to address specific issues and concerns.

(5) The department, in conjunction with the Washington state housing finance commission and the department of social and health services, shall supply such information and assistance as are deemed necessary for the advisory board to carry out its duties under this section.

(6) The department shall provide administrative and clerical assistance to the affordable housing advisory board. [2003 c 40 § 1; 1993 c 478 § 5.]

43.185B.030 Affordable housing advisory board—Duties. The affordable housing advisory board shall:

(1) Analyze those solutions and programs that could begin to address the state's need for housing that is affordable for all economic segments of the state, and special needs populations, including but not limited to programs or proposals which provide for:

(a) Financing for the acquisition, rehabilitation, preservation, or construction of housing;

(b) Use of publicly owned land and buildings as sites for affordable housing;

(c) Coordination of state initiatives with federal initiatives and financing programs that are referenced in the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.), as amended, and development of an approved housing strategy as required in the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.), as amended;

(d) Identification and removal, where appropriate and not detrimental to the public health and safety, or environment, of state and local regulatory barriers to the development and placement of affordable housing;

(e) Stimulating public and private sector cooperation in the development of affordable housing; and

(f) Development of solutions and programs affecting housing, including the equitable geographic distribution of housing for all economic segments, as the advisory board deems necessary;

(2) Consider both homeownership and rental housing as viable options for the provision of housing. The advisory board shall give consideration to various types of residential construction and innovative housing options, including but not limited to manufactured housing;

(3) Review, evaluate, and make recommendations regarding existing and proposed housing programs and initiatives including but not limited to tax policies, land use policies, and financing programs. The advisory board shall provide recommendations to the director, along with the department's response in the annual housing report to the legislature required in RCW 43.185B.040; and

(4) Prepare and submit to the director, by each December 1st, beginning December 1, 1993, a report detailing its findings and make specific program, legislative, and funding recommendations and any other recommendations it deems appropriate. [1993 c 478 § 6.]

43.185B.040 Housing advisory plan—Report to legislature. (1) The department shall, in consultation with the affordable housing advisory board created in RCW 43.185B.020, prepare and from time to time amend a five-year housing advisory plan. The purpose of the plan is to document the need for affordable housing in the state and the extent to which that need is being met through public and private sector programs, to facilitate planning to meet the affordable housing needs of the state, and to enable the development of sound strategies and programs for affordable housing. The information in the five-year housing advisory plan must include:

(a) An assessment of the state's housing market trends;

(b) An assessment of the housing needs for all economic segments of the state and special needs populations;

(c) An inventory of the supply and geographic distribution of affordable housing units made available through public and private sector programs;

(d) A status report on the degree of progress made by the public and private sector toward meeting the housing needs of the state;

(e) An identification of state and local regulatory barriers to affordable housing and proposed regulatory and administrative techniques designed to remove barriers to the development and placement of affordable housing; and

(f) Specific recommendations, policies, or proposals for meeting the affordable housing needs of the state.

(2)(a) The five-year housing advisory plan required under subsection (1) of this section must be submitted to the legislature on or before February 1, 1994, and subsequent plans must be submitted every five years thereafter.

(b) Each February 1st, beginning February 1, 1995, the department shall submit an annual progress report, to the legislature, detailing the extent to which the state's affordable housing needs were met during the preceding year and recommendations for meeting those needs. [1993 c 478 § 12.]

43.185B.900 Short title. This chapter may be known and cited as the "Washington housing policy act." [1993 c 478 § 24.]

Chapter 43.185C RCW

HOMELESS HOUSING AND ASSISTANCE

Sections

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43.185C.005 Findings. Despite laudable efforts by all levels of government, private individuals, nonprofit organizations, and charitable foundations to end homelessness, the number of homeless persons in Washington is unacceptably high. The state's homeless population, furthermore, includes a large number of families with children, youth, and employed persons. The legislature finds that the fiscal and societal costs of homelessness are high for both the public and private sectors, and that ending homelessness should be a goal for state and local government.

The legislature finds that there are many causes of homelessness, including a shortage of affordable housing; a shortage of family-wage jobs which undermines housing affordability; a lack of an accessible and affordable health care sys-

tem available to all who suffer from physical and mental illnesses and chemical and alcohol dependency; domestic violence; and a lack of education and job skills necessary to acquire adequate wage jobs in the economy of the twenty-first century.

The support and commitment of all sectors of the statewide community is critical to the chances of success in ending homelessness in Washington. While the provision of housing and housing-related services to the homeless should be administered at the local level to best address specific community needs, the legislature also recognizes the need for the state to play a primary coordinating, supporting, and monitoring role. There must be a clear assignment of responsibilities and a clear statement of achievable and quantifiable goals. Systematic statewide data collection on homelessness in Washington must be a critical component of such a program enabling the state to work with local governments to count homeless persons and assist them in finding housing.

The systematic collection and rigorous evaluation of homeless data, a search for and implementation through adequate resource allocation of best practices, and the systematic measurement of progress toward interim goals and the ultimate goal of ending homelessness are all necessary components of a statewide effort to end homelessness in Washington by July 1, 2015. [2005 c 484 § 1.]

43.185C.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(2) "Department" means the department of commerce.

(3) "Director" means the director of the department of commerce.

(4) "Home security fund account" means the state treasury account receiving the state's portion of income from revenue from the sources established by RCW 36.22.179, RCW 36.22.1791, and all other sources directed to the homeless housing and assistance program.

(5) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the home security fund account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(6) "Homeless housing plan" means the ten-year plan developed by the county or other local government to address housing for homeless persons.

(7) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(8) "Homeless housing strategic plan" means the ten-year plan developed by the department, in consultation with the interagency council on homelessness and the affordable housing advisory board.

(9) "Homeless person" means an individual living outside or in a building not meant for human habitation or which

they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, people with mental illness, and sex offenders who are homeless.

(10) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(11) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(12) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, policy level representatives of the following entities: (a) The department of commerce; (b) the department of corrections; (c) the department of social and health services; (d) the department of veterans affairs; and (e) the department of health.

(13) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(14) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(15) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(16) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(17) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

(18) "Washington homeless client management information system" means a database of information about homeless individuals in the state used to coordinate resources to assist homeless clients to obtain and retain housing and reach greater levels of self-sufficiency or economic independence when appropriate, depending upon their individual situations. [2009 c 565 § 40; 2007 c 427 § 3; 2006 c 349 § 6; 2005 c 484 § 3.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Finding—2006 c 349: See note following RCW 43.185.130.

43.185C.020 Homeless housing program. There is created within the department the homeless housing program to develop and coordinate a statewide strategic plan aimed at

housing homeless persons. The program shall be developed and administered by the department with advice and input from the affordable housing advisory board established in RCW 43.185B.020. [2005 c 484 § 5.]

43.185C.030 Washington homeless census or count—Confidentiality—Online information and referral system—Organizational quality management system. The department shall annually conduct a Washington homeless census or count consistent with the requirements of *RCW 43.63A.655. The census shall make every effort to count all homeless individuals living outdoors, in shelters, and in transitional housing, coordinated, when reasonably feasible, with already existing homeless census projects including those funded in part by the United States department of housing and urban development under the McKinney-Vento homeless assistance program. The department shall determine, in consultation with local governments, the data to be collected.

All personal information collected in the census is confidential, and the department and each local government shall take all necessary steps to protect the identity and confidentiality of each person counted.

The department and each local government are prohibited from disclosing any personally identifying information about any homeless individual when there is reason to believe or evidence indicating that the homeless individual is an adult or minor victim of domestic violence, dating violence, sexual assault, or stalking or is the parent or guardian of a child victim of domestic violence, dating violence, sexual assault, or stalking; or revealing other confidential information regarding HIV/AIDS status, as found in RCW 70.24.105. The department and each local government shall not ask any homeless housing provider to disclose personally identifying information about any homeless individuals when the providers implementing those programs have reason to believe or evidence indicating that those clients are adult or minor victims of domestic violence, dating violence, sexual assault, or stalking or are the parents or guardians of child victims of domestic violence, dating violence, sexual assault, or stalking. Summary data for the provider's facility or program may be substituted.

The Washington homeless census shall be conducted annually on a schedule created by the department. The department shall make summary data by county available to the public each year. This data, and its analysis, shall be included in the department's annual updated homeless housing program strategic plan.

Based on the annual census and provider information from the local government plans, the department shall, by the end of year four, implement an online information and referral system to enable local governments and providers to identify available housing for a homeless person. The department shall work with local governments and their providers to develop a capacity for continuous case management to assist homeless persons.

By the end of year four, the department shall implement an organizational quality management system. [2005 c 484 § 6.]

***Reviser's note:** RCW 43.63A.655 was recodified as RCW 43.185C.180 pursuant to 2006 c 349 § 13.

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43.185C.040 Homeless housing strategic plan—Program outcomes and performance measures and goals—Statewide data gathering instrument—Reports. (1) Six months after the first Washington homeless census, the department shall, in consultation with the interagency council on homelessness and the affordable housing advisory board, prepare and publish a ten-year homeless housing strategic plan which shall outline statewide goals and performance measures and shall be coordinated with the plan for homeless families with children required under RCW 43.63A.650. To guide local governments in preparation of their first local homeless housing plans due December 31, 2005, the department shall issue by October 15, 2005, temporary guidelines consistent with this chapter and including the best available data on each community's homeless population. Local governments' ten-year homeless housing plans shall not be substantially inconsistent with the goals and program recommendations of the temporary guidelines and, when amended after 2005, the state strategic plan.

(2) Program outcomes and performance measures and goals shall be created by the department and reflected in the department's homeless housing strategic plan as well as interim goals against which state and local governments' performance may be measured, including:

(a) By the end of year one, completion of the first census as described in RCW 43.185C.030;

(b) By the end of each subsequent year, goals common to all local programs which are measurable and the achievement of which would move that community toward housing its homeless population; and

(c) By July 1, 2015, reduction of the homeless population statewide and in each county by fifty percent.

(3) The department shall develop a consistent statewide data gathering instrument to monitor the performance of cities and counties receiving grants in order to determine compliance with the terms and conditions set forth in the grant application or required by the department.

The department shall, in consultation with the interagency council on homelessness and the affordable housing advisory board, report biennially to the governor and the appropriate committees of the legislature an assessment of the state's performance in furthering the goals of the state ten-year homeless housing strategic plan and the performance of each participating local government in creating and executing a local homeless housing plan which meets the requirements of this chapter. The annual report may include performance measures such as:

(a) The reduction in the number of homeless individuals and families from the initial count of homeless persons;

(b) The number of new units available and affordable for homeless families by housing type;

(c) The number of homeless individuals identified who are not offered suitable housing within thirty days of their request or identification as homeless;

(d) The number of households at risk of losing housing who maintain it due to a preventive intervention;

(e) The transition time from homelessness to permanent housing;

(f) The cost per person housed at each level of the housing continuum;

(g) The ability to successfully collect data and report performance;

(h) The extent of collaboration and coordination among public bodies, as well as community stakeholders, and the level of community support and participation;

(i) The quality and safety of housing provided; and

(j) The effectiveness of outreach to homeless persons, and their satisfaction with the program.

(4) Based on the performance of local homeless housing programs in meeting their interim goals, on general population changes and on changes in the homeless population recorded in the annual census, the department may revise the performance measures and goals of the state homeless housing strategic plan, set goals for years following the initial ten-year period, and recommend changes in local governments' plans. [2009 c 518 § 17; 2005 c 484 § 7.]

43.185C.050 Local homeless housing plans. (1) Each local homeless housing task force shall prepare and recommend to its local government legislative authority a ten-year homeless housing plan for its jurisdictional area which shall be not inconsistent with the department's statewide temporary guidelines, for the December 31, 2005, plan, and thereafter the department's ten-year homeless housing strategic plan and which shall be aimed at eliminating homelessness, with a minimum goal of reducing homelessness by fifty percent by July 1, 2015. The local government may amend the proposed local plan and shall adopt a plan by December 31, 2005. Performance in meeting the goals of this local plan shall be assessed annually in terms of the performance measures published by the department. Local plans may include specific local performance measures adopted by the local government legislative authority, and may include recommendations for any state legislation needed to meet the state or local plan goals.

(2) Eligible activities under the local plans include:

(a) Rental and furnishing of dwelling units for the use of homeless persons;

(b) Costs of developing affordable housing for homeless persons, and services for formerly homeless individuals and families residing in transitional housing or permanent housing and still at risk of homelessness;

(c) Operating subsidies for transitional housing or permanent housing serving formerly homeless families or individuals;

(d) Services to prevent homelessness, such as emergency eviction prevention programs including temporary rental subsidies to prevent homelessness;

(e) Temporary services to assist persons leaving state institutions and other state programs to prevent them from becoming or remaining homeless;

(f) Outreach services for homeless individuals and families;

(g) Development and management of local homeless plans including homeless census data collection; identification of goals, performance measures, strategies, and costs and evaluation of progress towards established goals;

(h) Rental vouchers payable to landlords for persons who are homeless or below thirty percent of the median income or in immediate danger of becoming homeless; and

(i) Other activities to reduce and prevent homelessness as identified for funding in the local plan. [2005 c 484 § 8.]

43.185C.060 Home security fund account. The home security fund account is created in the state treasury, subject to appropriation. The state's portion of the surcharge established in RCW 36.22.179 and 36.22.1791 must be deposited in the account. Expenditures from the account may be used only for homeless housing programs as described in this chapter. [2007 c 427 § 6; 2005 c 484 § 10.]

43.185C.070 Grant applications. (1) During each calendar year in which moneys from the *homeless housing account are available for use by the department for the homeless housing grant program, the department shall announce to all Washington counties, participating cities, and through major media throughout the state, a grant application period of at least ninety days' duration. This announcement will be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds, less appropriate administrative costs of the department as described in RCW 36.22.179.

(2) The department will develop, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, criteria to evaluate grant applications.

(3) The department may approve applications only if they are consistent with the local and state homeless housing program strategic plans. The department may give preference to applications based on some or all of the following criteria:

(a) The total homeless population in the applicant local government service area, as reported by the most recent annual Washington homeless census;

(b) Current local expenditures to provide housing for the homeless and to address the underlying causes of homelessness as described in RCW 43.185C.005;

(c) Local government and private contributions pledged to the program in the form of matching funds, property, infrastructure improvements, and other contributions; and the degree of leveraging of other funds from local government or private sources for the program for which funds are being requested, to include recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Construction projects or rehabilitation that will serve homeless individuals or families for a period of at least twenty-five years;

(e) Projects which demonstrate serving homeless populations with the greatest needs, including projects that serve special needs populations;

(f) The degree to which the applicant project represents a collaboration between local governments, nonprofit community-based organizations, local and state agencies, and the private sector, especially through its integration with the coordinated and comprehensive plan for homeless families with children required under RCW 43.63A.650;

(g) The cooperation of the local government in the annual Washington homeless census project;

(h) The commitment of the local government and any subcontracting local governments, nonprofit organizations, and for-profit entities to employ a diverse workforce;

(i) The extent, if any, that the local homeless population is disproportionate to the revenues collected under this chapter and RCW 36.22.178 and 36.22.179; and

(j) Other elements shown by the applicant to be directly related to the goal and the department's state strategic plan. [2005 c 484 § 11.]

***Reviser's note:** The "homeless housing account" was changed to the "home security fund account" by 2007 c 427 § 6.

43.185C.080 Homeless housing grants—Participation. (1) Only a local government is eligible to receive a homeless housing grant from the *homeless housing account. Any city may assert responsibility for homeless housing within its borders if it so chooses, by forwarding a resolution to the legislative authority of the county stating its intention and its commitment to operate a separate homeless housing program. The city shall then receive a percentage of the surcharge assessed under RCW 36.22.179 equal to the percentage of the city's local portion of the real estate excise tax collected by the county. A participating city may also then apply separately for homeless housing program grants. A city choosing to operate a separate homeless housing program shall be responsible for complying with all of the same requirements as counties and shall adopt a local homeless housing plan meeting the requirements of this chapter for county local plans. However, the city may by resolution of its legislative authority accept the county's homeless housing task force as its own and based on that task force's recommendations adopt a homeless housing plan specific to the city.

(2) Local governments applying for homeless housing funds may subcontract with any other local government, housing authority, community action agency or other nonprofit organization for the execution of programs contributing to the overall goal of ending homelessness within a defined service area. All subcontracts shall be consistent with the local homeless housing plan adopted by the legislative authority of the local government, time limited, and filed with the department and shall have specific performance terms. While a local government has the authority to subcontract with other entities, the local government continues to maintain the ultimate responsibility for the homeless housing program within its borders.

(3) A county may decline to participate in the program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution shall also be transmitted to the county auditor and treasurer. If such a resolution is adopted, all of the funds otherwise due to the county under RCW 43.185C.060 shall be remitted monthly to the state treasurer for deposit in the *homeless housing account, without any reduction by the county for collecting or administering the funds. Upon receipt of the resolution, the department shall promptly begin to identify and contract with one or more entities eligible under this section to create and execute a local homeless housing plan for the county meeting the requirements of this chapter. The department shall expend all of the funds received from the county

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under this subsection to carry out the purposes of chapter 484, Laws of 2005 in the county, provided that the department may retain six percent of these funds to offset the cost of managing the county's program.

(4) A resolution by the county declining to participate in the program shall have no effect on the ability of each city in the county to assert its right to manage its own program under this chapter, and the county shall monthly transmit to the city the funds due under this chapter. [2005 c 484 § 12.]

***Reviser's note:** The "homeless housing account" was changed to the "home security fund account" by 2007 c 427 § 6.

43.185C.090 Allocation of grant moneys—Issuance of criteria or guidelines. The department shall allocate grant moneys from the *homeless housing account to finance in whole or in part programs and projects in approved local homeless housing plans to assist homeless individuals and families gain access to adequate housing, prevent at-risk individuals from becoming homeless, address the root causes of homelessness, track and report on homeless-related data, and facilitate the movement of homeless or formerly homeless individuals along the housing continuum toward more stable and independent housing. The department may issue criteria or guidelines to guide local governments in the application process. [2005 c 484 § 13.]

***Reviser's note:** The "homeless housing account" was changed to the "home security fund account" by 2007 c 427 § 6.

43.185C.100 Technical assistance. The department shall provide technical assistance to any participating local government that requests such assistance. Technical assistance activities may include:

(1) Assisting local governments to identify appropriate parties to participate on local homeless housing task forces;

(2) Assisting local governments to identify appropriate service providers with which the local governments may subcontract for service provision and development activities, when necessary;

(3) Assisting local governments to implement or expand homeless census programs to meet homeless housing program requirements;

(4) Assisting in the identification of "best practices" from other areas;

(5) Assisting in identifying additional funding sources for specific projects; and

(6) Training local government and subcontractor staff. [2005 c 484 § 14.]

43.185C.110 Progress reports—Uniform process. The department shall establish a uniform process for participating local governments to report progress toward reducing homelessness and meeting locally established goals. [2005 c 484 § 15.]

43.185C.120 Rules. The department may adopt such rules as may be necessary to effect the purposes of this chapter. [2005 c 484 § 16.]

43.185C.130 Protection of state's interest in grant program projects. The department shall ensure that the

state's interest is protected upon the development, use, sale, or change of use of projects constructed, acquired, or financed in whole or in part through the homeless housing grant program. These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project, or (2) requiring a lump sum repayment of the grant upon the sale or change of use of the project. [2005 c 484 § 17.]

43.185C.140 Public assistance eligibility—Payments exempt. The department of social and health services shall exempt payments to individuals provided under this chapter when determining eligibility for public assistance. [2005 c 484 § 20.]

43.185C.150 Expenditures within authorized funds—Existing expenditures not reduced or supplanted. This chapter does not require either the department or any local government to expend any funds to accomplish the goals of this chapter other than the revenues authorized in chapter 484, Laws of 2005. However, neither the department nor any local government may use any funds authorized in chapter 484, Laws of 2005 to supplant or reduce any existing expenditures of public money for the reduction or prevention of homelessness or services for homeless persons. [2005 c 484 § 21.]

43.185C.160 County homeless housing task forces—Homeless housing plans—Reports by counties. (1) Each county shall create a homeless housing task force to develop a ten-year homeless housing plan addressing short-term and long-term housing for homeless persons.

Membership on the task force may include representatives of the counties, cities, towns, housing authorities, civic and faith organizations, schools, community networks, human services providers, law enforcement personnel, criminal justice personnel, including prosecutors, probation officers, and jail administrators, substance abuse treatment providers, mental health care providers, emergency health care providers, businesses, at-large representatives of the community, and a homeless or formerly homeless individual.

In lieu of creating a new task force, a local government may designate an existing governmental or nonprofit body which substantially conforms to this section and which includes at least one homeless or formerly homeless individual to serve as its homeless representative. As an alternative to a separate plan, two or more local governments may work in concert to develop and execute a joint homeless housing plan, or to contract with another entity to do so according to the requirements of this chapter. While a local government has the authority to subcontract with other entities, the local government continues to maintain the ultimate responsibility for the homeless housing program within its borders.

A county may decline to participate in the program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution shall also be transmitted to the county auditor and treasurer. If a county declines to participate, the department shall create and

execute a local homeless housing plan for the county meeting the requirements of this chapter.

(2) In addition to developing a ten-year homeless housing plan, each task force shall establish guidelines consistent with the statewide homeless housing strategic plan, as needed, for the following:

- (a) Emergency shelters;
- (b) Short-term housing needs;
- (c) Temporary encampments;
- (d) Supportive housing for chronically homeless persons; and
- (e) Long-term housing.

Guidelines must include, when appropriate, standards for health and safety and notifying the public of proposed facilities to house the homeless.

(3) Each county, including counties exempted from creating a new task force under subsection (1) of this section, shall report to the *department of community, trade, and economic development such information as may be needed to ensure compliance with this chapter. [2005 c 485 § 1.]

**Reviser's note:* The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.185C.170 Interagency council on homelessness—Duties—Reports. (1) The interagency council on homelessness, as defined in RCW 43.185C.010, shall be convened not later than August 31, 2006, and shall meet at least two times each year and report to the appropriate committees of the legislature annually by December 31st on its activities.

(2) The interagency council on homelessness shall work to create greater levels of interagency coordination and to coordinate state agency efforts with the efforts of state and local entities addressing homelessness.

- (3) The interagency council shall seek to:
 - (a) Align homeless-related housing and supportive service policies among state agencies;
 - (b) Identify ways in which providing housing with appropriate services can contribute to cost savings for state agencies;

- (c) Identify policies and actions that may contribute to homelessness or interfere with its reduction;

- (d) Review and improve strategies for discharge from state institutions that contribute to homelessness;

- (e) Recommend policies to either improve practices or align resources, or both, including those policies requested by the affordable housing advisory board or through state and local housing plans; and

- (f) Ensure that the housing status of people served by state programs is collected in consistent formats available for analysis. [2006 c 349 § 7.]

Finding—2006 c 349: See note following RCW 43.185.130.

43.185C.180 Washington homeless client management information system. (1) In order to improve services for the homeless, the department, within amounts appropriated by the legislature for this specific purpose, shall implement the Washington homeless client management information system for the ongoing collection and updates of information about all homeless individuals in the state.

(2) Information about homeless individuals for the Washington homeless client management information system

tem shall come from the Washington homeless census and from state agencies and community organizations providing services to homeless individuals and families. Personally identifying information about homeless individuals for the Washington homeless client management system may only be collected after having obtained informed, reasonably time limited written consent from the homeless individual to whom the information relates. Data collection shall be done in a manner consistent with federally informed consent guidelines regarding human research which, at a minimum, require that individuals be informed about the expected duration of their participation, an explanation of whom to contact for answers to pertinent questions about the data collection and their rights regarding their personal identifying information, an explanation regarding whom to contact in the event of injury to the individual related to the homeless client survey, a description of any reasonably foreseeable risks to the homeless individual, and a statement describing the extent to which confidentiality of records identifying the individual will be maintained.

(3) The Washington homeless client management information system shall serve as an online information and referral system to enable local governments and providers to connect homeless persons in the database with available housing and other support services. Local governments shall develop a capacity for continuous case management, including independent living plans, when appropriate, to assist homeless persons.

(4) The information in the Washington homeless client management information system will also provide the department with the information to consolidate and analyze data about the extent and nature of homelessness in Washington state, giving emphasis to information about the extent and nature of homelessness in Washington state among families with children.

(5) The system may be merged with other data gathering and reporting systems and shall:

- (a) Protect the right of privacy of individuals;
- (b) Provide for consultation and collaboration with all relevant state agencies including the department of social and health services, experts, and community organizations involved in the delivery of services to homeless persons; and
- (c) Include related information held or gathered by other state agencies.

(6) Within amounts appropriated by the legislature, for this specific purpose, the department shall evaluate the information gathered and disseminate the analysis and the evaluation broadly, using appropriate computer networks as well as written reports.

(7) The Washington homeless client management information system shall be implemented by December 31, 2009, and updated with new homeless client information at least annually. [2006 c 349 § 8; 1999 c 267 § 4. Formerly RCW 43.63A.655.]

Finding—2006 c 349: See note following RCW 43.185.130.

Findings—Intent—Severability—1999 c 267: See notes following RCW 43.20A.790.

43.185C.190 Affordable housing for all account. The affordable housing for all account is created in the state treasury, subject to appropriation. The state's portion of the sur-

(2010 Ed.)

charges established in RCW 36.22.178 shall be deposited in the account. Expenditures from the account may only be used for affordable housing programs. [2007 c 427 § 2.]

43.185C.200 Transitional housing assistance to offenders—Pilot program. (1) *The department of community, trade, and economic development shall establish a pilot program to provide grants to eligible organizations, as described in RCW 43.185.060, to provide transitional housing assistance to offenders who are reentering the community and are in need of housing.

(2) There shall be a minimum of two pilot programs established in two counties. The pilot programs shall be selected through a request for proposal process and in consultation with the department of corrections. The department shall select the pilot sites by January 1, 2008.

(3) The pilot program shall:

(a) Be operated in collaboration with the community justice center existing in the location of the pilot site;

(b) Offer transitional supportive housing that includes individual support and mentoring available on an ongoing basis, life skills training, and close working relationships with community justice centers and community corrections officers. Supportive housing services can be provided directly by the housing operator, or in partnership with community-based organizations;

(c) In providing assistance, give priority to offenders who are designated as high risk or high needs as well as those determined not to have a viable release plan by the department of corrections;

(d) Optimize available funding by utilizing cost-effective community-based shared housing arrangements or other noninstitutional living arrangements; and

(e) Provide housing assistance for a period of time not to exceed twelve months for a participating offender.

(4) The department may also use up to twenty percent of the funding appropriated in the operating budget for this section to support the development of additional supportive housing resources for offenders who are reentering the community.

(5) The department shall:

(a) Collaborate with the department of corrections in developing criteria to determine who will qualify for housing assistance; and

(b) Gather data, and report to the legislature by November 1, 2008, on the number of offenders seeking housing, the number of offenders eligible for housing, the number of offenders who receive the housing, and the number of offenders who commit new crimes while residing in the housing to the extent information is available.

(6) The department of corrections shall collaborate with organizations receiving grant funds to:

(a) Help identify appropriate housing solutions in the community for offenders;

(b) Where possible, facilitate an offender's application for housing prior to discharge;

(c) Identify enhancements to training provided to offenders prior to discharge that may assist an offender in effectively transitioning to the community;

(d) Maintain communication between the organization receiving grant funds, the housing provider, and corrections staff supervising the offender; and

(e) Assist the offender in accessing resources and services available through the department of corrections and a community justice center.

(7) The state, *department of community, trade, and economic development, department of corrections, local governments, local housing authorities, eligible organizations as described in RCW 43.185.060, and their employees are not liable for civil damages arising from the criminal conduct of an offender solely due to the placement of an offender in housing provided under this section or the provision of housing assistance.

(8) Nothing in this section allows placement of an offender into housing without an analysis of the risk the offender may pose to that particular community or other residents. [2007 c 483 § 604.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—Intent—2007 c 483: See note following RCW 35.82.340.

Findings—Part headings not law—Severability—2007 c 483: See RCW 72.78.005, 72.78.900, and 72.78.901.

43.185C.210 Transitional housing operating and rent program. (1) The transitional housing operating and rent program is created in the department to assist individuals and families who are homeless or who are at risk of becoming homeless to secure and retain safe, decent, and affordable housing. The department shall provide grants to eligible organizations, as described in RCW 43.185.060, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, which includes security or utility deposits, first and last month's rent assistance, and eligible moving expenses to be determined by the department;

(b) Case management services designed to assist program participants to secure and retain immediate housing and to transition into permanent housing and greater levels of self-sufficiency;

(c) Operating expenses of transitional housing facilities that serve homeless families with children; and

(d) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Eligible to receive assistance through the transitional housing operating and rent program are:

(a) Families with children who are homeless or who are at risk of becoming homeless and who have household incomes at or below fifty percent of the median household income for their county;

(b) Families with children who are homeless or who are at risk of becoming homeless and who are receiving services under chapter 13.34 RCW;

(c) Individuals or families without children who are homeless or at risk of becoming homeless and who have household incomes at or below thirty percent of the median household income for their county;

(d) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who has a mental health or chemical dependency disorder; and

(e) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who is an offender released from confinement within the past eighteen months.

(3) All program participants must be willing to create and actively participate in a housing stability plan for achieving permanent housing and greater levels of self-sufficiency.

(4) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180. For eligible organizations serving victims of domestic violence or sexual assault, compliance with this subsection must be accomplished in accordance with 42 U.S.C. Sec. 11383(a)(8).

(5) Beginning in 2011, each eligible organization receiving over five hundred thousand dollars during the previous calendar year from the transitional housing operating and rent program and from sources including: (a) State housing-related funding sources; (b) the affordable housing for all surcharge in RCW 36.22.178; (c) the home security fund surcharges in RCW 36.22.179 and 36.22.1791; and (d) any other surcharge imposed under chapter 36.22 or 43.185C RCW to fund homelessness programs or other housing programs, shall apply to the Washington state quality award program for an independent assessment of its quality management, accountability, and performance system, once every three years.

(6) The department may develop rules, requirements, procedures, and guidelines as necessary to implement and operate the transitional housing operating and rent program.

(7) The department shall produce an annual transitional housing operating and rent program report that must be included in the department's homeless housing strategic plan as described in RCW 43.185C.040. The report must include performance measures to be determined by the department that address, at a minimum, the following issue areas:

(a) The success of the program in helping program participants transition into permanent affordable housing and achieve self-sufficiency or increase their levels of self-sufficiency, which shall be defined by the department based upon the costs of living, including housing costs, needed to support: (i) One adult individual; and (ii) two adult individuals and one preschool-aged child and one school-aged child;

(b) The financial performance of the program related to efficient program administration by the department and program operation by selected eligible organizations, including an analysis of the costs per program participant served;

(c) The quality, completeness, and timeliness of the information on program participants provided to the Washington homeless client management information system database; and

(d) The satisfaction of program participants in the assistance provided through the program. [2008 c 256 § 1.]

43.185C.215 Transitional housing operating and rent account. The transitional housing operating and rent account is created in the custody of the state treasurer. All receipts from sources directed to the transitional housing operating and rent program must be deposited into the account. Expenditures from the account may be used solely for the purpose of the transitional housing operating and rent program as

described in RCW 43.185C.210. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2008 c 256 § 2.]

43.185C.900 Short title. This chapter may be known and cited as the homelessness housing and assistance act. [2005 c 484 § 2.]

43.185C.901 Conflict with federal requirements—2005 c 484. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [2005 c 484 § 24.]

43.185C.902 Effective date—2005 c 484. This act takes effect August 1, 2005. [2005 c 484 § 25.]

Chapter 43.190 RCW

LONG-TERM CARE OMBUDSMAN PROGRAM

Sections

43.190.010	Findings.
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43.190.070	Referral procedures—Action on complaints.
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43.190.090	Liability of ombudsman—Discriminatory, disciplinary, or retaliatory actions—Communications privileged—Testimony.
43.190.110	Confidentiality of records and files—Disclosures prohibited—Exception.
43.190.120	Expenditure of funds on long-term care ombudsman program.
43.190.900	Severability—1983 c 290.

43.190.010 Findings. The legislature finds that in order to comply with the federal Older Americans Act and to effectively assist residents, patients, and clients of long-term care facilities in the assertion of their civil and human rights, a long-term care ombudsman program should be instituted. [1983 c 290 § 1.]

43.190.020 "Long-term care facility" defined. As used in this chapter, "long-term care facility" means any of the following:

(1) A facility which:

(a) Maintains and operates twenty-four hour skilled nursing services for the care and treatment of chronically ill (2010 Ed.)

or convalescent patients, including mental, emotional, or behavioral problems, intellectual disabilities, or alcoholism;

(b) Provides supportive, restorative, and preventive health services in conjunction with a socially oriented program to its residents, and which maintains and operates twenty-four hour services including board, room, personal care, and intermittent nursing care. "Long-term health care facility" includes nursing homes and nursing facilities, but does not include acute care hospital or other licensed facilities except for that distinct part of the hospital or facility which provides nursing facility services.

(2) Any family home, group care facility, or similar facility determined by the secretary, for twenty-four hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(3) Any swing bed in an acute care facility. [2010 c 94 § 13; 1995 1st sp.s. c 18 § 32; 1991 sp.s. c 8 § 3; 1983 c 290 § 2.]

Purpose—2010 c 94: See note following RCW 44.04.280.

Additional notes found at www.leg.wa.gov

43.190.030 Office of state long-term care ombudsman created—Powers and duties—Rules. There is created the office of the state long-term care ombudsman. The *department of community, trade, and economic development shall contract with a private nonprofit organization to provide long-term care ombudsman services as specified under, and consistent with, the federal older Americans act as amended, federal mandates, the goals of the state, and the needs of its citizens. The *department of community, trade, and economic development shall ensure that all program and staff support necessary to enable the ombudsman to effectively protect the interests of residents, patients, and clients of all long-term care facilities is provided by the nonprofit organization that contracts to provide long-term care ombudsman services. The *department of community, trade, and economic development shall adopt rules to carry out this chapter and the long-term care ombudsman provisions of the federal older Americans act, as amended, and applicable federal regulations. The long-term care ombudsman program shall have the following powers and duties:

(1) To provide services for coordinating the activities of long-term care ombudsmen throughout the state;

(2) Carry out such other activities as the *department of community, trade, and economic development deems appropriate;

(3) Establish procedures consistent with RCW 43.190.110 for appropriate access by long-term care ombudsmen to long-term care facilities and patients' records, including procedures to protect the confidentiality of the records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of the complainant or resident, or upon court order;

(4) Establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the department of social and health services

and to the federal department of health and human services, or its successor agency, on a regular basis; and

(5) Establish procedures to assure that any files maintained by ombudsman programs shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless:

(a) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or

(b) Such disclosure is required by court order. [1997 c 194 § 1; 1995 c 399 § 105; 1988 c 119 § 2; 1983 c 290 § 3.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Legislative findings—1988 c 119: "The legislature recognizes that the state long-term care ombudsman program and the office of the state long-term care ombudsman, located within the department of social and health services, have brought into serious question the ability of that office to serve as an effective mechanism on the state level for investigating and resolving complaints made by or on behalf of residents of long-term care facilities.

The legislature further finds it necessary to exercise its options under the federal older Americans act and identify an organization, outside of the department of social and health services and independent of any other state agency, to provide, through contract, long-term care ombudsman services." [1988 c 119 § 1.]

Use of survey findings—1988 c 119: "The survey findings, together with any reports of legislative committees in response to such survey, shall be used by the department of community development in determining the best manner to contract for and provide long-term care ombudsman services." [1988 c 119 § 4.]

Additional notes found at www.leg.wa.gov

43.190.040 Long-term care ombudsmen. (1) Any long-term care ombudsman authorized by this chapter or a local governmental authority shall have training or experience or both in the following areas:

(a) Gerontology, long-term care, or other related social services programs.

(b) The legal system.

(c) Dispute or problem resolution techniques, including investigation, mediation, and negotiation.

(2) A long-term care ombudsman shall not have been employed by or participated in the management of any long-term care facility within the past year.

(3) A long-term care ombudsman shall not have been employed in a governmental position with direct involvement in the licensing, certification, or regulation of long-term care facilities within the past year.

(4) No long-term care ombudsman or any member of his or her immediate family shall have, or have had within the past year, any significant ownership or investment interest in one or more long-term care facilities.

(5) A long-term care ombudsman shall not be assigned to a long-term care facility in which a member of that ombudsman's immediate family resides. [2002 c 100 § 1; 1983 c 290 § 4.]

43.190.050 Posting of notice by long-term care facility—Distribution of information to residents. Every long-term care facility shall post in a conspicuous location a notice of the nursing home complaint toll-free number and the name, address, and phone number of the office of the appro-

priate long-term care ombudsman and a brief description of the services provided by the office. The form of the notice shall be approved by the office and the organization responsible for maintaining the nursing home complaint toll-free number. This information shall also be distributed to the residents, family members, and legal guardians upon the resident's admission to the facility. [1983 c 290 § 5.]

43.190.060 Duties of ombudsman. A long-term care ombudsman shall:

(1) Identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities relating to administrative action, inaction, or decisions which may adversely affect the health, safety, welfare, and rights of these individuals;

(2) Monitor the development and implementation of federal, state, and local laws, rules, regulations, and policies with respect to long-term care facilities in this state;

(3) Provide information as appropriate to residents, resident representatives, and others regarding the rights of residents, and to public agencies regarding the problems of individuals residing in long-term care facilities; and

(4) Provide for training volunteers and promoting the development of citizen organizations to participate in the ombudsman program. A trained volunteer long-term care ombudsman, in accordance with the policies and procedures established by the state long-term care ombudsman program, shall inform residents, their representatives, and others about the rights of residents, and may identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities relating to action, inaction, or decisions, that may adversely affect the health, safety, welfare, and rights of these individuals.

Nothing in chapter 133, Laws of 1999 shall be construed to empower the state long-term care ombudsman or any local long-term care ombudsman with statutory or regulatory licensing or sanctioning authority. [1999 c 133 § 1; 1995 1st sp.s. c 18 § 33; 1987 c 158 § 3; 1983 c 290 § 6.]

Definitions: See RCW 74.39.007.

Additional notes found at www.leg.wa.gov

43.190.065 Local and state long-term care ombudsmen—Duties and authority in federal older Americans act. A local long-term care ombudsman, including a trained volunteer long-term care ombudsman, shall have the duties and authority set forth in the federal older Americans act (42 U.S.C. Sec. 3058 et seq.) for local ombudsmen. The state long-term care ombudsman and representatives of the office of the state long-term care ombudsman, shall have the duties and authority set forth in the federal older Americans act for the state long-term care ombudsman and representatives of the office of the state long-term care ombudsman. [1999 c 133 § 2.]

Additional notes found at www.leg.wa.gov

43.190.070 Referral procedures—Action on complaints. (1) The office of the state long-term care ombudsman shall develop referral procedures for all long-term care ombudsman programs to refer any complaint to any appropriate state or local government agency. The department of

social and health services shall act as quickly as possible on any complaint referred to them by a long-term care ombudsman.

(2) The department of social and health services shall respond to any complaint against a long-term care facility which was referred to it by a long-term care ombudsman and shall forward to that ombudsman a summary of the results of the investigation and action proposed or taken. [1983 c 290 § 7.]

43.190.080 Development of procedures on right of entry to facilities—Access to residents—Preservation of rights. (1) The office of the state long-term care ombudsman shall develop procedures governing the right of entry of all long-term care ombudsmen to long-term care facilities and shall have access to residents with provisions made for privacy for the purpose of hearing, investigating, and resolving complaints of, and rendering advice to, individuals who are patients or residents of the facilities at any time deemed necessary and reasonable by the state ombudsman to effectively carry out the provisions of this chapter.

(2) Nothing in this chapter restricts, limits, or increases any existing right of any organizations or individuals not described in subsection (1) of this section to enter or provide assistance to patients or residents of long-term care facilities.

(3) Nothing in this chapter restricts any right or privilege of any patient or resident of a long-term care facility to receive visitors of his or her choice. [1983 c 290 § 8.]

43.190.090 Liability of ombudsman—Discriminatory, disciplinary, or retaliatory actions—Communications privileged—Testimony. (1) No long-term care ombudsman is liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against any employee of a facility or agency, any patient, resident, or client of a long-term care facility, or any volunteer, for any communication made, or information given or disclosed, to aid the long-term care ombudsman in carrying out its duties and responsibilities, unless the same was done maliciously or without good faith. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by a long-term care ombudsman, if reasonably related to the requirements of that individual's responsibilities under this chapter and done in good faith, are privileged and that privilege shall serve as a defense to any action in libel or slander.

(4) A representative of the office is exempt from being required to testify in court as to any confidential matters except as the court may deem necessary to enforce this chapter. [1983 c 290 § 9.]

43.190.110 Confidentiality of records and files—Disclosures prohibited—Exception. All records and files of long-term care ombudsmen relating to any complaint or investigation made pursuant to carrying out their duties and the identities of complainants, witnesses, patients, or residents shall remain confidential unless disclosure is autho-

rized by the patient or resident or his or her guardian or legal representative. No disclosures may be made outside the office without the consent of any named witnesses, resident, patient, client, or complainant unless the disclosure is made without the identity of any of these individuals being disclosed. [1983 c 290 § 11.]

43.190.120 Expenditure of funds on long-term care ombudsman program. It is the intent that federal requirements be complied with and the department annually expend at least one percent of the state's allotment of social services funds from Title III B of the Older Americans Act of 1965, as it exists as of July 24, 1983, or twenty thousand dollars, whichever is greater to establish the state long-term care ombudsman program established by this chapter if funds are appropriated by the legislature. [1983 c 290 § 12.]

43.190.900 Severability—1983 c 290. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 c 290 § 17.]

Chapter 43.200 RCW RADIOACTIVE WASTE ACT

Sections

43.200.010	Finding—Purpose.
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43.200.030	Cooperation required.
43.200.070	Rules.
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43.200.180	Implementation of federal low-level radioactive waste policy amendments of 1985.
43.200.190	Studies on site closure and perpetual care and maintenance requirements and on adequacy of insurance coverage.
43.200.200	Review of potential damage—Financial assurance.
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43.200.900	Construction of chapter.
43.200.901	Conflict with federal requirements—1983 1st ex.s. c 19.
43.200.902	Severability—1983 1st ex.s. c 19.
43.200.903	Severability—1984 c 161.
43.200.905	Construction—1986 c 191.
43.200.906	Severability—1986 c 191.

Nuclear energy and radiation: Chapter 70.98 RCW.

43.200.010 Finding—Purpose. The legislature finds that the safe transporting, handling, storage, or otherwise caring for radioactive wastes is required to protect the health, safety, and welfare of the citizens of the state of Washington. It is the purpose of this chapter to establish authority for the state to exercise appropriate oversight and care for the safe management and disposal of radioactive wastes; to consult with the federal government and other states on interim or permanent storage of these radioactive wastes; and to carry out the state responsibilities under the federal nuclear waste policy act of 1982. [1983 1st ex.s. c 19 § 1.]

43.200.015 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "High-level radioactive waste" means "high-level radioactive waste" as the term is defined in 42 U.S.C. Sec. 10101 (P.L. 97-425).

(2) "Low-level radioactive waste" means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than one hundred nanocuries of transuranic contaminants per gram of material, nor spent nuclear fuel, nor material classified as either high-level radioactive waste or waste that is unsuited for disposal by near-surface burial under any applicable federal regulations.

(3) "Radioactive waste" means both high-level and low-level radioactive waste.

(4) "Spent nuclear fuel" means spent nuclear fuel as the term is defined in 42 U.S.C. Sec. 10101.

(5) "Department" means the department of ecology. [1989 c 322 § 1; 1985 c 293 § 1; 1984 c 161 § 1.]

43.200.020 Participation authority regarding federal statutes—Federal financial assistance. The department of ecology is designated as the executive branch agency for participation in the federal nuclear waste policy act of 1982 and the federal low-level radioactive waste policy act of 1980, however the legislature retains an autonomous role with respect to participation in all aspects of the federal nuclear waste policy act of 1982. The department may receive federal financial assistance for carrying out radioactive waste management activities, including assistance for expenses, salaries, travel, and monitoring and evaluating the program of repository exploration and siting undertaken by the federal government. [1989 c 322 § 2; 1984 c 161 § 2; 1983 1st ex.s. c 19 § 2.]

43.200.030 Cooperation required. All departments, agencies, and officers of this state and its subdivisions shall cooperate with the department of ecology in the furtherance of any of its activities pursuant to this chapter. [1989 c 322 § 3; 1984 c 161 § 4; 1983 1st ex.s. c 19 § 3.]

43.200.070 Rules. The department of ecology shall adopt such rules as are necessary to carry out responsibilities under this chapter. The department of ecology is authorized to adopt such rules as are necessary to carry out its responsibilities under chapter 43.145 RCW. [1989 c 322 § 5; 1986 c 2 § 5; 1984 c 161 § 8; 1983 1st ex.s. c 19 § 7.]

43.200.080 Additional powers and duties of director—Site closure account—Perpetual surveillance and maintenance account. The director of ecology shall, in addition to the powers and duties otherwise imposed by law, have the following special powers and duties:

(1) To fulfill the responsibilities of the state under the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near

Richland, Washington. The department of ecology may sublease to private or public entities all or a portion of the land for specific purposes or activities which are determined, after public hearing, to be in agreement with the terms of the lease and in the best interests of the citizens of the state consistent with any criteria that may be developed as a requirement by the legislature;

(2) To assume the responsibilities of the state under the perpetual care agreement between the state of Washington and the federal government executed July 29, 1965 and the sublease between the state of Washington and the site operator of the Hanford low-level radioactive waste disposal facility. In order to finance perpetual surveillance and maintenance under the agreement and ensure site closure under the sublease, the department of ecology shall impose and collect fees from parties holding radioactive materials for waste management purposes. The fees shall be established by rule adopted under chapter 34.05 RCW and shall be an amount determined by the department of ecology to be necessary to defray the estimated liability of the state. Such fees shall reflect equity between the disposal facilities of this and other states. A site closure account and a perpetual surveillance and maintenance account is hereby created in the state treasury. The site closure account shall be exclusively available to reimburse, to the extent that moneys are available in the account, the site operator for its costs plus a reasonable profit as agreed by the operator and the state, or to reimburse the state licensing agency and any agencies under contract to the state licensing agency for their costs in final closure and decommissioning of the Hanford low-level radioactive waste disposal facility. If a balance remains in the account after satisfactory performance of closure and decommissioning, this balance shall be transferred to the perpetual surveillance and maintenance account. The perpetual surveillance and maintenance account shall be used exclusively by the state to meet post-closure surveillance and maintenance costs, or for otherwise satisfying surveillance and maintenance obligations. Appropriations are required to permit expenditures and payment of obligations from the site closure account and the perpetual surveillance and maintenance account. All moneys, including earnings from the investment of balances in the site closure and the perpetual surveillance and maintenance account, less the allocation to the state treasurer's service fund, pursuant to RCW 43.08.190 accruing under the authority of this section shall be directed to the site closure account until December 31, 1992. Thereafter receipts including earnings from the investment of balances in the site closure and the perpetual surveillance and maintenance account, less the allocation to the state treasurer's service fund, pursuant to RCW 43.08.190 shall be directed to the site closure account and the perpetual surveillance and maintenance account as specified by the department. Additional moneys specifically appropriated by the legislature or received from any public or private source may be placed in the site closure account and the perpetual surveillance and maintenance account. During the 2003-2005 fiscal biennium, the legislature may transfer up to thirteen million eight hundred thousand dollars from the site closure account to the general fund;

(3)(a) Subject to the conditions in (b) of this subsection, on July 1, 2008, and each July 1st thereafter, the treasurer shall transfer from the perpetual surveillance and mainte-

nance account to the site closure account the sum of nine hundred sixty-six thousand dollars. The nine hundred sixty-six thousand dollars transferred on July 1, 2009, and thereafter shall be adjusted to a level equal to the percentage increase in the United States implicit price deflator for personal consumption. The last transfer under this section shall occur on July 1, 2033.

(b) The transfer in (a) of this subsection shall occur only if written agreement is reached between the state department of ecology and the United States department of energy pursuant to section 6 of the perpetual care agreement dated July 29, 1965, between the United States atomic energy commission and the state of Washington. If agreement cannot be reached between the state department of ecology and the United States department of energy by June 1, 2008, the treasurer shall transfer the funds from the general fund to the site closure account according to the schedule in (a) of this subsection.

(c) If for any reason the Hanford low level radioactive waste disposal facility is closed to further disposal operations during or after the 2003-2005 biennium and before 2033, then the amount remaining to be repaid from the 2003-2005 transfer of thirteen million eight hundred thousand dollars from the site closure account shall be transferred by the treasurer from the general fund to the site closure account to fund the closure and decommissioning of the facility. The treasurer shall transfer to the site closure account in full the amount remaining to be repaid upon written notice from the secretary of health that the department of health has authorized closure or that disposal operations have ceased. The treasurer shall complete the transfer within sixty days of written notice from the secretary of health.

(d) To the extent that money in the site closure account together with the amount of money identified for repayment to the site closure account, pursuant to (a) through (c) of this subsection, equals or exceeds the cost estimate approved by the department of health for closure and decommissioning of the facility, the money in the site closure account together with the amount of money identified for repayment to the site closure account shall constitute adequate financial assurance for purposes of the department of health financial assurance requirements;

(4) To assure maintenance of such insurance coverage by state licensees, lessees, or sublessees as will adequately, in the opinion of the director, protect the citizens of the state against nuclear accidents or incidents that may occur on privately or state-controlled nuclear facilities;

(5) To institute a user permit system and issue site use permits, consistent with regulatory practices, for generators, packagers, or brokers using the Hanford low-level radioactive waste disposal facility. The costs of administering the user permit system shall be borne by the applicants for site use permits. The site use permit fee shall be set at a level that is sufficient to fund completely the executive and legislative participation in activities related to the Northwest Interstate Compact on Low-Level Radioactive Waste Management;

(6) To make application for or otherwise pursue any federal funds to which the state may be eligible, through the federal resource conservation and recovery act or any other federal programs, for the management, treatment or disposal, and any remedial actions, of wastes that are both radioactive

and hazardous at all Hanford low-level radioactive waste disposal facilities; and

(7) To develop contingency plans for duties and options for the department and other state agencies related to the Hanford low-level radioactive waste disposal facility based on various projections of annual levels of waste disposal. These plans shall include an analysis of expected revenue to the state in various taxes and funds related to low-level radioactive waste disposal and the resulting implications that any increase or decrease in revenue may have on state agency duties or responsibilities. The plans shall be updated annually. [2003 1st sp.s. c 21 § 1; 1999 c 372 § 12; 1991 sp.s. c 13 § 60; 1990 c 21 § 6; 1989 c 418 § 2; 1986 c 2 § 1; 1983 1st ex.s. c 19 § 8.]

Suspension and reinstatement of site use permits: RCW 70.98.085.

Additional notes found at www.leg.wa.gov

43.200.170 Waste disposal surcharges and penalty surcharges—Disposition. The governor may assess surcharges and penalty surcharges on the disposal of waste at the Hanford low-level radioactive waste disposal facility. The surcharges may be imposed up to the maximum extent permitted by federal law. Ten dollars per cubic foot of the moneys received under this section shall be transmitted monthly to the site closure account established under RCW 43.200.080. The rest of the moneys received under this section shall be deposited in the general fund. [1990 c 21 § 3; 1986 c 2 § 3.]

43.200.180 Implementation of federal low-level radioactive waste policy amendments of 1985. The department of ecology shall be the state agency responsible for implementation of the federal low-level radioactive waste policy amendments act of 1985, including:

(1) Collecting and administering the surcharge assessed by the governor under RCW 43.200.170;

(2) Collecting low-level radioactive waste data from disposal facility operators, generators, intermediate handlers, and the federal department of energy;

(3) Developing and operating a computerized information system to manage low-level radioactive waste data;

(4) Denying and reinstating access to the Hanford low-level radioactive waste disposal facility pursuant to the authority granted under federal law;

(5) Administering and/or monitoring (a) the maximum waste volume levels for the Hanford low-level radioactive waste disposal facility, (b) reactor waste allocations, (c) priority allocations under the Northwest Interstate Compact on Low-Level Radioactive Waste Management, and (d) adherence by other states and compact regions to federal statutory deadlines; and

(6) Coordinating the state's low-level radioactive waste disposal program with similar programs in other states. [1998 c 245 § 81; 1986 c 2 § 4.]

43.200.190 Studies on site closure and perpetual care and maintenance requirements and on adequacy of insurance coverage. The department of ecology shall perform studies, by contract or otherwise, to define site closure and perpetual care and maintenance requirements for the Hanford

low-level radioactive waste disposal facility and to assess the adequacy of insurance coverage for general liability, radiological liability, and transportation liability for the facility. [1998 c 245 § 82; 1986 c 2 § 6.]

43.200.200 Review of potential damage—Financial assurance. (1) The director of the department of ecology shall periodically review the potential for bodily injury and property damage arising from the transportation and disposal of commercial low-level radioactive waste under permits issued by the state.

(2) The director may require permit holders to demonstrate financial assurance in an amount that is adequate to protect the state and its citizens from all claims, suits, losses, damages, or expenses on account of injuries to persons and property damage arising or growing out of the transportation or disposal of commercial low-level radioactive waste. The financial assurance may be in the form of insurance, cash deposits, surety bonds, corporate guarantees, and other acceptable instruments or guarantees determined by the director to be acceptable evidence of financial assurance.

(3) In making the determination of the appropriate level of financial assurance, the director shall consider:

(a) The nature and purpose of the activity and its potential for injury and damages to or claims against the state and its citizens;

(b) The current and cumulative manifested volume and radioactivity of waste being packaged, transported, buried, or otherwise handled;

(c) The location where the waste is being packaged, transported, buried, or otherwise handled, including the proximity to the general public and geographic features such as geology and hydrology, if relevant; and

(d) The legal defense cost, if any, that will be paid from the required financial assurance amount.

(4) The director may establish different levels of required financial assurance for various classes of permit holders.

(5) The director shall establish by rule the instruments or mechanisms by which a permit applicant or holder may demonstrate financial assurance as required by RCW 43.200.210. [1998 c 245 § 83; 1992 c 61 § 1; 1990 c 82 § 1; 1986 c 191 § 1.]

43.200.210 Immunity of state—Demonstration of financial assurance—Suspension of permit. (1) The department of ecology shall require that any person who holds or applies for a permit under this chapter indemnify and hold harmless the state from claims, suits, damages, or expenses on account of injuries to or death of persons and property damage, arising or growing out of any operations and activities for which the person holds the permit, and any necessary or incidental operations.

(2) The department of ecology shall refuse to issue or shall suspend the permit of any person required by this section to demonstrate adequate financial assurance who fails to demonstrate compliance with this section. The permit shall not be issued or reinstated until the person demonstrates compliance with this section.

(3) The department of ecology shall require (a) that any person required to demonstrate financial assurance maintain with the agency current copies of any insurance policies, certificates of insurance, or any other documents sufficient to evidence compliance with this section, (b) that the agency be notified of any changes in the instruments of financial assurance or financial condition of the person, and (c) that the state be named as an insured party on any insurance policy used to comply with this section. This subsection shall not apply to any person subject to the same requirements under RCW 70.98.095. [1992 c 61 § 2; 1990 c 82 § 2; 1986 c 191 § 2.]

43.200.220 Site closure fee—Generally. Beginning January 1, 1993, the department of ecology may impose a reasonable site closure fee if necessary to be deposited in the site closure account established under RCW 43.200.080. The department may continue to collect moneys for the site closure account until the account contains an amount sufficient to complete the closure plan, as specified in the radioactive materials license issued by the department of health. [1990 c 21 § 4.]

Additional notes found at www.leg.wa.gov

43.200.230 Fees for waste generators. The director of the department of ecology shall require that generators of waste pay a fee for each cubic foot of waste disposed at any facility in the state equal to six dollars and fifty cents. The fee shall be imposed specifically on the generator of the waste and shall not be considered to apply in any way to the low-level site operator's disposal activities. The fee shall be allocated in accordance with RCW 43.200.233 and 43.200.235. This subsection shall be invalidated and the authorization to collect a surcharge removed if the legislature or any administrative agency of the state of Washington prior to January 1, 1993, (1) imposes fees, assessments, or charges other than perpetual care and maintenance, site surveillance, and site closing fees currently applicable to the Hanford commercial low-level waste site operator's activities, (2) imposes any additional fees, assessments, or charges on generators using the Hanford commercial low-level waste site, or (3) increases any existing fees, assessments, or charges. [1991 c 272 § 16.]

Additional notes found at www.leg.wa.gov

43.200.233 Waste generator surcharge remittance to counties. A portion of the surcharge received under RCW 43.200.230 shall be remitted monthly to the county in which the low-level radioactive waste disposal facility is located in the following manner:

(1) During 1993, six dollars and fifty cents per cubic foot of waste;

(2) During 1994, three dollars and twenty-five cents per cubic foot of waste; and

(3) During 1995 and thereafter, two dollars per cubic foot of waste. [1991 c 272 § 17.]

Additional notes found at www.leg.wa.gov

43.200.235 Disposal of waste generator surcharges. Except for moneys that may be remitted to a county in which a low-level radioactive waste disposal facility is located, all surcharges authorized under RCW 43.200.230 shall be

deposited in the fund created in RCW 43.31.422. [1991 c 272 § 18.]

Additional notes found at www.leg.wa.gov

43.200.900 Construction of chapter. The rules of strict construction do not apply to this chapter and it shall be liberally construed in order to carry out the objective for which it is designed, in accordance with the legislative intent to give the board the maximum possible freedom in carrying the provisions of this chapter into effect. [1984 c 161 § 15; 1983 1st ex.s. c 19 § 10.]

43.200.901 Conflict with federal requirements—1983 1st ex.s. c 19. If any part of this act shall be found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, such conflicting part of this act is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this act in its application to the agencies concerned. The rules and regulations under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1983 1st ex.s. c 19 § 11.]

43.200.902 Severability—1983 1st ex.s. c 19. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 19 § 12.]

43.200.903 Severability—1984 c 161. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 161 § 17.]

43.200.905 Construction—1986 c 191. The provisions of this act shall not have the effect of reducing the level of liability coverage required under any law, regulation, or contract of the state before December 31, 1987, or the effective date of the first determination made pursuant to RCW 43.200.200, if earlier. [1986 c 191 § 4.]

43.200.906 Severability—1986 c 191. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1986 c 191 § 6.]

Chapter 43.205 RCW

HIGH-LEVEL NUCLEAR WASTE REPOSITORY SITING

Sections

- 43.205.010 Findings.
43.205.020 Duties relating to the site selection process for a high-level nuclear waste repository.

Nuclear waste site—Election for disapproval: Chapter 29A.88 RCW.

(2010 Ed.)

43.205.010 Findings. The legislature and the people of the state of Washington find that:

(1) In order to solve the problem of high-level radioactive waste disposal, congress established a process for selecting two sites for the safe, permanent, and regionally equitable disposal of such waste.

(2) The process of selecting three sites as final candidates, including the Hanford reservation, for a first high-level nuclear waste repository by the United States department of energy violated the intent and the mandate of congress.

(3) The United States department of energy has prematurely deferred consideration of numerous potential sites and disposal media that its own research indicates are more appropriate, safer, and less expensive.

(4) Placement of a repository at Hanford without methodical and independently verified scientific evaluation will pose a threat to the health and safety of the people and the environment of this state.

(5) The selection process is flawed and not credible because it did not include independent experts in the selection of the sites and in the review of that selection, as recommended by the National Academy of Sciences.

(6) By postponing indefinitely all site specific work for a second repository, the United States department of energy has not complied with the intent of congress expressed in the Nuclear Waste Policy Act, Public Law 97-425, and the fundamental compromise which enabled its enactment. [1986 ex.s. c 1 § 1.]

43.205.020 Duties relating to the site selection process for a high-level nuclear waste repository. In order to achieve complete compliance with federal law and protect the health, safety, and welfare of the people of the state of Washington, the governor, the legislature, other statewide elected officials, and the nuclear waste board shall use all legal means necessary to:

(1) Suspend the preliminary site selection process for a high-level nuclear waste repository, including the process of site characterization, until there is compliance with the intent of the Nuclear Waste Policy Act;

(2) Reverse the secretary of energy's decision to postpone indefinitely all site specific work on locating and developing a second repository for high-level nuclear waste;

(3) Insist that the United States department of energy's site selection process, when resumed, considers all acceptable geologic media and results in safe, scientifically justified, and regionally and geographically equitable high-level nuclear waste disposal;

(4) Demand that federal budget actions fully and completely follow the intent of the Nuclear Waste Policy Act; and

(5) Continue to pursue alliances with other states and interested parties, particularly with Pacific Northwest governors, legislatures, and other parties, affected by the site selection and transportation of high-level nuclear waste. [1986 ex.s. c 1 § 2.]

Chapter 43.210 RCW
SMALL BUSINESS EXPORT
FINANCE ASSISTANCE CENTER
 (Formerly: Export assistance center)

Sections

43.210.010	Findings.
43.210.020	Small business export finance assistance center authorized—Purposes.
43.210.030	Board of directors—Membership—Terms—Vacancies.
43.210.040	Powers and duties.
43.210.050	Export assistance services contract with department of commerce.
43.210.060	Rule-making authority.
43.210.080	Rural manufacturer export outreach program—Export loan or loan guarantee programs.
43.210.130	Minority business export outreach program.

43.210.010 Findings. The legislature finds:

(1) The exporting of goods and services from Washington to international markets is an important economic stimulus to the growth, development, and stability of the state's businesses in both urban and rural areas, and that these economic activities create needed jobs for Washingtonians.

(2) Impediments to the entry of many small and medium-sized businesses into export markets have restricted growth in exports from the state.

(3) Particularly significant impediments for many small and medium-sized businesses are the lack of easily accessible information about export opportunities and financing alternatives.

(4) There is a need for a small business export finance assistance center which will specialize in providing export assistance to small and medium-sized businesses throughout the state in acquiring information about export opportunities and financial alternatives for exporting. [1990 1st ex.s. c 17 § 65; 1985 c 231 § 1; 1983 1st ex.s. c 20 § 1.]

Intent—1990 1st ex.s. c 17: "The legislature finds that the Puget Sound region is experiencing economic prosperity and the challenges associated with rapid growth; much of the rest of the state is not experiencing economic prosperity, and faces challenges associated with slow economic growth. It is the intent of the legislature to encourage economic prosperity and balanced economic growth throughout the state.

In order to accomplish this goal, growth must be managed more effectively in the Puget Sound region, and rural areas must build local capacity to accommodate additional economic activity in their communities. Where possible, rural economies and low-income areas should be linked with prosperous urban economies to share economic growth for the benefit of all areas and the state.

To accomplish this goal it is the intent of the legislature to: (1) Assure equitable opportunities to secure prosperity for distressed areas, rural communities, and disadvantaged populations by promoting urban-rural economic links, and by promoting value-added product development, business networks, and increased exports from rural areas; (2) improve the economic development service delivery system to be better able to serve these areas, communities, and populations; (3) redirect the priorities of the state's economic development programs to focus economic development efforts into areas and sectors of the greatest need; (4) build local capacity so that communities are better able to plan for growth and achieve self-reliance; (5) administer grant programs to promote new feasibility studies and project development on projects of interest to rural areas or areas outside of the Puget Sound region; and (6) develop a coordinated economic investment strategy involving state economic development programs, businesses, educational and vocational training institutions, local governments and local economic development organizations, ports, and others." [1990 1st ex.s. c 17 § 64.]

Additional notes found at www.leg.wa.gov

43.210.020 Small business export finance assistance center authorized—Purposes. A nonprofit corporation, to

be known as the small business export finance assistance center, and branches subject to its authority, may be formed under chapter 24.03 RCW for the following public purposes:

(1) To assist small and medium-sized businesses in both urban and rural areas in the financing of export transactions.

(2) To provide, singly or in conjunction with other organizations, information and assistance to these businesses about export opportunities and financing alternatives. [1998 c 109 § 1; 1990 1st ex.s. c 17 § 66; 1985 c 231 § 2; 1983 1st ex.s. c 20 § 2.]

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Additional notes found at www.leg.wa.gov

43.210.030 Board of directors—Membership—Terms—Vacancies. The small business export finance assistance center and its branches shall be governed and managed by a board of seven directors appointed by the governor, with the advice of the board, and confirmed by the senate. The directors shall serve terms of four years following the terms of service established by the initial appointments after June 11, 1998. Three appointees, including directors on June 11, 1998, who are reappointed, must serve initial terms of two years and, if a director is reappointed that director may serve a consecutive four-year term. Four appointees, including directors on June 11, 1998, who are reappointed, must serve initial terms of four years and, if a director is reappointed that director may serve a consecutive four-year term. After the initial appointments, directors may serve two consecutive terms. The directors may provide for the payment of their expenses. The directors shall include the *director of community, trade, and economic development or the director's designee; representatives of a large financial institution engaged in financing export transactions in the state of Washington; a small financial institution engaged in financing export transactions in the state of Washington; a large exporting company domiciled in the state of Washington; a small exporting company in the state of Washington; organized labor in a trade involved in international commerce; and a representative at large. To the extent possible, appointments to the board shall reflect geographical balance and the diversity of the state population. Any vacancies on the board due to the expiration of a term or for any other reason shall be filled by appointment by the governor for the unexpired term. [1998 c 109 § 2; 1995 c 399 § 106; 1991 c 314 § 15; 1985 c 231 § 3; 1983 1st ex.s. c 20 § 3.]

***Reviser's note:** The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

Findings—1991 c 314: See note following RCW 43.160.020.

43.210.040 Powers and duties. (1) The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 has the powers granted under chapter 24.03 RCW. In exercising such powers, the center may:

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other sources to carry out its purposes;

(b) Make loans or provide loan guarantees on loans made by financial institutions to Washington businesses with annual sales of two hundred million dollars or less for the

purpose of financing exports of goods or services by those businesses to buyers in foreign countries and for the purpose of financing business growth to accommodate increased export sales. Loans or loan guarantees made under the authority of this section may only be considered upon a financial institution's assurance that such loan or loan guarantee is otherwise not available;

(c) Provide assistance to businesses with annual sales of two hundred million dollars or less in obtaining loans and guarantees of loans made by financial institutions for the purpose of financing export of goods or services from the state of Washington;

(d) Provide export finance and risk mitigation counseling to Washington exporters with annual sales of two hundred million dollars or less, provided that such counseling is not practicably available from a Washington for-profit business. For such counseling, the center may charge reasonable fees as it determines are necessary;

(e) Provide assistance in obtaining export credit insurance or alternate forms of foreign risk mitigation to facilitate the export of goods and services from the state of Washington;

(f) Be available as a teaching resource to both public and private sponsors of workshops and programs relating to the financing and risk mitigation aspects of exporting products and services from the state of Washington;

(g) Develop a comprehensive inventory of export-financing resources, both public and private, including information on resource applicability to specific countries and payment terms;

(h) Contract with the federal government and its agencies to become a program administrator for federally provided loan guarantee and export credit insurance programs; and

(i) Take whatever action may be necessary to accomplish the purposes set forth in this chapter.

(2) The center may not use any Washington state funds or funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(3) The small business export finance assistance center shall make every effort to seek nonstate funds for its continued operation.

(4) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the small business export finance assistance center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [2010 c 166 § 1; 1998 c 109 § 3; 1987 c 505 § 43; 1985 c 231 § 4; 1983 1st ex.s. c 20 § 4.]

43.210.050 Export assistance services contract with department of commerce. (1) The small business export finance assistance center formed under RCW 43.210.020 and

(2010 Ed.)

43.210.030 must enter into a contract under this chapter with the department of commerce or its statutory successor.

(2) The contract under subsection (1) of this section must:

(a) Require the center to provide export assistance services;

(b) Have a duration of two years;

(c) Require the center to aggressively seek to fund its continued operation from nonstate funds; and

(d) Require the center to report annually to the department on its success in obtaining nonstate funding. [2010 c 166 § 2; 1998 c 245 § 84; 1995 c 399 § 107; 1991 c 314 § 16. Prior: 1985 c 466 § 64; 1985 c 231 § 5; 1983 1st ex.s. c 20 § 5.]

Findings—1991 c 314: See note following RCW 43.160.020.

Additional notes found at www.leg.wa.gov

43.210.060 Rule-making authority. The *department of community, trade, and economic development or its statutory successor shall adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter. [1995 c 399 § 108; 1985 c 466 § 65; 1983 1st ex.s. c 20 § 6.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.210.080 Rural manufacturer export outreach program—Export loan or loan guarantee programs. Subject to the availability of amounts appropriated for this specific purpose, the small business export finance assistance center must:

(1) Develop a rural manufacturer export outreach program in conjunction with impact Washington. The program must provide outreach services to rural manufacturers in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters; and

(2) Develop export loan or loan guarantee programs in conjunction with the Washington economic development finance authority and the appropriate federal and private entities. [2010 c 166 § 3.]

43.210.130 Minority business export outreach program. The small business export finance assistance center shall develop a minority business export outreach program. The program shall provide outreach services to minority-owned businesses in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters. [1993 c 512 § 5.]

Office of minority and women's business enterprises: Chapter 39.19 RCW.

Chapter 43.211 RCW

211 INFORMATION SYSTEM

Sections

43.211.005 Findings.
43.211.010 211 system.

43.211.020	Definitions.
43.211.030	New information services.
43.211.040	211 services.
43.211.050	211 account.
43.211.060	Use of 211 account moneys.
43.211.070	Reports to the legislature.
43.211.900	Captions not law.
43.211.901	Severability—2003 c 135.
43.211.902	Effective date—2003 c 135.

43.211.005 Findings. The legislature finds that the implementation of a single easy to use telephone number, 211, for public access to information and referral for health and human services and information about access to services after a natural or nonnatural disaster will benefit the citizens of the state of Washington by providing easier access to available health and human services, by reducing inefficiencies in connecting people with the desired service providers, and by reducing duplication of efforts. The legislature further finds in a time of reduced resources for providing health and human services that establishing a cost-effective means to continue to provide information to the public about available services is important. The legislature further finds that an integrated statewide system of local information and referral service providers will build upon an already existing network of experienced service providers without the necessity of creating a new agency, department, or system to provide 211 services. The legislature further finds that no funds should be appropriated by the legislature to a 211 system under chapter 135, Laws of 2003 without receiving documentation that a 211 system will provide savings to the state. [2003 c 135 § 1.]

43.211.010 211 system. 211 is created as the official state dialing code for public access to information and referral for health and human services and information about access to services after a natural or nonnatural disaster. [2003 c 135 § 2.]

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

(1) "Department" means the department of social and health services.

(2) "WIN 211" means the Washington information network 211, a 501(c)(3) corporation incorporated in the state of Washington.

(3) "Approved 211 service provider" means a public or nonprofit agency or organization designated by WIN 211 to provide 211 services.

(4) "211 service area" means an area of the state of Washington identified by WIN 211 as an area in which an approved 211 service provider will provide 211 services.

(5) "211" means the abbreviated dialing code assigned by the federal communications commission on July 21, 2000, for consumer access to community information and referral services. [2003 c 135 § 3.]

43.211.030 New information services. Before a state agency or department that provides health and human services establishes a new public information telephone line or hotline, the state agency or department shall consult with

WIN 211 about using the 211 system to provide public access to the information. [2003 c 135 § 4.]

43.211.040 211 services. Only a service provider approved by WIN 211 may provide 211 telephone services. WIN 211 shall approve 211 service providers, after considering the following:

(1) The ability of the proposed 211 service provider to meet the national 211 standards recommended by the alliance of information and referral systems and adopted by the national 211 collaborative on May 5, 2000;

(2) The financial stability and health of the proposed 211 service provider;

(3) The community support for the proposed 211 service provider;

(4) The relationships with other information and referral services; and

(5) Such other criteria as WIN 211 deems appropriate. [2003 c 135 § 5.]

43.211.050 211 account. The 211 account is created in the state treasury. Moneys in the account may be spent only after appropriation. The 211 account shall include any funding for this purpose appropriated by the legislature, private contributions, and all other sources. Expenditures from the 211 account shall be used only for the implementation and support of the 211 system. [2003 c 135 § 6.]

43.211.060 Use of 211 account moneys. (1) WIN 211 shall study, design, implement, and support a statewide 211 system.

(2) Activities eligible for assistance from the 211 account include, but are not limited to:

(a) Creating a structure for a statewide 211 resources database that will meet the alliance for information and referral systems standards for information and referral systems databases and that will be integrated with local resources databases maintained by approved 211 service providers;

(b) Developing a statewide resources database for the 211 system;

(c) Maintaining public information available from state agencies, departments, and programs that provide health and human services for access by 211 service providers;

(d) Providing grants to approved 211 service providers for the design, development, and implementation of 211 for its 211 service area;

(e) Providing grants to approved 211 service providers to enable 211 service providers to provide 211 service on an ongoing basis; and

(f) Providing grants to approved 211 service providers to enable the provision of 211 services on a twenty-four-hour per day seven-day a week basis. [2003 c 135 § 7.]

43.211.070 Reports to the legislature. WIN 211 shall provide an annual report to the legislature and the department beginning July 1, 2004. [2003 c 135 § 8.]

43.211.900 Captions not law. Captions used in this chapter are not part of the law. [2003 c 135 § 9.]

43.211.901 Severability—2003 c 135. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2003 c 135 § 10.]

43.211.902 Effective date—2003 c 135. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2003. [2003 c 135 § 11.]

Chapter 43.215 RCW

DEPARTMENT OF EARLY LEARNING

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GENERAL PROVISIONS

43.215.005 Finding—Purpose. (1) The legislature recognizes that:

- (a) Parents are their children’s first and most important teachers and decision makers;
- (b) Research across disciplines now demonstrates that what happens in the earliest years makes a critical difference in children’s readiness to succeed in school and life;

(c) Washington's competitiveness in the global economy requires a world-class education system that starts early and supports life-long learning;

(d) Washington state currently makes substantial investments in voluntary child care and early learning services and supports, but because services are fragmented across multiple state agencies, and early learning providers lack the supports and incentives needed to improve the quality of services they provide, many parents have difficulty accessing high quality early learning services;

(e) A more cohesive and integrated voluntary early learning system would result in greater efficiencies for the state, increased partnership between the state and the private sector, improved access to high quality early learning services, and better employment and early learning outcomes for families and all children.

(2) The legislature finds that:

(a) The early years of a child's life are critical to the child's healthy brain development and that the quality of caregiving during the early years can significantly impact the child's intellectual, social, and emotional development;

(b) A successful outcome for every child obtaining a K-12 education depends on children being prepared from birth for academic and social success in school. For children at risk of school failure, the achievement gap often emerges as early as eighteen months of age;

(c) There currently is a shortage of high quality services and supports for children ages birth to three and their parents and caregivers; and

(d) Increasing the availability of high quality services for children ages birth to three and their parents and caregivers will result in improved school and life outcomes.

(3) Therefore, the legislature intends to establish a robust birth-to-three continuum of services for parents and caregivers of young children in order to provide education and support regarding the importance of early childhood development.

(4) The purpose of this chapter is:

(a) To establish the department of early learning;

(b) To coordinate and consolidate state activities relating to child care and early learning programs;

(c) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care;

(d) To provide tools to promote the hiring of suitable providers of child care by:

(i) Providing parents with access to information regarding child care providers;

(ii) Providing parents with child care licensing action histories regarding child care providers; and

(iii) Requiring background checks of applicants for employment in any child care facility licensed or regulated under current law;

(e) To promote linkages and alignment between early learning programs and elementary schools and support the transition of children and families from prekindergarten environments to kindergarten;

(f) To promote the development of a sufficient number and variety of adequate child care and early learning facilities, both public and private; and

(g) To license agencies and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all child care and early learning facilities.

(5) This chapter does not expand the state's authority to license or regulate activities or programs beyond those licensed or regulated under existing law. [2010 c 232 § 1; 2007 c 415 § 1; 2006 c 265 § 101.]

Captions not law—2007 c 415: "Captions used in this act are not any part of the law." [2007 c 415 § 11.]

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

(1) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child day care provider who regularly provides child day care and early learning services for not more than twelve children in the provider's home in the family living quarters;

(d) "Nongovernmental private-public partnership" means an entity registered as a nonprofit corporation in Washington state with a primary focus on early learning, school readiness, and parental support, and an ability to raise a minimum of five million dollars in contributions;

(e) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools or kindergartens that are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children, and do not accept custody of children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(i) Any agency having been in operation in this state ten years before June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(j) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(k) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(l) An agency that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Applicant" means a person who requests or seeks employment in an agency.

(4) "Department" means the department of early learning.

(5) "Director" means the director of the department.

(6) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.

(7) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW 43.215.300(3).

(8) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(9) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency. [2007 c 415 § 2; 2007 c 394 § 2; 2006 c 265 § 102.]

Reviser's note: This section was amended by 2007 c 394 § 2 and by 2007 c 415 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Captions not law—2007 c 415: See note following RCW 43.215.005.

Finding—Declaration—2007 c 394: "The legislature finds that education is the single most effective investment that can be made in children, the state, the economy, and the future. A well-educated citizenry is essential both for the preservation of democracy and for enhancing the state's ability to compete in the knowledge-based global economy.

As recommended by Washington learns, the legislature declares that the overarching goal for education in the state is to have a world-class, learner-focused, seamless education system that educates more Washingtonians to the highest levels of educational attainment." [2007 c 394 § 1.]

Captions not law—2007 c 394: "Captions used in this act are not any part of the law." [2007 c 394 § 8.]

(2010 Ed.)

43.215.020 Department created—Primary duties.

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To serve as the state lead agency for Part C of the federal individuals with disabilities education act (IDEA);

(f) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(g) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(h) To work cooperatively and in coordination with the early learning council;

(i) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs;

(j) To develop and adopt rules for administration of the program of early learning established in RCW 43.215.141;

(k) To develop a comprehensive birth-to-three plan to provide education and support through a continuum of options including, but not limited to, services such as: Home visiting; quality incentives for infant and toddler child care subsidies; quality improvements for family home and center-based child care programs serving infants and toddlers; professional development; early literacy programs; and informal supports for family, friend, and neighbor caregivers; and

(l) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children, and that recognizes and honors cultural and linguistic diversity. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children. [2010 c 233 § 1; 2010 c 232 § 2; 2010 c 231 §6; 2007 c 394 § 5; 2006 c 265 § 103.]

Reviser's note: This section was amended by 2010 c 231 § 6, 2010 c 232 § 2, and by 2010 c 232 § 1, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 c 233: "This act takes effect July 1, 2010." [2010 c 233 § 4.]

Finding—Declaration—Captions not law—2007 c 394: See notes following RCW 43.215.010.

43.215.030 Director—Appointment—Salary. (1) The executive head and appointing authority of the department is the director. The director shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. The governor shall solicit input from all parties involved in the private-public partnership concerning this appointment. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate when the governor's nomination for the office of director shall be presented.

(2) The director may employ staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The director may delegate any power or duty vested in him or her by this chapter, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW. [2006 c 265 § 104.]

43.215.040 Director—Power and duties. It is the intent of the legislature wherever possible to place the internal affairs of the department under the control of the director in order that the director may institute therein the flexible, alert, and intelligent management of its business that changing contemporary circumstances require. Therefore, whenever the director's authority is not specifically limited by law, the director has complete charge and supervisory powers over the department. The director may create such administrative structures as the director considers appropriate, except as otherwise specified by law. The director may employ such assistants and personnel as necessary for the general administration of the department. This employment shall be in accordance with the state civil service law, chapter 41.06 RCW, except as otherwise provided. [2006 c 265 § 105.]

43.215.050 Advisory committees or councils—Travel expenses. The director may appoint such advisory committees or councils as may be required by any federal legislation as a condition to the receipt of federal funds by the department. The director may also appoint statewide committees or councils on such subject matters as are or come within the department's responsibilities. The committees or councils shall be constituted as required by federal law or as the director may determine.

Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2006 c 265 § 106.]

43.215.060 Federal and state cooperation—Rules—Construction. In furtherance of the policy of the state to cooperate with the federal government in all of the programs

under the jurisdiction of the department, such rules as may become necessary to entitle the state to participate in federal funds may be adopted, unless expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements that are a necessary condition to state receipt of federal funds. Any section or provision of law dealing with the department that may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. [2006 c 265 § 107.]

43.215.065 Policies to support children of incarcerated parents. (1)(a) The director of the department of early learning shall review current department policies and assess the adequacy and availability of programs targeted at persons who receive assistance who are the children and families of a person who is incarcerated in a department of corrections facility. Great attention shall be focused on programs and policies affecting foster youth who have a parent who is incarcerated.

(b) The director shall adopt policies that support the children of incarcerated parents and meet their needs with the goal of facilitating normal child development, while reducing intergenerational incarceration.

(2) The director shall conduct the following activities to assist in implementing the requirements of subsection (1) of this section:

(a) Gather information and data on the recipients of assistance who are the children and families of inmates incarcerated in department of corrections facilities; and

(b) Participate in the children of incarcerated parents advisory committee and report information obtained under this section to the advisory committee. [2007 c 384 § 4.]

Intent—Finding—2007 c 384: See note following RCW 72.09.495.

43.215.070 Private-public partnership. (1) In addition to other duties under this chapter, the director shall actively participate in a nongovernmental private-public partnership focused on supporting government's investments in early learning and ensuring that every child in the state is prepared to succeed in school and in life. Except for licensing as required by Washington state law and to the extent permitted by federal law, the director of the department of early learning shall grant waivers from the rules of state agencies for the operation of early learning programs requested by the nongovernmental private-public partnership to allow for flexibility to pursue market-based approaches to achieving the best outcomes for children and families.

(2) In addition to other powers granted to the director, the director may:

(a) Enter into contracts on behalf of the department to carry out the purposes of this chapter;

(b) Accept gifts, grants, or other funds for the purposes of this chapter; and

(c) Adopt, in accordance with chapter 34.05 RCW, rules necessary to implement this chapter, including rules governing child day care and early learning programs under this chapter. This section does not expand the rule-making authority of the director beyond that necessary to implement

and administer programs and services existing July 1, 2006, as transferred to the department of early learning under section 501, chapter 265, Laws of 2006. The rule-making authority does not include any authority to set mandatory curriculum or establish what must be taught in child day care centers or by family day care providers. [2006 c 265 § 108.]

43.215.080 Reports to the governor and legislature.

Two years after the implementation of the department's early learning program, and every two years thereafter by July 1st, the department shall submit to the governor and the legislature a report measuring the effectiveness of its programs in improving early childhood education. The first report shall include program objectives and identified valid performance measures for evaluating progress toward achieving the objectives, as well as a plan for commissioning a longitudinal study comparing the kindergarten readiness of children participating in the department's programs with the readiness of other children, using nationally accepted testing and assessment methods. Such comparison shall include, but not be limited to, achievement as children of both groups progress through the K-12 system and identify year-to-year changes in achievement, if any, in later years of elementary, middle school, and high school education. [2006 c 265 § 109.]

43.215.090 Early learning advisory council—Statewide early learning plan. (1) The early learning advisory council is established to advise the department on statewide early learning issues that would build a comprehensive system of quality early learning programs and services for Washington's children and families by assessing needs and the availability of services, aligning resources, developing plans for data collection and professional development of early childhood educators, and establishing key performance measures.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that guides the department in promoting alignment of private and public sector actions, objectives, and resources, and ensuring school readiness.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Council members shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of not more than twenty-three members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of financial management, the department of social and health services, the department of health, the higher education coor-

inating board, and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint seven leaders in early childhood education, with at least one representative with experience or expertise in each of the areas such as the following: Children with disabilities, the K-12 system, family day care providers, and child care centers;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory council, to be appointed by the governor;

(f) One representative of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) The council shall appoint two members and stakeholders with expertise in early learning to sit on the technical working group created in section 2, chapter 234, Laws of 2010.

(8) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

(9) The department shall provide staff support to the council. [2010 c 234 § 3; 2010 c 12 § 1; 2007 c 394 § 3.]

Intent—2010 c 234: "The department of early learning, the superintendent of public instruction, and thrive by five's joint early learning recommendations to the governor, and the quality education council's January 2010 recommendations to the legislature both suggested that a voluntary program of early learning should be included within the overall program of basic education. The legislature intends to examine these recommendations and Attorney General Opinion Number 8 (2009) through the development of a working group to identify and recommend a comprehensive plan." [2010 c 234 § 1.]

Finding—Declaration—Captions not law—2007 c 394: See notes following RCW 43.215.010.

43.215.100 Voluntary quality rating and improvement system—Report to the legislature. Subject to the availability of amounts appropriated for this specific purpose, the department, in collaboration with community and statewide partners, shall implement a voluntary quality rating and improvement system applicable to licensed or certified child care centers and homes and early education programs. The purpose of the voluntary quality rating and improvement system is to give parents clear and easily accessible information about the quality of child care and early education programs, support improvement in early learning programs throughout the state, increase the readiness of children for school, and close the disparity in access to quality care. Before final

implementation of the voluntary quality rating and improvement system, the department shall report to the appropriate policy and fiscal committees of the legislature. Nothing in this section changes the department's responsibility to collectively bargain over mandatory subjects. [2007 c 394 § 4.]

Finding—Declaration—Captions not law—2007 c 394: See notes following RCW 43.215.010.

43.215.110 Partnership responsibilities—Department's duties—Partnership's duties. (1) In order to meet its partnership responsibilities, the department shall:

(a) Work collaboratively with the nongovernmental private-public partnership; and

(b) Actively seek public and private money for distribution as grants to the nongovernmental private-public partnership.

(2) In order to meet its partnership responsibilities, the nongovernmental private-public partnership shall:

(a) Work with and complement existing statewide efforts by enhancing parent resources and support, child care, preschool, and other early learning environments;

(b) Accept and expend funds to be used for quality improvement initiatives, including but not limited to parent resources and support, and support the alignment of existing funding streams and coordination of efforts across sectors;

(c) In conjunction with the department, provide leadership to early learning private-public partnerships forming in communities across the state. These local partnerships shall be encouraged to seek local funding and develop strategies to improve coordination and exchange information between the community, early care and education programs, and the K-12 system; and

(d) Assist the statewide movement to high quality early learning and the support of parents as a child's first and best teacher. [2007 c 394 § 6.]

Finding—Declaration—Captions not law—2007 c 394: See notes following RCW 43.215.010.

43.215.120 Parental notification of report alleging sexual misconduct or abuse—Notice of parental rights.

The department and an agency must, at the first opportunity but in all cases within forty-eight hours of receiving a report alleging sexual misconduct or abuse by an agency employee, notify the parents or guardian of a child alleged to be the victim, target, or recipient of the misconduct or abuse. The department and an agency shall provide parents annually with information regarding their rights under the public records act, chapter 42.56 RCW, to request the public records regarding the employee. [2007 c 415 § 8.]

Captions not law—2007 c 415: See note following RCW 43.215.005.

43.215.125 Washington head start program proposal—Report. (1) For the 2009-2011 fiscal biennium, to the extent funds are appropriated for this purpose, the department shall develop a proposal for implementing a statewide Washington head start program. To the extent possible while maintaining quality standards, the proposal should align the state early childhood education and assistance program with federal head start program eligibility criteria, guidelines, performance standards, and methods/processes for ensuring con-

tinuous improvement in program quality. In this proposal, the department shall make recommendations that:

(a) Identify federal head start program guidelines, performance measures and standards, or other requirements for which state flexibility would be recommended. This shall include an analysis of how state flexibility may impact outcomes for children and how that flexibility might deviate from outcomes associated with the federal standards. Areas to be examined must include, but are not limited to, transportation requirements, service hour configurations, delivery methods, and impact on rural programs;

(b) Provide comparative data regarding child performance, readiness, and educational outcomes for Washington's existing head start and early childhood education and assistance programs;

(c) Determine the alignment between head start standards and the recommendations of Washington learns;

(d) Identify any change in the state early childhood education and assistance program laws that would be required to implement the Washington head start proposal;

(e) Identify additional resources needed to meet federal guidelines and standards. Areas to be examined must include, but are not limited to: Per-child funding levels, professional development and training needs, facilities needs, and technical assistance;

(f) Identify state early childhood education and assistance programs that do and do not offer full-day, full-year services to children, and what transition steps would be needed for these programs to operate in the same manner as federal head start programs;

(g) Provide steps for phasing-in the Washington head start proposal;

(h) Include a timeline, strategy, and funding needs to implement a statewide, state-supported early head start program as a component of the Washington head start proposal; and

(i) Detail the process the department would take with the regional office of federal head start in identifying any exceptions or waivers needed to provide flexibility and maintain high quality standards.

(2) In developing its recommendations for this proposal, the department shall seek, where appropriate and available, training or technical assistance from the appropriate regional office of federal head start in order to maximize nonstate resources that might be available for the consultative work and research involved with developing this proposal. The department also shall consult with and solicit input from:

(a) State early childhood education and assistance program providers on Indian reservations and across the state, including providers who operate solely state-supported programs;

(b) Tribal governments operating head start programs and early head start programs in the state to ensure that the needs of Indian and Alaskan native children and their families are incorporated into the recommendations of the proposal, especially as they pertain to standards or guidelines around language acquisition, school readiness, availability and need for services among Indian and Alaskan native children and their families, and curriculum development; and

(c) Providers operating migrant and seasonal head start programs in the state in order to address the needs of the children of migrant and seasonal farmworker families.

(3) The department shall make recommendations on how it would periodically review the standards and guidelines within the Washington head start program, including incorporation of the latest research and information on early childhood development as well as any new innovations that may further improve outcomes to low-income children and their families.

(4) The department's recommendations on a Washington head start proposal shall include how the proposal aligns with the department's current statutory duties. The recommendations shall also include any other options that may improve the quality of state-supported early learning programs.

(5) The department shall deliver its report to the governor and legislature by December 1, 2009. [2009 c 564 § 941; 2008 c 164 § 2.]

Effective date—2009 c 564: See note following RCW 2.68.020.

Findings—2008 c 164: "The legislature finds that:

(1) It is in the best interest of the state to provide early learning services to economically disadvantaged families;

(2) Research has demonstrated that comprehensive services, including family support services designed to meet the early education needs of low-income and at-risk children, are successful in improving school readiness, reducing the risk of juvenile delinquency and incarceration, and reducing reliance on public assistance among these children later in life;

(3) The state's early childhood education and assistance program was originally established to serve as the state counterpart to the federal head start program. When it was created, it aligned with the federal program in both standards and funding levels;

(4) The state early childhood education and assistance program has served an important role in providing comprehensive services to low-income children. However, since it was first created, per-child funding levels for the state program have not kept pace with funding levels for the federal program. This has resulted in fewer service hours for children and less intensive services for families;

(5) Aligning performance standards and funding levels for the state early childhood education and assistance program with federal head start will improve the quality of state-supported early learning programs. Additionally, it will improve school readiness through measures, such as a forty percent increase in class time, and it will achieve administrative efficiencies and make state-supported services more easily recognizable and accessible to parents and families eligible for these programs; and

(6) Providing quality early learning services for children from birth to age three is the most cost-effective investment society can make. Additionally, the state can use the demonstrated results from the federal early head start program as an example to expand its reach of services already provided to three and four-year old children to children in the critical birth to three years age category." [2008 c 164 § 1.]

43.215.130 Home visiting services account—Purpose—Administration—Funding. (1)(a) The home visiting services account is created in the custody of the state treasurer. Revenues to the account shall consist of appropriations by the legislature and all other sources deposited in the account.

(b) Expenditures from the account shall be used for state matching funds for the purposes of the program established in this section including administrative expenses. Only the director or the director's designee may authorize expenditures from the account. Authorizations for expenditures may be given only after private funds are committed and available.

(c) Expenditures from the account are exempt from the appropriations and allotment provisions of chapter 43.88

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RCW. However, amounts used for program administration by the department are subject to the allotment and budgetary controls of chapter 43.88 RCW, and an appropriation is required for these expenditures.

(2) The department must expend moneys from the account to provide state matching funds for partnership activities to implement home visiting services and administer the infrastructure necessary to develop, support, and evaluate evidence-based, research-based, and promising home visiting programs.

(3) Activities eligible for funding through the account include, but are not limited to:

(a) Home visiting services that achieve one or more of the following: (i) Enhancing child development and well-being by alleviating the effects on child development of poverty and other known risk factors; (ii) reducing the incidence of child abuse and neglect; or (iii) promoting school readiness for young children and their families; and

(b) Development and maintenance of the infrastructure for home visiting programs, including training, quality improvement, and evaluation.

(4) Beginning July 1, 2010, the department shall contract with the nongovernmental private-public partnership designated in RCW 43.215.070 to administer programs funded through the home visiting services account. The department shall monitor performance and provide periodic reports on the use outcomes of the home visiting services account.

(5) The nongovernmental private-public partnership shall, in the administration of the programs:

(a) Fund programs through a competitive bid process; and

(b) Convene an advisory committee of early learning and home visiting experts, including one representative from the department, to advise the partnership regarding research and the distribution of funds from the account to eligible programs.

(6) To promote continuity for families receiving home visiting services through programs funded on May 4, 2010, those programs funded under chapter 43.121 RCW shall be funded through June 30, 2012, based on availability of funds and the achievement of stated performance goals. This section does not require any program to receive continuous funding beyond June 30, 2012. Organizations that may receive program funding include local health departments; nonprofit, neighborhood-based, community, regional, or statewide organizations; and federally recognized Indian tribes located in the state. [2010 1st sp.s. c 37 § 933.]

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

43.215.135 Working connections child care program subsidy authorization. (1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures defined in RCW 74.08A.410 and the standards established in this section intended to promote continuity of care for children.

(2) Beginning in fiscal year 2011, for families with children enrolled in an early childhood education and assistance

program, a head start program, or an early head start program, authorizations for the working connections child care subsidy shall be effective for twelve months unless a change in circumstances necessitates reauthorization sooner than twelve months.

(3) The department, in consultation with the department of social and health services, shall report to the legislature by September 1, 2011, with:

(a) An analysis of the impact of the twelve-month authorization period on the stability of child care, program costs, and administrative savings; and

(b) Recommendations for expanding the application of the twelve-month authorization period to additional populations of children in care. [2010 c 273 § 2.]

Intent—2010 c 273: "It is the intent of the legislature that this act be implemented within the funding appropriated in the 2009-11 biennial budget. No additional appropriations will be provided for its implementation." [2010 c 273 § 7.]

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

(1) "Community-based early learning providers" includes for-profit and nonprofit licensed providers of child care and preschool programs.

(2) "Program" means the program of early learning established in RCW 43.215.141 for eligible children who are three and four years of age. [2010 c 231 § 2.]

43.215.141 Early learning program—Voluntary preschool opportunities—Program standards. (1) Beginning September 1, 2011, an early learning program to provide voluntary preschool opportunities for children three and four years of age shall be implemented according to the funding and implementation plan in RCW 43.215.142. The program must be a comprehensive program providing early childhood education and family support, options for parental involvement, and health information, screening, and referral services, as family need is determined. Participation in the program is voluntary. On a space available basis, the program may allow enrollment of children who are not otherwise eligible by assessing a fee.

(2) The first phase of the program shall be implemented by utilizing the program standards and eligibility criteria in the early childhood education and assistance program.

(3) The director shall adopt rules for the following program components, as appropriate and necessary during the phased implementation of the program:

(a) Minimum program standards, including lead teacher, assistant teacher, and staff qualifications;

(b) Approval of program providers; and

(c) Accountability and adherence to performance standards.

(4) The department has administrative responsibility for:

(a) Approving and contracting with providers according to rules developed by the director under this section;

(b) In partnership with school districts, monitoring program quality and assuring the program is responsive to the needs of eligible children;

(c) Assuring that program providers work cooperatively with school districts to coordinate the transition from pre-

school to kindergarten so that children and their families are well-prepared and supported; and

(d) Providing technical assistance to contracted providers. [2010 c 231 § 3.]

43.215.142 Early learning program—Voluntary preschool opportunities—Funding and statewide implementation—Reports. (1) Funding for the program of early learning established under this chapter must be appropriated to the department. Allocations must be made on the basis of eligible children enrolled with eligible providers.

(2) The program shall be implemented in phases, so that full implementation is achieved in the 2018-19 school year.

(3) For the initial phase of the early learning program in school years 2011-12 and 2012-13, the legislature shall appropriate funding to the department for implementation of the program in an amount not less than the 2009-2011 enacted budget for the early childhood education and assistance program. The appropriation shall be sufficient to fund an equivalent number of slots as funded in the 2009-2011 enacted budget.

(4) Beginning in the 2013-14 school year, additional funding for the program must be phased in beginning in school districts providing all-day kindergarten programs under RCW 28A.150.315.

(5) Funding shall continue to be phased in incrementally each year until full statewide implementation of the early learning program is achieved in the 2018-19 school year, at which time any eligible child shall be entitled to be enrolled in the program.

(6) The department and the office of financial management shall annually review the caseload forecasts for the program and, beginning December 1, 2012, and annually thereafter, report to the governor and the appropriate committees of the legislature with recommendations for phasing in additional funding necessary to achieve statewide implementation in the 2018-19 school year.

(7) School districts and approved community-based early learning providers may contract with the department to provide services under the program. The department shall collaborate with school districts, community-based providers, and educational service districts to promote an adequate supply of approved providers. [2010 c 231 § 4.]

43.215.143 Short title—2010 c 231. Chapter 231, Laws of 2010 may be known as the ready for school act of 2010. [2010 c 231 § 9.]

43.215.145 Home visitation programs—Findings—Intent. The legislature finds that:

(1) The years from birth to three are critical in building the social, emotional, and cognitive developmental foundations of a young child. Research into the brain development of young children reveals that children are born learning.

(2) The farther behind children are in their social, emotional, physical, and cognitive development, the more difficult it will be for them to catch up.

(3) A significant number of children age birth to five years are born with two or more of the following risk factors and have a greater chance of failure in school and beyond:

Poverty; single or no parent; no parent employed full time or full year; all parents with disability; and mother without a high school degree.

(4) Parents and children involved in home visitation programs exhibit better birth outcomes, enhanced parent and child interactions, more efficient use of health care services, enhanced child development including improved school readiness, and early detection of developmental delays, as well as reduced welfare dependence, higher rates of school completion and job retention, reduction in frequency and severity of maltreatment, and higher rates of school graduation.

The legislature intends to promote the use of voluntary home visitation services to families as an early intervention strategy to alleviate the effect on child development of factors such as poverty, single parenthood, parental unemployment or underemployment, parental disability, or parental lack of a high school diploma, which research shows are risk factors for child abuse and neglect and poor educational outcomes. [2007 c 466 § 1. Formerly RCW 43.121.170.]

43.215.146 Home visitation programs—Definitions.

The definitions in this section apply throughout RCW *43.121.170 through 43.121.185 unless the context clearly requires otherwise.

(1) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

(2) "Home visitation" means providing services in the permanent or temporary residence, or in other familiar surroundings, of the family receiving such services.

(3) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices. [2007 c 466 § 2. Formerly RCW 43.121.175.]

*Reviser's note: RCW 43.121.170, 43.121.175, and 43.121.180 were recodified as RCW 43.215.145, 43.215.146, and 43.215.147, respectively, pursuant to 2010 1st sp.s. c 7 § 148.

43.215.147 Home visitation programs—Funding—Home visitation services coordination or consolidation plan—Report.

(1) Within available funds, the council for children and families shall fund evidence-based and research-based home visitation programs for improving parenting skills and outcomes for children. Home visitation programs must be voluntary and must address the needs of families to alleviate the effect on child development of factors such as poverty, single parenthood, parental unemployment or underemployment, parental disability, or parental lack of high school diploma, which research shows are risk factors for child abuse and neglect and poor educational outcomes.

(2) The council for children and families shall develop a plan with the department of social and health services, the department of health, the department of early learning, and the family policy council to coordinate or consolidate home visitation services for children and families and report to the appropriate committees of the legislature by December 1, 2007, with their recommendations for implementation of the

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plan. [2008 c 152 § 6; 2007 c 466 § 3. Formerly RCW 43.121.180.]

Findings—Intent—2008 c 152: See note following RCW 13.34.136.

LICENSING

43.215.200 Director's licensing duties. It shall be the director's duty with regard to licensing:

(1) In consultation and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of child care facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages and other characteristics of the children served, variations in the purposes and services offered or size or structure of the agencies to be licensed, or because of any other factor relevant thereto;

(2) In consultation and with the advice and assistance of parents or guardians, and persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed under this chapter;

(3) In consultation with law enforcement personnel, the director shall investigate the conviction record or pending charges of each agency and its staff seeking licensure or relicensure, and other persons having unsupervised access to children in care;

(4) To issue, revoke, or deny licenses to agencies pursuant to this chapter. Licenses shall specify the category of care that an agency is authorized to render and the ages and number of children to be served;

(5) To prescribe the procedures and the form and contents of reports necessary for the administration of this chapter and to require regular reports from each licensee;

(6) To inspect agencies periodically to determine whether or not there is compliance with this chapter and the requirements adopted under this chapter;

(7) To review requirements adopted under this chapter at least every two years and to adopt appropriate changes after consultation with affected groups for child day care requirements; and

(8) To consult with public and private agencies in order to help them improve their methods and facilities for the care and early learning of children. [2007 c 415 § 3; 2006 c 265 § 301.]

Captions not law—2007 c 415: See note following RCW 43.215.005.

43.215.205 Minimum requirements for licensure. Applications for licensure shall require, at a minimum, the following information:

(1) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(2) The character, suitability, and competence of an agency and other persons associated with an agency directly responsible for the care of children;

(3) The number of qualified persons required to render the type of care for which an agency seeks a license;

(4) The health, safety, cleanliness, and general adequacy of the premises to provide for the comfort, care, and well-being of children;

(5) The provision of necessary care and early learning, including food, supervision, and discipline; physical, mental, and social well-being; and educational and recreational opportunities for those served;

(6) The financial ability of an agency to comply with minimum requirements established under this chapter; and

(7) The maintenance of records pertaining to the care of children. [2007 c 415 § 4.]

Captions not law—2007 c 415: See note following RCW 43.215.005.

43.215.210 Fire protection—Powers and duties of chief of the Washington state patrol. The chief of the Washington state patrol, through the director of fire protection, shall have the power and it shall be his or her duty:

(1) In consultation with the director and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt recognized minimum standard requirements pertaining to each category of agency established pursuant to this chapter necessary to protect all persons residing therein from fire hazards;

(2) To make or cause to be made such inspections and investigations of agencies as he or she deems necessary;

(3) To make a periodic review of requirements under *RCW 43.215.200(5) and to adopt necessary changes after consultation as required in subsection (1) of this section;

(4) To issue to applicants for licenses under this chapter who comply with the requirements, a certificate of compliance, a copy of which shall be presented to the department before a license shall be issued, except that an initial license may be issued as provided in RCW 43.215.280. [2006 c 265 § 302.]

***Reviser's note:** RCW 43.215.200 was amended by 2007 c 415 § 3, changing subsection (5) to subsection (6).

43.215.215 Character, suitability, and competence to provide child care and early learning services—Fingerprint criminal history record checks. (1) In determining whether an individual is of appropriate character, suitability, and competence to provide child care and early learning services to children, the department may consider the history of past involvement of child protective services or law enforcement agencies with the individual for the purpose of establishing a pattern of conduct, behavior, or inaction with regard to the health, safety, or welfare of a child. No report of child abuse or neglect that has been destroyed or expunged under RCW 26.44.031 may be used for such purposes. No unfounded or inconclusive allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a provider licensed under this chapter.

(2) In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children, shall be fingerprinted.

(a) The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history record check.

(b) The fingerprint criminal history record checks shall be at the expense of the licensee. The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record.

(c) The director shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children.

(d) Criminal justice agencies shall provide the director such information as they may have and that the director may require for such purpose. [2007 c 415 § 5.]

Captions not law—2007 c 415: See note following RCW 43.215.005.

43.215.220 Licensed day care centers—Notice of pesticide use. Licensed child day care centers shall provide notice of pesticide use to parents or guardians of students and employees pursuant to chapter 17.21 RCW. [2006 c 265 § 303.]

43.215.230 Articles of incorporation. A copy of the articles of incorporation of any agency or amendments to the articles of existing corporation agencies shall be sent by the secretary of state to the department at the time such articles or amendments are filed. [2006 c 265 § 304.]

43.215.240 Access to agencies—Records inspection. All agencies subject to this chapter shall accord the department, the chief of the Washington state patrol, and the director of fire protection, or their designees, the right of entrance and the privilege of access to and inspection of records for the purpose of determining whether or not there is compliance with the provisions of this chapter and the requirements adopted under it. [2006 c 265 § 305.]

43.215.250 License required. (1) It is unlawful for any agency to care for children unless the agency is licensed as provided in this chapter.

(2) A license issued under chapter 74.15 RCW before July 1, 2006, for an agency subject to this chapter after July 1, 2006, is valid until its next renewal, unless otherwise suspended or revoked by the department. [2006 c 265 § 306.]

43.215.255 License fees. (1) The director shall charge fees to the licensee for obtaining a license. The director may waive the fees when, in the discretion of the director, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) The director shall establish the fees charged by rule. [2007 c 17 § 1.]

43.215.260 License application—Issuance, renewal, duration. Each agency shall make application for a license or renewal of license to the department on forms prescribed

by the department. Upon receipt of such application, the department shall either grant or deny a license within ninety days. A license shall be granted if the agency meets the minimum requirements set forth in this chapter and the departmental requirements consistent with the [this] chapter, except that an initial license may be issued as provided in RCW 43.215.280. Licenses provided for in this chapter shall be issued for a period of three years. The licensee, however, shall advise the director of any material change in circumstances which might constitute grounds for reclassification of license as to category. The license issued under this chapter is not transferable and applies only to the licensee and the location stated in the application. For licensed family day care homes having an acceptable history of child care, the license may remain in effect for two weeks after a move. [2006 c 265 § 307.]

43.215.270 License renewal. If a licensee desires to apply for a renewal of its license, a request for a renewal shall be filed ninety days before the expiration date of the license. If the department has failed to act at the time of the expiration date of the license, the license shall continue in effect until such time as the department acts. [2006 c 265 § 308.]

43.215.280 Initial licenses. The director may, at his or her discretion, issue an initial license instead of a full license, to an agency or facility for a period not to exceed six months, renewable for a period not to exceed two years, to allow such agency or facility reasonable time to become eligible for full license. [2006 c 265 § 309.]

43.215.290 Probationary licenses. (1) The department may issue a probationary license to a licensee who has had a license but is temporarily unable to comply with a rule or has been the subject of multiple complaints or concerns about noncompliance if:

(a) The noncompliance does not present an immediate threat to the health and well-being of the children but would be likely to do so if allowed to continue; and

(b) The licensee has a plan approved by the department to correct the area of noncompliance within the probationary period.

(2) A probationary license may be issued for up to six months, and at the discretion of the department it may be extended for an additional six months. The department shall immediately terminate the probationary license, if at any time the noncompliance for which the probationary license was issued presents an immediate threat to the health or well-being of the children.

(3) The department may, at any time, issue a probationary license for due cause that states the conditions of probation.

(4) An existing license is invalidated when a probationary license is issued.

(5) At the expiration of the probationary license, the department shall reinstate the original license for the remainder of its term, issue a new license, or revoke the original license.

(6) A right to an adjudicative proceeding shall not accrue to the licensee whose license has been placed on probationary

status unless the licensee does not agree with the placement on probationary status and the department then suspends, revokes, or modifies the license. [2006 c 265 § 310.]

43.215.300 Licenses—Denial, suspension, revocation, modification, nonrenewal—Proceedings—Penalties.

(1) An agency may be denied a license, or any license issued pursuant to this chapter may be suspended, revoked, modified, or not renewed by the director upon proof (a) that the agency has failed or refused to comply with the provisions of this chapter or the requirements adopted pursuant to this chapter; or (b) that the conditions required for the issuance of a license under this chapter have ceased to exist with respect to such licenses. RCW 43.215.305 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(3) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with the rules adopted under this chapter or that an agency subject to licensing under this chapter is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home. Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance. Civil monetary penalties shall not exceed seventy-five dollars per violation for a family day care home and two hundred fifty dollars per violation for child day care centers. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty. The department shall provide a notification period before a monetary penalty is effective and may forgive the penalty levied if the agency comes into compliance during this period. The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. RCW 43.215.307 governs notice of a civil monetary penalty and provides the right to an adjudicative proceeding. The preponderance of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

(4)(a) In addition to or in lieu of an enforcement action being taken, the department may place a child day care center or family day care provider on nonreferral status if the center or provider has failed or refused to comply with this chapter or rules adopted under this chapter or an enforcement action has been taken. The nonreferral status may continue until the department determines that: (i) No enforcement action is appropriate; or (ii) a corrective action plan has been successfully concluded.

(b) Whenever a child day care center or family day care provider is placed on nonreferral status, the department shall provide written notification to the child day care center or family day care provider.

(5) The department shall notify appropriate public and private child care resource and referral agencies of the department's decision to: (a) Take an enforcement action against a child day care center or family day care provider; or (b) place or remove a child day care center or family day care provider on nonreferral status. [2007 c 17 § 2; 2006 c 265 § 311.]

43.215.305 Licenses—Denial, revocation, suspension, or modification—Notice—Effective date of action—Adjudicative proceeding. (1) The department shall give written notice of the denial of an application for a license to the applicant or his or her agent. The department shall give written notice of revocation, suspension, or modification of a license to the licensee or his or her agent. The notice shall state the reasons for the action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in another manner that shows proof of receipt.

(2) Except as otherwise provided in this subsection and in subsection (4) of this section, revocation, suspension, or modification is effective twenty-eight days after the licensee or the agent receives the notice.

(a) The department may make the date the action is effective later than twenty-eight days after receipt. If the department does so, it shall state the effective date in the written notice given the licensee or agent.

(b) The department may make the date the action is effective sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or agent.

(c) When the department has received certification pursuant to chapter 74.20A RCW from the division of child support that the licensee is a person who is not in compliance with a support order, the department shall provide that the suspension is effective immediately upon receipt of the suspension notice by the licensee.

(3) Except for licensees suspended for noncompliance with a support order under chapter 74.20A RCW, a license applicant or licensee who is aggrieved by a department denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the license applicant's or licensee's receiving the adverse notice, and be served in a manner that shows proof of receipt.

(4)(a) If the department gives a licensee twenty-eight or more days' notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days' notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause. [2007 c 17 § 3.]

43.215.307 Civil fines—Notice—Adjudicative proceeding. (1) The department shall give written notice to the person against whom it assesses a civil fine. The notice shall state the reasons for the adverse action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in another manner that shows proof of receipt.

(2) Except as otherwise provided in subsection (4) of this section, the civil fine is due and payable twenty-eight days after receipt. The department may make the date the fine is due later than twenty-eight days after receipt. When the department does so, it shall state the effective date in the written notice given the person against whom it assesses the fine.

(3) The person against whom the department assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the fine, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the person's receiving the notice of civil fine, and be served in a manner that shows proof of receipt.

(4) If the person files a timely and sufficient appeal, the department shall not implement the action until the final order has been served. The presiding or reviewing officer may permit the department to implement part or all of the action while the proceedings are pending if the appellant causes an unreasonable delay in the proceedings or for other good cause. [2007 c 17 § 4.]

43.215.310 Adjudicative proceedings—Training for administrative law judges. (1) The office of administrative hearings shall not assign nor allow an administrative law judge to preside over an adjudicative hearing regarding denial, modification, suspension, or revocation of any license to provide child care under this chapter, unless such judge has received training related to state and federal laws and department policies and procedures regarding:

- (a) Child abuse, neglect, and maltreatment;
- (b) Child protective services investigations and standards;
- (c) Licensing activities and standards;
- (d) Child development; and
- (e) Parenting skills.

(2) The office of administrative hearings shall develop and implement a training program that carries out the requirements of this section. The office of administrative hearings shall consult and coordinate with the department in developing the training program. The department may assist the

office of administrative hearings in developing and providing training to administrative law judges. [2006 c 265 § 312.]

43.215.320 License or certificate suspension—Non-compliance with support order—Reissuance. The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [2006 c 265 § 313.]

43.215.330 Actions against agencies. Notwithstanding the existence or pursuit of any other remedy, the director may, in the manner provided by law, upon the advice of the attorney general, who shall represent the department in the proceeding, maintain an action in the name of the state for injunction or such other relief as he or she may deem advisable against any agency subject to licensing under the provisions of this chapter or against any such agency not having a license as heretofore provided in this chapter. [2006 c 265 § 314.]

43.215.340 Operating without a license—Penalty. Any agency operating without a license shall be guilty of a misdemeanor. This section shall not be enforceable against an agency until sixty days after the effective date of new rules, applicable to such agency, have been adopted under this chapter. [2006 c 265 § 315.]

43.215.350 Negotiated rule making. The director shall have the power and it shall be the director's duty to engage in negotiated rule making pursuant to RCW 34.05.310(2)(a) with the exclusive representative of the family child care licensees selected in accordance with RCW 43.215.355 and with other affected interests before adopting requirements that affect family child care licensees. [2007 c 17 § 15.]

43.215.355 Negotiated rule making—Statewide unit of family child care licensees—Antitrust immunity, intent. (1) Solely for the purposes of negotiated rule making pursuant to RCW 34.05.310(2)(a) and 43.215.350, a statewide unit of all family child care licensees is appropriate. As of June 7, 2006, the exclusive representative of family child care licensees in the statewide unit shall be the representative selected as the majority representative in the election held under the directive of the governor to the secretary of the department of social and health services, dated September 16, 2005. If family child care licensees seek to select a different representative thereafter, the family child care licensees may request that the American arbitration association conduct an election and certify the results of the election.

(2) In enacting this section, the legislature intends to provide state action immunity under federal and state antitrust laws for the joint activities of family child care licensees and

their exclusive representative to the extent such activities are authorized by this chapter. [2007 c 17 § 16.]

43.215.360 Minimum licensing requirements—Window blind pull cords. (1) Minimum licensing requirements under this chapter shall include a prohibition on the use of window blinds or other window coverings with pull cords or inner cords capable of forming a loop and posing a risk of strangulation to young children. Window blinds and other coverings that have been manufactured or properly retrofitted in a manner that eliminates the formation of loops posing a risk of strangulation are not prohibited under this section.

(2) When developing and periodically reviewing minimum licensing requirements related to safety of the premises, the director shall consult and give serious consideration to publications of the United States consumer product safety commission.

(3) The department may provide information as available regarding reduced cost or no-cost options for retrofitting or replacing unsafe window blinds and window coverings. [2007 c 299 § 1.]

Short title—2007 c 299: "This act may be known and cited as the Jaclyn Frank act." [2007 c 299 § 2.]

43.215.370 Reporting actions against agency licensees—Posting on web site. For the purposes of reporting actions taken against agency licensees, upon the development of an early learning information system, the following actions shall be posted to the department's web site accessible by the public: Suspension, surrender, revocation, denial, stayed suspension, or reinstatement of a license. [2007 c 415 § 9.]

Captions not law—2007 c 415: See note following RCW 43.215.005.

EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM

43.215.400 Early childhood education and assistance program—Intent. It is the intent of the legislature to establish an early childhood state education and assistance program. This special assistance program is a voluntary enrichment program to help prepare some children to enter the common school system and shall be offered only as funds are available. This program is not a part of the basic program of education which must be fully funded by the legislature under Article IX, section 1 of the state Constitution. [1994 c 166 § 1; 1985 c 418 § 1. Formerly RCW 28A.215.100, 28A.34A.010.]

Additional notes found at www.leg.wa.gov

43.215.405 Early childhood education and assistance program—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW

43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(3) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(4) "Department" means the department of early learning.

(5) "Eligible child" means a child not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services; a child eligible for special education due to disability under RCW 28A.155.020; and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(6) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance. [2010 c 231 § 7; 2006 c 265 § 210; 1999 c 350 § 1; 1994 c 166 § 2; 1990 c 33 § 213; 1988 c 174 § 2; 1985 c 418 § 2. Formerly RCW 28A.215.110, 28A.34A.020.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Findings—1994 c 166; 1988 c 174: "The legislature finds that the early childhood education and assistance program provides for the educational, social, health, nutritional, and cultural development of children at risk of failure when they reach school age. The long-term benefits to society in the form of greater educational attainment, employment, and projected lifetime earnings as well as the savings to be realized, from lower crime rates, welfare support, and reduced teenage pregnancy, have been demonstrated through lifelong research of at-risk children and early childhood programs.

The legislature intends to encourage development of community partnerships for children at risk by authorizing a program of voluntary grants and contributions from business and community organizations to increase opportunities for children to participate in early childhood education." [1994 c 166 § 3; 1988 c 174 § 1.]

Additional notes found at www.leg.wa.gov

43.215.410 Early childhood education and assistance program—Admission and funding. The department shall administer a state-supported early childhood education and assistance program to assist eligible children with educational, social, health, nutritional, and cultural development to enhance their opportunity for success in the common school system. Eligible children shall be admitted to approved early childhood programs to the extent that the legislature provides funds, and additional eligible children may be admitted to the extent that grants and contributions from community sources

provide sufficient funds for a program equivalent to that supported by state funds. [2006 c 265 § 211; 1994 c 166 § 4; 1988 c 174 § 3; 1985 c 418 § 3. Formerly RCW 28A.215.120, 28A.34A.030.]

Findings—1994 c 166; 1988 c 174: See note following RCW 43.215.405.

Additional notes found at www.leg.wa.gov

43.215.415 Early childhood education and assistance program—Eligible providers—State-funded support—Requirements. Approved early childhood programs shall receive state-funded support through the department. Public or private nonsectarian organizations, including, but not limited to school districts, educational service districts, community and technical colleges, local governments, or nonprofit organizations, are eligible to participate as providers of the state early childhood program. Funds appropriated for the state program shall be used to continue to operate existing programs or to establish new or expanded early childhood programs, and shall not be used to supplant federally supported head start programs. Funds obtained by providers through voluntary grants or contributions from individuals, agencies, corporations, or organizations may be used to expand or enhance preschool programs so long as program standards established by the department are maintained, but shall not be used to supplant federally supported head start programs or state-supported early childhood programs. Persons applying to conduct the early childhood program shall identify targeted groups and the number of children to be served, program components, the qualifications of instructional and special staff, the source and amount of grants or contributions from sources other than state funds, facilities and equipment support, and transportation and personal care arrangements. [1994 c 166 § 5; 1988 c 174 § 4; 1985 c 418 § 4. Formerly RCW 28A.215.130, 28A.34A.040.]

Findings—1994 c 166; 1988 c 174: See note following RCW 43.215.405.

Additional notes found at www.leg.wa.gov

43.215.420 Early childhood education and assistance program—Advisory committee. The department shall establish an advisory committee composed of interested parents and representatives from the office of the superintendent of public instruction, the division of children and family services within the department of social and health services, early childhood education and development staff preparation programs, the head start programs, school districts, and such other community and business organizations as deemed necessary by the department to assist with the establishment of the preschool program and advise the department on matters regarding the on-going promotion and operation of the program. [2006 c 263 § 413; 1988 c 174 § 5; 1985 c 418 § 5. Formerly RCW 28A.215.140, 28A.34A.050.]

Findings—Purpose—Part headings not law—2006 c 263: See notes following RCW 28A.150.230.

Findings—1994 c 166; 1988 c 174: See note following RCW 43.215.405.

43.215.425 Early childhood education and assistance program—Rules. The department shall adopt rules under chapter 34.05 RCW for the administration of the early child-

hood program. Approved early childhood programs shall conduct needs assessments of their service area, identify any targeted groups of children, to include but not be limited to children of seasonal and migrant farmworkers and native American populations living either on or off reservation, and provide to the department a service delivery plan, to the extent practicable, that addresses these targeted populations.

The department in developing rules for the early childhood program shall consult with the advisory committee, and shall consider such factors as coordination with existing head start and other early childhood programs, the preparation necessary for instructors, qualifications of instructors, adequate space and equipment, and special transportation needs. The rules shall specifically require the early childhood programs to provide for parental involvement in participation with their child's program, in local program policy decisions, in development and revision of service delivery systems, and in parent education and training. [1994 c 166 § 6; 1988 c 174 § 6; 1987 c 518 § 101; 1985 c 418 § 6. Formerly RCW 28A.215.150, 28A.34A.060.]

Findings—1994 c 166; 1988 c 174: See note following RCW 43.215.405.

Intent—1994 c 166; 1987 c 518: "The long-term social, community welfare, and economic interests of the state will be served by an investment in our children. Conclusive studies and experiences show that providing children with developmental experiences and providing parents with effective parental partnership, empowerment, opportunities for involvement with their child's developmental learning, and expanding parenting skills, learning, and training can greatly improve children's performance in school as well as increase the likelihood of children's success as adults. National studies have also confirmed that special attention to, and educational assistance for, children, their school environment, and their families are the most effective ways in which to meet the state's social and economic goals.

The legislature intends to enhance the readiness to learn of certain children and students by: Providing for an expansion of the state early childhood education and assistance program for children from low-income families and establishing an adult literacy program for certain parents; assisting school districts to establish elementary counseling programs; instituting a program to address learning problems due to drug and alcohol use and abuse; and establishing a program directed at students who leave school before graduation.

The legislature intends further to establish programs that will allow for parental, business, and community involvement in assisting the school systems throughout the state to enhance the ability of children to learn." [1994 c 166 § 7; 1987 c 518 § 1.]

Additional notes found at www.leg.wa.gov

43.215.430 Early childhood education and assistance program—Review of applications—Award of funds. The department shall review applications from public or private nonsectarian organizations for state funding of early childhood education and assistance programs and award funds as determined by department rules and based on local community needs and demonstrated capacity to provide services. [1994 c 166 § 8; 1988 c 174 § 7; 1985 c 418 § 7. Formerly RCW 28A.215.160, 28A.34A.070.]

Findings—1994 c 166; 1988 c 174: See note following RCW 43.215.405.

Additional notes found at www.leg.wa.gov

43.215.435 Early childhood education and assistance program—Reports. The department shall annually report to the governor and the legislature on the findings of the longitudinal study undertaken to examine and monitor the effectiveness of early childhood educational and assistance ser-

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vices for eligible children to measure, among other elements, if possible, how the average level of performance of children completing this program compare to the average level of performance of all state students in their grade level, and to the average level of performance of those eligible students who did not have access to this program. The evaluation system shall examine how the percentage of these children needing access to special education or remedial programs compares to the overall percentage of children needing such services and compares to the percentage of eligible students who did not have access to this program needing such services. [1995 c 335 § 501; 1994 c 166 § 9; 1988 c 174 § 8; 1985 c 418 § 8. Formerly RCW 28A.215.170, 28A.34A.080.]

Findings—1994 c 166; 1988 c 174: See note following RCW 43.215.405.

Additional notes found at www.leg.wa.gov

43.215.440 Early childhood education and assistance program—State support—Priorities—Program funding levels. For the purposes of *RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908, the department may award state support under *RCW 28A.215.100 through 28A.215.160 to increase the numbers of eligible children assisted by the federal or state-supported early childhood programs in this state. Priority shall be given to those geographical areas which include a high percentage of families qualifying under the "eligible child" criteria. The overall program funding level shall be based on an average grant per child consistent with state appropriations made for program costs: PROVIDED, That programs addressing special needs of selected groups or communities shall be recognized in the department's rules. [1994 c 166 § 10; 1990 c 33 § 214; 1987 c 518 § 102; 1985 c 418 § 9. Formerly RCW 28A.215.180, 28A.34A.090.]

***Reviser's note:** RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908 were recodified as RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 pursuant to 2006 c 265 § 601, effective July 1, 2006.

Intent—1994 c 166; 1987 c 518: See note following RCW 43.215.425.

Additional notes found at www.leg.wa.gov

43.215.445 Early childhood education and assistance program—Reimbursement of advisory committee expenses. The department from funds appropriated for the administration of the program under chapter 418, Laws of 1985 shall reimburse the expenses of the advisory committee. [1985 c 418 § 10. Formerly RCW 28A.215.190, 28A.34A.100.]

43.215.450 Early childhood education and assistance program—Authority to solicit gifts, grants, and support. The department may solicit gifts, grants, conveyances, bequests and devises for the use or benefit of the early childhood state education and assistance program established by *RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908. The department shall actively solicit support from business and industry and from the federal government for the state early childhood education and assistance program and shall assist local programs in developing partnerships with the community for eligible children. [1994

c 166 § 11; 1990 c 33 § 215; 1988 c 174 § 9; 1985 c 418 § 11. Formerly RCW 28A.215.200, 28A.34A.110.]

***Reviser's note:** RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908 were recodified as RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 pursuant to 2006 c 265 § 601, effective July 1, 2006.

Findings—1994 c 166; 1988 c 174: See note following RCW 43.215.405.

Additional notes found at www.leg.wa.gov

CHILD CARE

43.215.495 Child care services—Declaration of policy. It shall be the policy of the state of Washington to:

(1) Recognize the family as the most important social and economic unit of society and support the central role parents play in child rearing. All parents are encouraged to care for and nurture their children through the traditional methods of parental care at home. The availability of quality, affordable child care is a concern for working parents, the costs of care are often beyond the resources of working parents, and child care facilities are not located conveniently to work places and neighborhoods. Parents are encouraged to participate fully in the effort to improve the quality of child care services.

(2) Promote a variety of culturally and developmentally appropriate child care settings and services of the highest possible quality in accordance with the basic principle of continuity of care. These settings shall include, but not be limited to, family day care homes, mini-centers, centers and schools.

(3) Promote the growth, development and safety of children by working with community groups including providers and parents to establish standards for quality service, training of child care providers, fair and equitable monitoring, and salary levels commensurate with provider responsibilities and support services.

(4) Promote equal access to quality, affordable, socio-economically integrated child care for all children and families.

(5) Facilitate broad community and private sector involvement in the provision of quality child care services to foster economic development and assist industry through the department of early learning. [2006 c 265 § 202; 1989 c 381 § 2; 1988 c 213 § 1. Formerly RCW 74.13.085.]

Part headings not law—Effective date—Severability—2006 c 265: See RCW 43.215.904 through 43.215.906.

Findings—1989 c 381: "The legislature finds that the increasing difficulty of balancing work life and family needs for parents in the workforce has made the availability of quality, affordable child care a critical concern for the state and its citizens. The prospect for labor shortages resulting from the aging of the population and the importance of the quality of the workforce to the competitiveness of Washington businesses make the availability of quality child care an important concern for the state and its businesses.

The legislature further finds that making information on child care options available to businesses can help the market for child care adjust to the needs of businesses and working families. The legislature further finds that investments are necessary to promote partnerships between the public and private sectors, educational institutions, and local governments to increase the supply, affordability, and quality of child care in the state." [1989 c 381 § 1.]

Additional notes found at www.leg.wa.gov

43.215.500 Child care workers—Findings—Intent. The legislature finds that as of 2000, child care workers in the state earned an average hourly wage of eight dollars and twenty-two cents, only fifty-eight percent received medical insurance through employers, only sixty-six percent received paid sick leave, and only seventy-three percent received paid vacation. The legislature further finds that low wages for child care workers create a barrier for individuals entering the profession, result in child care workers leaving the profession in order to earn a living wage in another profession, and make it difficult for child care workers to afford professional education and training. As a result, the availability of quality child care in the state suffers.

The legislature intends to increase wages to child care workers through establishing a child care career and wage ladder that provides increased wages for child care workers based on their work experience, level of responsibility, and education. To the extent practicable within available funds, this child care career and wage ladder shall mirror the successful child care career and wage ladder pilot project operated by the state between 2000 and 2003. While it is the intent of the legislature to establish the vision of a statewide child care career and wage ladder that will enhance employment quality and stability for child care workers, the legislature also recognizes that funding allocations will determine the extent of statewide implementation of a child care career and wage ladder. [2005 c 507 § 1. Formerly RCW 74.13.097.]

43.215.502 Child care provider rules review. In conjunction with child care providers and other early learning leaders, the department shall review and revise child care provider rules in order to emphasize the need for mutual respect among parents, providers, and state staff who enforce rules. Revised rules shall clearly focus on keeping children safe and improving early learning outcomes for children. The department shall develop a plan by July 2007 that outlines the process and timelines to complete the rules review. Nothing in this section changes the department's responsibility to collectively bargain over mandatory subjects. [2007 c 394 § 7.]

Finding—Declaration—Captions not law—2007 c 394: See notes following RCW 43.215.010.

43.215.505 Child care workers—Career and wage ladder. (1) Subject to the availability of funds appropriated for this specific purpose, the department shall establish a child care career and wage ladder in licensed child care centers that meet the following criteria: (a) At least ten percent of child care slots are dedicated to children whose care is subsidized by the state or any political subdivision thereof or any local government; (b) the center agrees to adopt the child care career and wage ladder, which, at a minimum, shall be at the same pay schedule as existed in the previous child care career and wage ladder pilot project; and (c) the center meets further program standards as established by rule pursuant to *section 4, chapter 507, Laws of 2005.

The child care career and wage ladder shall include wage increments for levels of education, years of relevant experience, levels of work responsibility, relevant early childhood education credits, and relevant requirements in the state training and registry system.

(2) The department shall establish procedures for the allocation of funds to implement the child care career and wage ladder among child care centers meeting the criteria identified in subsection (1) of this section. In developing these procedures, the department shall:

(a) Review past efforts or administration of the child care career and wage ladder pilot project in order to take advantage of any findings, recommendations, or administrative practices that contributed to that pilot project's success;

(b) Consult with stakeholders, including organizations representing child care teachers and providers, in developing an allocation formula that incorporates consideration of geographic and demographic distribution of child care centers adopting the child care career and wage ladder; and

(c) Develop a system for prioritizing child care centers interested in adopting the child care career and wage ladder that is based on the criteria identified in subsection (1) of this section.

(3) Notwithstanding the requirements of subsection (2) of this section, child care centers meeting the criteria in subsection (1) of this section located in urban areas of the department of social and health services region one shall receive a minimum of fifteen percent of the funds allocated through the child care career and wage ladder, and of these centers, child care centers meeting the criteria in subsection (1) of this section participating in the Spokane tiered reimbursement pilot project shall have first priority for child care career and wage ladder funding. [2006 c 265 § 205; 2005 c 507 § 2. Formerly RCW 74.13.098.]

*Reviser's note: Section 4 of this act was vetoed by the governor.

43.215.510 Child care workers—Career and wage ladder—Wage increases. Child care centers adopting the child care career and wage ladder established pursuant to RCW 43.215.505 shall increase wages for child care workers who have earned a high school diploma or GED certificate, gain additional years of experience, or accept increasing levels of responsibility in providing child care, in accordance with the child care career and wage ladder. The adoption of a child care career and wage ladder shall not prohibit the provision of wage increases based upon merit. The department shall pay wage increments for child care workers employed by child care centers adopting the child care career and wage ladder established pursuant to RCW 43.215.505 who earn early childhood education credits or meet relevant requirements in the state training and registry system, in accordance with the child care career and wage ladder. [2006 c 265 § 206; 2005 c 507 § 3. Formerly RCW 74.13.099.]

43.215.520 Child day care centers, family day care providers—Toll-free information number. (1) The department shall establish and maintain a toll-free telephone number, and an interactive web-based system through which persons may obtain information regarding child day care centers and family day care providers. This number shall be avail-

able twenty-four hours a day for persons to request information. The department shall respond to recorded messages left at the number within two business days. The number shall be published in reasonably available printed and electronic media. The number shall be easily identifiable as a number through which persons may obtain information regarding child day care centers and family day care providers as set forth in this section.

(2) Through the toll-free telephone line established by this section, the department shall provide information to callers about: (a) Whether a day care provider is licensed; (b) whether a day care provider's license is current; (c) the general nature of any enforcement against the providers; (d) how to report suspected or observed noncompliance with licensing requirements; (e) how to report alleged abuse or neglect in a day care; (f) how to report health, safety, and welfare concerns in a day care; (g) how to receive follow-up assistance, including information on the office of the family and children's ombudsman; and (h) how to receive referral information on other agencies or entities that may be of further assistance to the caller.

(3) Beginning in January 2006, the department shall print the toll-free number established by this section on the face of new licenses issued to child day care centers and family day care providers.

(4) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW. [2006 c 209 § 10; 2005 c 473 § 3. Formerly RCW 74.15.310.]

Effective date—2006 c 209: See RCW 42.56.903.

Purpose—2005 c 473: See note following RCW 74.15.300.

43.215.525 Child day care centers, family day care providers—Required postings—Disclosure of complaints. (1) Every child day care center and family day care provider shall prominently post the following items, clearly visible to parents and staff:

(a) The license issued under this chapter;

(b) The department's toll-free telephone number established by RCW 43.215.520;

(c) The notice of any pending enforcement action. The notice must be posted immediately upon receipt. The notice must be posted for at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer;

(d) A notice that inspection reports and any notices of enforcement actions for the previous three years are available from the licensee and the department; and

(e) Any other information required by the department.

(2) The department shall disclose the receipt, general nature, and resolution or current status of all complaints on record with the department after July 24, 2005, against a child day care center or family day care provider that result in an enforcement action. Information may be posted:

(a) On a web site; or

(b) In a physical location that is easily accessed by parents and potential employers.

(3) This section shall not be construed to require the disclosure of any information that is exempt from public disclo-

sure under chapter 42.56 RCW. [2007 c 415 § 6; 2006 c 209 § 11; 2005 c 473 § 4. Formerly RCW 74.15.320.]

Captions not law—2007 c 415: See note following RCW 43.215.005.

Effective date—2006 c 209: See RCW 42.56.903.

Purpose—2005 c 473: See note following RCW 74.15.300.

43.215.530 Child day care centers, family day care providers—Public access to reports and enforcement action notices. (1) Every child day care center and family day care provider shall have readily available for review by the department, parents, and the public a copy of each inspection report and notice of enforcement action received by the center or provider from the department for the past three years. This subsection only applies to reports and notices received on or after July 24, 2005.

(2) The department shall make available to the public during business hours all inspection reports and notices of enforcement actions involving child day care centers and family day care providers. The department shall include in the inspection report a statement of the corrective measures taken by the center or provider.

(3) The department may make available on a publicly accessible web site all inspection reports and notices of licensing actions, including the corrective measures required or taken, involving child day care centers and family day care providers.

(4) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW. [2007 c 415 § 7; 2006 c 209 § 12; 2005 c 473 § 5. Formerly RCW 74.15.330.]

Captions not law—2007 c 415: See note following RCW 43.215.005.

Effective date—2006 c 209: See RCW 42.56.903.

Purpose—2005 c 473: See note following RCW 74.15.300.

43.215.532 County regulation of family day-care centers—Twelve-month pilot projects. (1) Notwithstanding RCW 74.15.030, counties with a population of three thousand or less may adopt and enforce ordinances and regulations as provided in this section for family day-care providers as defined in *RCW 74.15.020(1)(f) as a twelve-month pilot project. Before a county may regulate family day-care providers in accordance with this section, it shall adopt ordinances and regulations that address, at a minimum, the following: (a) The size, safety, cleanliness, and general adequacy of the premises; (b) the plan of operation; (c) the character, suitability, and competence of a family day-care provider and other persons associated with a family day-care provider directly responsible for the care of children served; (d) the number of qualified persons required to render care; (e) the provision of necessary care, including food, clothing, supervision, and discipline; (f) the physical, mental, and social well-being of children served; (g) educational and recreational opportunities for children served; and (h) the maintenance of records pertaining to children served.

(2) The county shall notify the department of social and health services in writing sixty days prior to adoption of the family day-care regulations required pursuant to this section. The transfer of jurisdiction shall occur when the county has notified the department in writing of the effective date of the regulations, and shall be limited to a period of twelve months

from the effective date of the regulations. Regulation by counties of family day-care providers as provided in this section shall be administered and enforced by those counties. The department shall not regulate these activities nor shall the department bear any civil liability under chapter 74.15 RCW for the twelve-month pilot period. Upon request, the department shall provide technical assistance to any county that is in the process of adopting the regulations required by this section, and after the regulations become effective.

(3) Any county regulating family day-care providers pursuant to this section shall report to the governor and the appropriate committees of the legislature concerning the outcome of the pilot project upon expiration of the twelve-month pilot period. The report shall include the ordinances and regulations adopted pursuant to subsection (1) of this section and a description of how those ordinances and regulations address the specific areas of regulation identified in subsection (1) of this section. [2005 c 509 § 1. Formerly RCW 74.15.031.]

***Reviser's note:** Chapter 265, Laws of 2006, deleted the definition of "family day-care provider" in RCW 74.15.020 and created it in RCW 43.215.010.

Effective date—2005 c 509: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 17, 2005]." [2005 c 509 § 2.]

43.215.535 Day care insurance. (1) Every licensed child day care center shall, at the time of licensure or renewal and at any inspection, provide to the department proof that the licensee has day care insurance as defined in RCW 48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

(a) Every licensed child day care center shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) Post at the day care center, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(b) Liability limits under this subsection shall be the same as set forth in RCW 48.88.050.

(c) The department may take action as provided in RCW 43.215.300 if the licensee fails to maintain in full force and effect the insurance required by this subsection.

(d) This subsection applies to child day care centers holding licenses, initial licenses, and probationary licenses under this chapter.

(e) A child day care center holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(2)(a) Every licensed family day care provider shall, at the time of licensure or renewal either:

(i) Provide to the department proof that the licensee has day care insurance as defined in RCW 48.88.020, or other applicable insurance; or

(ii) Provide written notice of their insurance status on a standard form developed by the department to parents with a

child enrolled in family day care and keep a copy of the notice to each parent on file. Family day care providers may choose to opt out of the requirement to have day care or other applicable insurance but must provide written notice of their insurance status to parents with a child enrolled and shall not be subject to the requirements of (b) or (c) of this subsection.

(b) Any licensed family day care provider that provides to the department proof that the licensee has insurance as provided under (a)(i) of this subsection shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) Post at the day care home, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(c) Liability limits under (a)(i) of this subsection shall be the same as set forth in RCW 48.88.050.

(d) The department may take action as provided in RCW 43.215.300 if the licensee fails to comply with the requirements of this subsection.

(e) A family day care provider holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(3) Noncompliance or compliance with the provisions of this section shall not constitute evidence of liability or nonliability in any injury litigation. [2007 c 415 § 10; 2005 c 473 § 7. Formerly RCW 74.15.340.]

Captions not law—2007 c 415: See note following RCW 43.215.005.

Purpose—2005 c 473: See note following RCW 74.15.300.

43.215.540 Child care providers—Tiered-reimbursement system—Pilot sites. (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall implement the tiered-reimbursement system developed pursuant to section 6, chapter 490, Laws of 2005. Implementation of the tiered-reimbursement system shall initially consist of two pilot sites in different geographic regions of the state with demonstrated public-private partnerships, with statewide implementation to follow.

(2) In implementing the tiered-reimbursement system, consideration shall be given to child care providers who provide staff wage progression.

(3) The department shall begin implementation of the two pilot sites by March 30, 2006. [2006 c 265 § 207; 2005 c 490 § 7. Formerly RCW 74.15.350.]

Effective date—2005 c 409: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 16, 2005]." [2005 c 490 § 15.]

43.215.545 Child care services. The department of early learning shall:

(1) Work in conjunction with the statewide child care resource and referral network as well as local governments, nonprofit organizations, businesses, and community child care advocates to create local child care resource and referral organizations. These organizations may carry out needs

assessments, resource development, provider training, technical assistance, and parent information and training;

(2) Actively seek public and private money for distribution as grants to the statewide child care resource and referral network and to existing or potential local child care resource and referral organizations;

(3) Adopt rules regarding the application for and distribution of grants to local child care resource and referral organizations. The rules shall, at a minimum, require an applicant to submit a plan for achieving the following objectives:

(a) Provide parents with information about child care resources, including location of services and subsidies;

(b) Carry out child care provider recruitment and training programs, including training under RCW 74.25.040;

(c) Offer support services, such as parent and provider seminars, toy-lending libraries, and substitute banks;

(d) Provide information for businesses regarding child care supply and demand;

(e) Advocate for increased public and private sector resources devoted to child care;

(f) Provide technical assistance to employers regarding employee child care services; and

(g) Serve recipients of temporary assistance for needy families and working parents with incomes at or below household incomes of one hundred seventy-five percent of the federal poverty line;

(4) Provide staff support and technical assistance to the statewide child care resource and referral network and local child care resource and referral organizations;

(5) Maintain a statewide child care licensing data bank and work with department licensors to provide information to local child care resource and referral organizations about licensed child care providers in the state;

(6) Through the statewide child care resource and referral network and local resource and referral organizations, compile data about local child care needs and availability for future planning and development;

(7) Coordinate with the statewide child care resource and referral network and local child care resource and referral organizations for the provision of training and technical assistance to child care providers; and

(8) Collect and assemble information regarding the availability of insurance and of federal and other child care funding to assist state and local agencies, businesses, and other child care providers in offering child care services. [2006 c 265 § 204; 2005 c 490 § 10; 1997 c 58 § 404; 1993 c 453 § 2; 1991 sp.s. c 16 § 924; 1989 c 381 § 5. Formerly RCW 74.13.0903.]

Part headings not law—Effective date—Severability—2006 c 265: See RCW 43.215.904 through 43.215.906.

Effective date—2005 c 490: See note following RCW 43.215.540.

Finding—1997 c 58: "The legislature finds that informed choice is consistent with individual responsibility and that parents should be given a range of options for available child care while participating in the program." [1997 c 58 § 401.]

Finding—1993 c 453: "The legislature finds that building a system of quality, affordable child care requires coordinated efforts toward constructing partnerships at state and community levels. Through the office of child care policy, the department of social and health services is responsible for facilitating the coordination of child care efforts and establishing working partnerships among the affected entities within the public and private sectors. Through these collaborative efforts, the office of child care policy encouraged the coalition of locally based child care resource and referral

agencies into a statewide network. The statewide network, in existence since 1989, supports the development and operation of community-based resource and referral programs, improves the quality and quantity of child care available in Washington by fostering statewide strategies, and generates then nurtures effective public-private partnerships. The statewide network provides important training, standards of service, and general technical assistance to its locally based child care resource and referral programs. The locally based programs enrich the availability, affordability, and quality of child care in their communities." [1993 c 453 § 1.]

Findings—Severability—1989 c 381: See notes following RCW 43.215.495.

Additional notes found at www.leg.wa.gov

43.215.550 Child care partnership employer liaison.

An employer liaison position is established in the department of early learning to be colocated with the *department of community, trade, and economic development. The employer liaison shall, within appropriated funds:

(1) Staff and assist the child care partnership in the implementation of its duties;

(2) Provide technical assistance to employers regarding child care services, working with and through local resource and referral organizations whenever possible. Such technical assistance shall include at a minimum:

(a) Assessing the child care needs of employees and prospective employees;

(b) Reviewing options available to employers interested in increasing access to child care for their employees;

(c) Developing techniques to permit small businesses to increase access to child care for their employees;

(d) Reviewing methods of evaluating the impact of child care activities on employers; and

(e) Preparing, collecting, and distributing current information for employers on options for increasing involvement in child care; and

(3) Provide assistance to local child care resource and referral organizations to increase their capacity to provide quality technical assistance to employers in their community. [2006 c 265 § 203; 1989 c 381 § 6. Formerly RCW 74.13.0902.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Part headings not law—Effective date—Severability—2006 c 265: See RCW 43.215.904 through 43.215.906.

Findings—Severability—1989 c 381: See notes following RCW 43.215.495.

43.215.555 Child care expansion grant fund. (1) The legislature recognizes that a severe shortage of child care exists to the detriment of all families and employers throughout the state. Many workers are unable to enter or remain in the workforce due to a shortage of child care resources. The high costs of starting a child care business create a barrier to the creation of new slots, especially for children with special needs.

(2) A child care expansion grant fund is created in the custody of the secretary of the department of social and health services. Grants shall be awarded on a one-time only basis to persons, organizations, or schools needing assistance to start a child care center or mini-center as defined by the department by rule, or to existing licensed child care providers, including family home providers, for the purpose of making capital improvements in order to accommodate handi-

capped children as defined under chapter 72.40 RCW, sick children, or infant care, or children needing night time care. No grant may exceed ten thousand dollars. Start-up costs shall not include operational costs after the first three months of business.

(3) Child care expansion grants shall be awarded on the basis of need for the proposed services in the community, within appropriated funds.

(4) The department shall adopt rules under chapter 34.05 RCW setting forth criteria, application procedures, and methods to assure compliance with the purposes described in this section. [1988 c 213 § 3. Formerly RCW 74.13.095.]

Additional notes found at www.leg.wa.gov

TECHNICAL PROVISIONS

43.215.900 Early childhood education and assistance program—Short title—1985 c 418. This act shall be known as the early childhood assistance act of 1985. [1985 c 418 § 13. Formerly RCW 28A.215.900, 28A.34A.904.]

43.215.901 Contingency—Effective date—1985 c 418. If specific funding for the purposes of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, this act shall be null and void. This act shall be of no effect until such specific funding is provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect. [1985 c 418 § 12. Formerly RCW 28A.215.904, 28A.34A.900.]

Reviser's note: (1) 1986 c 312 § 211 provides specific funding for the purposes of this act.

(2) 1986 c 312 took effect April 4, 1986.

43.215.902 Severability—1985 c 418. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 418 § 14. Formerly RCW 28A.215.906, 28A.34A.906.]

43.215.903 Severability—1988 c 174. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1988 c 174 § 11. Formerly RCW 28A.215.908, 28A.34A.908.]

43.215.904 Part headings not law—2006 c 265. Part headings used in this act are not any part of the law. [2006 c 265 § 602.]

43.215.905 Effective date—2006 c 265. This act takes effect July 1, 2006. [2006 c 265 § 604.]

43.215.906 Severability—2006 c 265. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2006 c 265 § 605.]

43.215.907 Evaluation of department by joint legislative audit and review committee. By July 1, 2010, the joint legislative audit and review committee shall conduct an evaluation of the implementation and operation of the department of early learning to assess the extent to which:

- (1) Services and programs that previously were administered separately have been effectively integrated;
- (2) Reporting and monitoring activities have been consolidated and made more efficient;
- (3) Consolidation has resulted in administrative efficiencies within the department;
- (4) Child care and early learning services are improved;
- (5) Subsidized child care is available;
- (6) Subsidized child care is affordable;
- (7) The department has been an effective partner in the private-public partnership;
- (8) Procedures have been put in place to respect parents and legal guardians and provide them the opportunity to participate in the development of policies and program decisions affecting their children; and
- (9) The degree and methods by which the agency conducts parent outreach and education. [2006 c 265 § 507.]

43.215.908 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 110.]

Chapter 43.220 RCW

WASHINGTON CONSERVATION CORPS

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43.220.903	Severability—1987 c 367.
43.220.904	Effective date—1999 c 280.

43.220.010 Legislative declaration. The legislature declares that:

- (1) A central element in the development of the state's young is the provision of meaningful work experience to teach the value of labor and membership in a productive society;
- (2) It is important to provide an opportunity for group-oriented public service experiences for the state's young persons;
- (3) The state is still benefiting from the wide range of public works accomplished by the conservation corps many years ago and that a similar program will likewise benefit future generations; and
- (4) Values of hard work, public spiritedness, group achievement and cooperation, resource conservation, and environmental appreciation can and should be transmitted to society's youth through a conservation corps program. [1983 1st ex.s. c 40 § 2.]

43.220.020 Conservation corps created. The Washington conservation corps is hereby created, to be implemented by the following state departments: The employment security department, the department of ecology, the department of fish and wildlife, the department of natural resources, and the state parks and recreation commission. [1999 c 280 § 1; 1994 c 264 § 32; 1988 c 36 § 23; 1983 1st ex.s. c 40 § 1.]

43.220.030 Program goals. Program goals of the Washington conservation corps include:

- (1) Conservation, rehabilitation, and enhancement of the state's natural, historic, environmental, and recreational resources with emphasis given to projects which address the following statewide priorities:
 - (a) Timber, fish and wildlife management plan;
 - (b) Watershed management plan;
 - (c) Eco-tourism and heritage tourism;
 - (d) Statewide water quality;
 - (e) United States-Canada fisheries treaty;
 - (f) Public access to and environmental education about stewardship of natural resources on state lands;
 - (g) Recreational trails;
 - (h) Salmon recovery and volunteer initiatives;
- (2) Development of the state's youth resources through meaningful work experiences;
- (3) Making outdoor and historic resources of the state available for public enjoyment;
- (4) Teaching of the workings of natural, environmental, and biological systems, as well as basic employment skills;
- (5) Assisting agencies in carrying out statutory assignments with limited funding resources; and
- (6) Providing needed public services in both urban and rural settings with emphasis in a distressed area or areas. [1999 c 280 § 2; 1987 c 367 § 1; 1983 1st ex.s. c 40 § 3.]

43.220.040 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Public lands" means any lands or waters, or interests therein, owned or administered by any agency or instrumentality of the state, federal, or local government.

(2) "Corps" means the Washington conservation corps.

(3) "Corps member" means an individual enrolled in the Washington conservation corps.

(4) "Corps member leaders" or "specialists" means members of the corps who serve in leadership or training capacities or who provide specialized services other than or in addition to the types of work and services that are performed by the corps members in general.

(5) "Crew supervisor" means temporary, project, or permanent state employees who supervise corps members and coordinate work project design and completion.

(6) "Distressed area" has the meaning as defined in RCW 43.168.020. [1999 c 280 § 3; 1999 c 151 § 1301; 1987 c 367 § 2; 1983 1st ex.s. c 40 § 4.]

Reviser's note: This section was amended by 1999 c 151 § 1301 and by 1999 c 280 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

43.220.060 Powers and duties—Effect on employed workers—Use of facilities, supplies, instruments, and tools of supervising agency. (1) Each state department identified in RCW 43.220.020 shall have the following powers and duties to carry out its functions relative to the Washington conservation corps:

(a) Recruiting and employing staff, corps members, corps member leaders, and specialists;

(b) Executing agreements for furnishing the services of the corps to carry out conservation corps programs to any federal, state, or local public agency, any local organization as specified in this chapter in concern with the overall objectives of the conservation corps;

(c) Applying for and accepting grants or contributions of funds from any private source;

(d) Determining a preference for those projects which will provide long-term benefits to the public, will provide productive training and work experiences to the members involved, will be labor-intensive, may result in payments to the state for services performed, and can be promptly completed; and

(e) Entering into agreements with community colleges within the state's community and technical college system and other educational institutions or independent nonprofit agencies to provide special education in basic skills, including reading, writing, and mathematics for those conservation corps members who may benefit by participation in such classes. Classes shall be scheduled after corps working hours. Participation by members is not mandatory but shall be strongly encouraged. The participation shall be a primary factor in determining whether the opportunity for corps membership beyond one year shall be offered. Instruction related to the specific role of the department in resource conservation shall also be offered, either in a classroom setting or as is otherwise appropriate.

(2) The assignment of corps members shall not result in the displacement of currently employed workers, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits. Supervising agencies that participate in the program may not terminate, lay-off, or reduce the working hours of any employee for the purpose of using a corps member with available funds. In circumstances where substantial efficiencies or a public purpose may result, supervising agencies may use corps members to carry out essential agency work or contractual functions without displacing current employees.

(3) Facilities, supplies, instruments, and tools of the supervising agency shall be made available for use by the conservation corps to the extent that such use does not conflict with the normal duties of the agency. The agency may purchase, rent, or otherwise acquire other necessary tools, facilities, supplies, and instruments. [1999 c 280 § 4; 1987 c 505 § 44; 1983 1st ex.s. c 40 § 6.]

43.220.070 Corps membership—Eligibility, terms, etc.

(1) Conservation corps members shall be unemployed residents of the state between eighteen and twenty-five years of age at the time of enrollment who are citizens or lawful permanent residents of the United States. The age requirements may be waived for corps leaders and specialists with special leadership or occupational skills; such members shall be given special responsibility for providing leadership, character development, and sense of community responsibility to the corps members, groups, and work crews to which they are assigned. The upper age requirement may be waived for residents who have a sensory or mental handicap. Special effort shall be made to recruit minority and disadvantaged youth who meet selection criteria of the conservation corps. Preference shall be given to youths residing in areas, both urban and rural, in which there exists substantial unemployment exceeding the state average unemployment rate.

(2) The legislature finds that people with developmental disabilities would benefit from experiencing a meaningful work experience, and learning the value of labor and of membership in a productive society.

The legislature urges state agencies that are participating in the Washington conservation corps program to consider for enrollment in the program people who have developmental disabilities, as defined in RCW 71A.10.020.

If an agency chooses to enroll people with developmental disabilities in its Washington conservation corps program, the agency may apply to the United States department of labor, employment standards administration for a special subminimum wage certificate in order to be allowed to pay enrollees with developmental disabilities according to their individual levels of productivity.

(3) Corps members shall not be considered state employees. Other provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, state retirement plans, and vacation leave do not apply to the Washington conservation corps except for the crew supervisors, who shall be project employees, and the administrative and supervisory personnel.

(4) Enrollment shall be for a period of six months which may be extended for additional six-month periods by mutual agreement of the corps and the corps member, not to exceed

two years. Corps members shall be reimbursed at the minimum wage rate established by state or federal law, whichever is higher, which may be increased by up to five percent for each additional six-month period worked: PROVIDED, That if agencies elect to run a residential program, the appropriate costs for room and board shall be deducted from the corps member's paycheck as provided in chapter 43.220 RCW.

(5) Corps members are to be available at all times for emergency response services coordinated through the *department of community, trade, and economic development or other public agency. Duties may include sandbagging and flood cleanup, search and rescue, and other functions in response to emergencies. [1999 c 280 § 5; 1995 c 399 § 112; 1990 c 71 § 2; 1988 c 78 § 1; 1986 c 266 § 48. Prior: 1985 c 230 § 7; 1985 c 7 § 110; 1983 1st ex.s. c 40 § 7.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Legislative finding—1990 c 71: "The legislature finds that the Washington conservation corps has proven to be an effective method to provide meaningful work experience for many of the state's young persons. Because of recent, and possible future, increases in the minimum wage laws, it is necessary to make an adjustment in the limitation that applies to corps member reimbursements." [1990 c 71 § 1.]

Additional notes found at www.leg.wa.gov

43.220.080 Selection of corps members—Development of corps program. Conservation corps members shall be selected based on their orientation towards public service, development of job skills and productive work habits, and character development. Special effort shall be made at the time of initial screening to explain rigorous productivity standards and special expectations and obligations of corps membership. An employment agreement shall be entered into by the corps member, indicating the member's understanding of, and willingness to abide by, such standards.

In the development of the corps program, consideration shall be given to providing corps members with a beneficial and meaningful work experience. Standards of productivity, behavior, and punctuality shall be developed and observed. Consideration shall be given to the development of a program that deserves the respect of the public, both in terms of service provided and personal development of corps members. [1983 1st ex.s. c 40 § 8.]

43.220.090 Conservation corps established in department of ecology—Work project areas. (1) There is established a conservation corps within the department of ecology.

(2) Specific work project areas of the ecology conservation corps may include the following:

(a) Litter pickup as a supplement to the role of the litter patrol established by the waste reduction, recycling, and model litter control act, chapter 70.93 RCW;

(b) Stream rehabilitation, including trash removal, in-stream debris removal, and clearance of log jams and silt accumulation, to the extent that such projects do not conflict with similar tasks undertaken by the department of fish and wildlife;

(c) Minimum flow field work and stream gauging;

(d) Identification of indiscriminate solid waste dump sites;

(e) Laboratory and office assistance;

(f) General maintenance and custodial work at sewage treatment plants;

(g) Irrigation district assistance, including ditch cleaning and supervised work in surveying and engineering;

(h) Streambank erosion control; and

(i) Other projects as the director may determine. If a project requires certain levels of academic training, the director may assign corps members to categories of work projects according to educational background. If appropriate facilities are available, the director may authorize carrying out projects which involve overnight stays. [1994 c 264 § 33; 1983 1st ex.s. c 40 § 9.]

43.220.120 Conservation corps established in department of fish and wildlife—Work project areas. (1) There is established a conservation corps within the department of fish and wildlife.

(2) Specific work project areas of the fish and wildlife conservation corps may include the following:

(a) Habitat development;

(b) Land clearing;

(c) Construction projects;

(d) Noxious weed control;

(e) Brush cutting;

(f) Reader board construction;

(g) Painting;

(h) Cleaning and repair of rearing ponds;

(i) Fishtrap construction;

(j) Brush clearance;

(k) Spawning channel restoration;

(l) Log removal;

(m) Nest box maintenance and cleaning;

(n) Fence building;

(o) Winter game feeding and herding;

(p) Stream rehabilitation;

(q) Fish hatchery operation and maintenance;

(r) Fish tagging; and

(s) Such other projects as the director of fish and wildlife may determine. If appropriate facilities are available, the director of fish and wildlife may authorize carrying out projects which involve overnight stays. [1999 c 280 § 6; 1994 c 264 § 34; 1988 c 36 § 24; 1983 1st ex.s. c 40 § 12.]

43.220.130 Conservation corps established in department of natural resources—Work project areas. (1) There is established a conservation corps within the department of natural resources.

(2) Specific work project areas of the natural resources conservation corps may include the following:

(a) Research assistance;

(b) Recreation projects;

(c) Slash disposal;

(d) Pit site reclamation;

(e) Road deactivation;

(f) Animal damage control;

(g) Reforestation;

(h) Wood cutting;

(i) Firewood systems development;

(j) Noxious weed control;

(k) Fence construction and maintenance;

(l) Wood products manufacturing;
 (m) Riparian area cleaning;
 (n) Spring development for grazing;
 (o) Erosion control;
 (p) Control of fires; and
 (q) Such other projects as the commissioner of public lands may determine. If appropriate facilities are available, the commissioner of public lands may authorize carrying out projects which involve overnight stays. [1983 1st ex.s. c 40 § 13.]

43.220.160 Conservation corps established in state parks and recreation commission—Work project areas.

(1) There is established a conservation corps within the state parks and recreation commission.

(2) Specific work project areas of the state parks and recreation conservation corps may include the following:

- (a) Restoration or development of park facilities;
- (b) Trail construction and maintenance;
- (c) Litter control;
- (d) Park and land rehabilitation;
- (e) Fire suppression;
- (f) Road repair; and
- (g) Other projects as the state parks and recreation commission may determine. If appropriate facilities are available, the state parks and recreation commission may authorize carrying out projects which involve overnight stays. [1999 c 249 § 702; 1983 1st ex.s. c 40 § 16.]

Additional notes found at www.leg.wa.gov

43.220.170 Exemption from unemployment compensation coverage. The services of corps members placed with agencies listed in RCW 43.220.020 are exempt from unemployment compensation coverage under *RCW 50.44.040(5) and the enrollees shall be so advised by the department. [1983 1st ex.s. c 40 § 17.]

*Reviser's note: RCW 50.44.040 was amended by 2007 c 386 § 1, changing subsection (5) to subsection (4).

43.220.180 Identification of historic properties and sites in need of rehabilitation or renovation—Use of corps members. The state historic preservation officer shall review the state and national registers of historic places to identify publicly owned historic properties and sites within the state which are in need of rehabilitation or renovation and which could utilize parks and recreation conservation corps members in such rehabilitation or renovation. Any such tasks shall be performed in such a way as not to conflict with the historic character of the structure as determined by the state historic preservation officer.

Conservation corps members shall be made available for tasks identified by the state historic preservation officer in the rehabilitation and renovation of historic sites within the state. [1983 1st ex.s. c 40 § 18.]

43.220.190 Duties of agencies. The agencies listed in RCW 43.220.020 shall establish consistent work standards and placement and evaluation procedures of corps programs. They shall also reconcile problems that arise in the implementation of the corps programs and develop coordination

procedures for emergency responses of corps members. [1999 c 151 § 1302; 1987 c 367 § 3; 1983 1st ex.s. c 40 § 20.]

Additional notes found at www.leg.wa.gov

43.220.210 Selection, review, approval, and evaluation of projects—Recruitment, job training and placement services. The agencies listed in RCW 43.220.020 shall select, review, approve, and evaluate the success of projects under this chapter.

Up to fifteen percent of funds spent for recruitment, job training and placement services shall, wherever possible, be contracted through local educational institutions and/or non-profit corporations.

Such contracts may include, but not be limited to, general education development testing, preparation of resumes and job search skills.

All contracts or agreements entered into by agencies listed in RCW 43.220.020 shall be consistent with legislative intent as set forth in this section. [1999 c 151 § 1303; 1987 c 367 § 4; 1985 c 230 § 1.]

Additional notes found at www.leg.wa.gov

43.220.231 Limitation on use of funds. (1) An amount not to exceed five percent of the funds available for the Washington conservation corps may be expended on agency administrative costs. Agency administrative costs are indirect expenses such as personnel, payroll, contract administration, fiscal services, and other overhead costs.

(2) An amount not to exceed twenty percent of the funds available for the Washington conservation corps may be expended for costs included in subsection (1) of this section and program support costs. Program support costs include, but are not limited to, program planning, development of reports, job and career training, uniforms and equipment, and standard office space and utilities. Program support costs do not include direct scheduling and supervision of corps members.

(3) A minimum of eighty percent of the funds available for the Washington conservation corps shall be expended for corps member salaries and benefits and for direct supervision of corps members. [1999 c 280 § 7.]

43.220.250 Reimbursement of nonprofit corporations for certain services. A nonprofit corporation which contracts with an agency listed in RCW 43.220.020 to provide a specific service, appropriate for the administration of this chapter which the agency cannot otherwise provide, may be reimbursed at the discretion of the agency for the reasonable costs the agency would absorb for providing those services. [1985 c 230 § 5.]

43.220.901 Severability—1983 1st ex.s. c 40. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 40 § 24.]

43.220.902 Severability—1985 c 230. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the

provision to other persons or circumstances is not affected. [1985 c 230 § 9.]

43.220.903 Severability—1987 c 367. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 367 § 6.]

43.220.904 Effective date—1999 c 280. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 13, 1999]. [1999 c 280 § 9.]

Chapter 43.235 RCW DOMESTIC VIOLENCE FATALITY REVIEW PANELS

Sections

43.235.010	Definitions.
43.235.020	Coordination of review—Authority of coordinating entity—Regional domestic violence review panels—Citizen requests.
43.235.030	Domestic violence review panels—Composition—Reports.
43.235.040	Confidentiality—Access to information.
43.235.050	Immunity from liability.
43.235.060	Data collection and analysis.
43.235.800	Statewide report.
43.235.900	Conflict with federal requirements—2000 c 50.
43.235.901	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

43.235.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of social and health services.

(2) "Domestic violence fatality" means a homicide or suicide under any of the following circumstances:

(a) The alleged perpetrator and victim resided together at any time;

(b) The alleged perpetrator and victim have a child in common;

(c) The alleged perpetrator and victim were married, divorced, separated, or had a dating relationship;

(d) The alleged perpetrator had been stalking the victim;

(e) The homicide victim lived in the same household, was present at the workplace of, was in proximity of, or was related by blood or affinity to a victim who experienced or was threatened with domestic abuse by the alleged perpetrator; or

(f) The victim or perpetrator was a child of a person in a relationship that is described within this subsection.

This subsection should be interpreted broadly to give the domestic violence fatality review panels discretion to review fatalities that have occurred directly to domestic relationships. [2000 c 50 § 1.]

43.235.020 Coordination of review—Authority of coordinating entity—Regional domestic violence review panels—Citizen requests. (1) Subject to the availability of state funds, the department shall contract with an entity with (2010 Ed.)

expertise in domestic violence policy and education and with a statewide perspective to coordinate review of domestic violence fatalities. The coordinating entity shall be authorized to:

(a) Convene regional review panels;

(b) Gather information for use of regional review panels;

(c) Provide training and technical assistance to regional review panels;

(d) Compile information and issue biennial reports with recommendations; and

(e) Establish a protocol that may be used as a guideline for identifying domestic violence related fatalities, forming review panels, convening reviews, and selecting which cases to review. The coordinating entity may also establish protocols for data collection and preservation of confidentiality.

(2)(a) The coordinating entity may convene a regional domestic violence fatality review panel to review any domestic violence fatality.

(b) Private citizens may request a review of a particular death by submitting a written request to the coordinating entity within two years of the death. Of these, the appropriate regional review panel may review those cases which fit the criteria set forth in the protocol for the project. [2000 c 50 § 2.]

43.235.030 Domestic violence review panels—Composition—Reports. (1) Regional domestic violence fatality review panels shall include but not be limited to:

(a) Medical personnel with expertise in domestic violence abuse;

(b) Coroners or medical examiners or others experienced in the field of forensic pathology, if available;

(c) County prosecuting attorneys and municipal attorneys;

(d) Domestic violence shelter service staff and domestic violence victims' advocates;

(e) Law enforcement personnel;

(f) Local health department staff;

(g) Child protective services workers;

(h) Community corrections professionals;

(i) Perpetrator treatment program provider; and

(j) Judges, court administrators, and/or their representatives.

(2) Regional domestic violence fatality review panels may also invite other relevant persons to serve on an ad hoc basis and participate as full members of the review team [panel] for a particular review. These persons may include, but are not limited to:

(a) Individuals with particular expertise helpful to the regional review panel;

(b) Representatives of organizations or agencies that had contact with or provided services to the homicide victim or to the alleged perpetrator.

(3) The regional review panels shall make periodic reports to the coordinating entity and shall make a final report to the coordinating entity with regard to every fatality that is reviewed. [2000 c 50 § 3.]

43.235.040 Confidentiality—Access to information. (1) An oral or written communication or a document shared

within or produced by a regional domestic violence fatality review panel related to a domestic violence fatality review is confidential and not subject to disclosure or discoverable by a third party. An oral or written communication or a document provided by a third party to a regional domestic violence fatality review panel, or between a third party and a regional domestic violence fatality review panel is confidential and not subject to disclosure or discovery by a third party. Notwithstanding the foregoing, recommendations from the regional domestic violence fatality review panel and the coordinating entity generally may be disclosed minus personal identifiers.

(2) The regional review panels, only to the extent otherwise permitted by law or court rule, shall have access to information and records regarding the domestic violence victims and perpetrators under review held by domestic violence perpetrators' treatment providers; dental care providers; hospitals, medical providers, and pathologists; coroners and medical examiners; mental health providers; lawyers; the state and local governments; the courts; and employers. The coordinating entity and the regional review panels shall maintain the confidentiality of such information to the extent required by any applicable law.

(3) The regional review panels shall review, only to the extent otherwise permitted by law or court rule when determined to be relevant and necessary to an investigation, guardian ad litem reports, parenting evaluations, and victim impact statements; probation information; mental health evaluations done for court; presentence interviews and reports, and any recommendations made regarding bail and release on own recognizance; child protection services, welfare, and other information held by the department; any law enforcement incident documentation, such as incident reports, dispatch records, victim, witness, and suspect statements, and any supplemental reports, probable cause statements, and 911 call taker's reports; corrections and postsentence supervision reports; and any other information determined to be relevant to the review. The coordinating entity and the regional review panels shall maintain the confidentiality of such information to the extent required by any applicable law. [2000 c 50 § 4.]

43.235.050 Immunity from liability. If acting in good faith, without malice, and within the parameters of this chapter and the protocols established, representatives of the coordinating entity and the regional domestic violence fatality review panels are immune from civil liability for an activity related to reviews of particular fatalities. [2000 c 50 § 5.]

43.235.060 Data collection and analysis. Within available funds, data regarding each domestic violence fatality review shall be collected on standard forms created by the coordinating entity. Data collected on reviewed fatalities shall be compiled and analyzed for the purposes of identifying points at which the system response to domestic violence could be improved and identifying patterns in domestic violence fatalities. [2000 c 50 § 6.]

43.235.800 Statewide report. (1) A biennial statewide report shall be issued by the coordinating entity in December of even-numbered years containing recommendations on pol-

icy changes that would improve program performance, and issues identified through the work of the regional panels. Copies of this report shall be distributed to the governor, the house of representatives children and family services and criminal justice and corrections committees, and the senate human services and corrections and judiciary committees and to those agencies involved in the regional domestic violence fatality review panels.

(2) The annual report in December 2010 shall contain a recommendation as to whether or not the domestic violence review process provided for in this chapter should continue or be terminated by the legislature. [2000 c 50 § 7.]

43.235.900 Conflict with federal requirements—2000 c 50. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [2000 c 50 § 9.]

43.235.901 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 111.]

Chapter 43.250 RCW

INVESTMENT OF LOCAL GOVERNMENT FUNDS

Sections

43.250.010	Purpose.
43.250.020	Definitions.
43.250.030	Public funds investment account.
43.250.040	Authority of official to place funds in the public funds investment account—Investment of funds by state treasurer—Degree of judgment and care required.
43.250.050	Employment of personnel.
43.250.060	Investment pool—Generally.
43.250.070	Investment pool—Separate accounts for participants—Monthly status report.
43.250.080	Annual summary of activity.
43.250.090	Administration of chapter—Rules.

Investment accounting: RCW 43.33A.180.

43.250.010 Purpose. The purpose of this chapter is to enable eligible governmental entities, including community and technical college districts, the state board for community

and technical colleges as established in chapter 28B.50 RCW, public four-year institutions of higher education, qualifying federally recognized tribes or federally recognized political subdivisions thereof, and other governmental entities to participate with the state in providing maximum opportunities for the investment of surplus public funds consistent with the safety and protection of such funds. The legislature finds and declares that the public interest is found in providing maximum prudent investment of surplus funds, thereby reducing the need for additional taxation. The legislature also recognizes that not all eligible governmental entities are able to maximize the return on their temporary surplus funds. The legislature therefore provides in this chapter a mechanism whereby eligible governmental entities may, at their option, utilize the resources of the state treasurer's office to maximize the potential of surplus funds while ensuring the safety of those funds. [2010 1st sp.s. c 10 § 1; 2001 c 31 § 1; 1996 c 268 § 1; 1986 c 294 § 1.]

43.250.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Authorized tribal official" means any officer or employee of a qualifying federally recognized tribe who has been expressly designated by tribal constitution, ordinance, or resolution as the officer having the authority to invest the funds of the qualifying federally recognized tribe or federally recognized political subdivisions thereof.

(2) "Eligible governmental entity" means any county, city, town, municipal corporation, quasi-municipal corporation, public corporation, political subdivision, or special purpose taxing district in the state, an instrumentality of any of the foregoing governmental entities created under chapter 39.34 RCW, any agency of state government, any entity issuing or executing and delivering bonds or certificates of participation with respect to financing contracts approved by the state finance committee under RCW 39.94.040, and any qualifying federally recognized tribe or federally recognized political subdivisions thereof.

(3) "Financial officer" means the board-appointed treasurer of a community or technical college district, the state board for community and technical colleges, or a public four-year institution of higher education.

(4) "Funds" means:

(a) Funds of an eligible governmental entity under the control of or in the custody of any government finance official or local funds, as defined by the office of financial management publication "Policies, Regulations and Procedures," under the control of or in the custody of a financial officer by virtue of the official's authority that are not immediately required to meet current demands;

(b) State funds deposited in the investment pool by the state treasurer that are the proceeds of bonds, notes, or other evidences of indebtedness authorized by the state finance committee under chapter 39.42 RCW, or the proceeds of bonds or certificates of participation with respect to financing contracts approved by the state finance committee under RCW 39.94.040, or payments pursuant to financing contracts under chapter 39.94 RCW, when the investments are made in order to comply with the Internal Revenue Code of 1986, as amended; and

(c) Tribal funds under the control of or in the custody of any qualifying federally recognized tribe or federally recognized political subdivisions thereof, where the tribe warrants that the use or disposition of the funds are either not subject to, or are used and deposited with federal approval, and where the tribe warrants that the funds are not immediately required to meet current demands.

(5) "Government finance official" means any officer or employee of an eligible governmental entity who has been designated by statute or by local charter, ordinance, resolution, or other appropriate official action, as the officer having the authority to invest the funds of the eligible governmental entity. However, the county treasurer shall be deemed the only government finance official for all public agencies for which the county treasurer has exclusive statutory authority to invest the funds thereof.

(6) "Public funds investment account" or "investment pool" means the aggregate of all funds as defined in subsection (4) of this section that are placed in the custody of the state treasurer for investment and reinvestment.

(7) "Qualifying federally recognized tribe or federally recognized political subdivisions thereof" means any federally recognized tribe, located in the state of Washington, authorized and empowered by its constitution or ordinance to invest its surplus funds pursuant to this section, and whose authorized tribal official has executed a deposit agreement with the office of the treasurer. [2010 1st sp.s. c 10 § 2; 2001 c 31 § 2; 1996 c 268 § 2; 1990 c 106 § 1; 1986 c 294 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

43.250.030 Public funds investment account. There is created a trust fund to be known as the public funds investment account. The account is to be separately accounted for and invested by the state treasurer. All moneys remitted under this chapter shall be deposited in this account. All earnings on any balances in the public funds investment account, less moneys for administration pursuant to RCW 43.250.060, shall be credited to the public funds investment account. [1991 sp.s. c 13 § 86; 1990 c 106 § 2; 1986 c 294 § 3.]

Additional notes found at www.leg.wa.gov

43.250.040 Authority of official to place funds in the public funds investment account—Investment of funds by state treasurer—Degree of judgment and care required. If authorized by statute, local ordinance, resolution, or other appropriate official action, the state treasurer, a government finance official or financial officer or his or her designee, or authorized tribal official, may place funds into the public funds investment account for investment and reinvestment by the state treasurer in those securities and investments set forth in RCW 43.84.080 and chapter 39.58 RCW. The state treasurer shall invest the funds in such manner as to effectively maximize the yield to the investment pool. In investing and reinvesting moneys in the public funds investment account and in acquiring, retaining, managing, and disposing of investments of the investment pool, there shall be exercised the judgment and care under the circumstances then prevailing which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of

the funds considering the probable income as well as the probable safety of the capital. [2010 1st sp.s. c 10 § 3; 2001 c 31 § 3; 1996 c 268 § 3; 1986 c 294 § 4.]

43.250.050 Employment of personnel. The state treasurer's office is authorized to employ such personnel as are necessary to administer the public funds investment account. The bond of the state treasurer as required by law shall be made to include the faithful performance of all functions relating to the investment pool. [1986 c 294 § 5.]

43.250.060 Investment pool—Generally. The state treasurer shall by rule prescribe the time periods for investments in the investment pool and the procedure for withdrawal of funds from the investment pool. The state treasurer shall promulgate such other rules as are deemed necessary for the efficient operation of the investment pool. The rules shall also provide for the administrative expenses of the investment pool, including repayment of the initial administrative costs financed out of the appropriation included in chapter 294, Laws of 1986, to be paid from the pool's earnings and for the interest earnings in excess of the expenses to be credited or paid to participants in the pool. The state treasurer may deduct the amounts necessary to reimburse the treasurer's office for the actual expenses the office incurs and to repay any funds appropriated and expended for the initial administrative costs of the pool. Any credits or payments to the participants shall be calculated and made in a manner which equitably reflects the differing amounts of the participants' respective deposits in the investment pool fund and the differing periods of time for which the amounts were placed in the investment pool. [1990 c 106 § 3; 1986 c 294 § 6.]

43.250.070 Investment pool—Separate accounts for participants—Monthly status report. The state treasurer shall keep a separate account for each participant having funds in the investment pool. Each separate account shall record the individual amounts deposited in the investment pool, the date of withdrawals, and the earnings credited or paid. The state treasurer shall report monthly the status of the respective account to each participant having funds in the pool during the previous month. [1990 c 106 § 4; 1986 c 294 § 7.]

43.250.080 Annual summary of activity. At the end of each fiscal year, the state treasurer shall submit to the governor, the state auditor, and the joint legislative audit and review committee a summary of the activity of the investment pool. The summary shall indicate the quantity of funds deposited; the earnings of the pool; the investments purchased, sold, or exchanged; the administrative expenses of the investment pool; and such other information as the state treasurer deems relevant. [1996 c 288 § 48; 1986 c 294 § 8.]

43.250.090 Administration of chapter—Rules. The state finance committee shall administer this chapter and adopt appropriate rules. [1986 c 294 § 9.]

Chapter 43.270 RCW COMMUNITY MOBILIZATION AGAINST SUBSTANCE ABUSE

Sections

43.270.010	Intent.
43.270.020	Grant program—Application—Activities funded.
43.270.040	Coordinated strategies.
43.270.070	Community suggestions.
43.270.080	Gifts, grants, and endowments.
43.270.900	Severability—1989 c 271.

43.270.010 Intent. The legislature recognizes that statewide efforts aimed at reducing the incidence of substance abuse, including alcohol, tobacco, or other drug abuse, or violence must be increased. The legislature further recognizes that the most effective strategy for reducing the impact of alcohol, tobacco, other drug abuse, and violence is through the collaborative efforts of educators, law enforcement, local government officials, local treatment providers, and concerned community and citizens' groups.

The legislature intends to support the development and activities of community mobilization strategies against alcohol, tobacco, or other drug abuse, and violence, through the following efforts:

- (1) Providing funding support for prevention, treatment, and enforcement activities identified by communities that have brought together education, treatment, local government, law enforcement, and other key elements of the community;
- (2) Providing technical assistance and support to help communities develop and carry out effective activities; and
- (3) Providing communities with opportunities to share suggestions for state program operations and budget priorities. [2001 c 48 § 1; 1989 c 271 § 315.]

43.270.020 Grant program—Application—Activities funded. (1) There is established in the *department of community, trade, and economic development a grant program to provide incentive for and support for communities to develop targeted and coordinated strategies to reduce the incidence and impact of alcohol, tobacco, or other drug abuse, or violence.

(2) The *department of community, trade, and economic development shall make awards, subject to funds appropriated by the legislature, under the following terms:

(a) Starting July 1, 2001, funds will be available to countywide programs through a formula developed by the *department of community, trade, and economic development in consultation with program contractors, which will take into consideration county population size.

(b) In order to be eligible for consideration, applicants must demonstrate, at a minimum:

(i) That the community has developed and is committed to carrying out a coordinated strategy of prevention, treatment, and law enforcement activities;

(ii) That the community has considered research-based theory when developing its strategy;

(iii) That proposals submitted for funding are based on a local assessment of need and address specific objectives contained in a coordinated strategy of prevention, treatment, and

law enforcement against alcohol, tobacco, or other drug abuse, or violence;

(iv) Evidence of active participation in preparation of the proposal and specific commitments to implementing the community-wide agenda by leadership from education, law enforcement, local government, tribal government, and treatment entities in the community, and the opportunity for meaningful involvement from others such as neighborhood and citizen groups, businesses, human service, health and job training organizations, and other key elements of the community, particularly those whose responsibilities in law enforcement, treatment, prevention, education, or other community efforts provide direct, ongoing contact with substance abusers or those who exhibit violent behavior, or those at risk for alcohol, tobacco, or other drug abuse, or violent behavior;

(v) Evidence of additional local resources committed to the applicant's strategy totaling at least twenty-five percent of funds awarded under this section. These resources may consist of public or private funds, donated goods or services, and other measurable commitments, including in-kind contributions such as volunteer services, materials, supplies, physical facilities, or a combination thereof; and

(vi) That the funds applied for, if received, will not be used to replace funding for existing activities.

(c) At a minimum, grant applications must include the following:

(i) A definition of geographic area;

(ii) A needs assessment describing the extent and impact of alcohol, tobacco, or other drug abuse, and violence in the community, including an explanation of those who are most severely impacted and those most at risk of substance abuse or violent behavior;

(iii) An explanation of the community-wide strategy for prevention, treatment, and law enforcement activities related to alcohol, tobacco, or other drug abuse, or violence, with particular attention to those who are most severely impacted and/or those most at risk of alcohol, tobacco, or other drug abuse, or violent behavior;

(iv) An explanation of who was involved in development of the strategy and what specific commitments have been made to carry it out;

(v) Identification of existing prevention, education, treatment, and law enforcement resources committed by the applicant, including financial and other support, and an explanation of how the applicant's strategy involves and builds on the efforts of existing organizations or coalitions that have been carrying out community efforts against alcohol, tobacco, or other drug abuse, or violence;

(vi) Identification of activities that address specific objectives in the strategy for which additional resources are needed;

(vii) Identification of additional local resources, including public or private funds, donated goods or services, and other measurable commitments, that have been committed to the activities identified in (c)(vi) of this subsection;

(viii) Identification of activities that address specific objectives in the strategy for which funding is requested;

(ix) For each activity for which funding is requested, an explanation in sufficient detail to demonstrate:

(A) Feasibility through deliberative design, specific objectives, and a realistic plan for implementation;

(B) A rationale for how this activity will achieve measurable results and how it will be evaluated;

(C) That funds requested are necessary and appropriate to effectively carry out the activity; and

(x) Identification of a contracting agent meeting state requirements for each activity proposed for funding.

Each contracting agent must execute a written agreement with its local community mobilization advisory board that reflects the duties and powers of each party.

(3) Activities that may be funded through this grant program include those that:

(a) Prevent alcohol, tobacco, or other drug abuse, or violence through educational efforts, development of positive alternatives, intervention with high-risk groups, and other prevention strategies;

(b) Support effective treatment by increasing access to and availability of treatment opportunities, particularly for underserved or highly impacted populations, developing aftercare and support mechanisms, and other strategies to increase the availability and effectiveness of treatment;

(c) Provide meaningful consequences for participation in illegal activity and promote safe and healthy communities through support of law enforcement strategies;

(d) Create or build on efforts by existing community programs, coordinate their efforts, and develop cooperative efforts or other initiatives to make most effective use of resources to carry out the community's strategy against alcohol, tobacco, or other drug abuse, or violence; and

(e) Other activities that demonstrate both feasibility and a rationale for how the activity will achieve measurable results in the strategy against alcohol, tobacco, or other drug abuse, or violence. [2001 c 48 § 2; 1989 c 271 § 316.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.270.040 Coordinated strategies. This grant program will be available to communities of any geographic size but will encourage and reward communities which develop coordinated or complimentary strategies within geographic areas such as county areas or groups of county areas which correspond to units of government with significant responsibilities in the area of substance abuse, existing coalitions, or other entities important to the success of a community's strategy against substance abuse. [1989 c 271 § 318.]

43.270.070 Community suggestions. The *department of community, trade, and economic development shall ask communities for suggestions on state practices, policies, and priorities that would help communities implement their strategies against alcohol, tobacco, or other drug abuse, or violence. The *department of community, trade, and economic development shall review and respond to those suggestions making necessary changes where feasible, making recommendations to the legislature where appropriate, and providing an explanation as to why suggested changes cannot be accomplished, if the suggestions cannot be acted upon. [2001 c 48 § 3; 1989 c 271 § 321.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.270.080 Gifts, grants, and endowments. The *department of community, trade, and economic development may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of RCW 43.270.010 through 43.270.080 and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [2001 c 48 § 4; 1989 c 271 § 322.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.270.900 Severability—1989 c 271. See note following RCW 9.94A.510.

Chapter 43.280 RCW

COMMUNITY TREATMENT SERVICES FOR VICTIMS OF SEX OFFENDERS

Sections

43.280.010	Intent.
43.280.011	Intent, approval of committee recommendations, distribution of services—1996 c 123.
43.280.020	Grant program—Funding.
43.280.030	Applications.
43.280.040	Organizations eligible.
43.280.050	Applications—Minimum requirements.
43.280.060	Awarding of grants—Peer review committee.
43.280.070	Gifts, grants, and endowments.
43.280.080	Office of crime victims advocacy.
43.280.081	Office of crime victims advocacy—Reports on penalty assessments collection and use of funds for assistance to victims and witnesses of crime.
43.280.090	Office of crime victims advocacy—Ad hoc advisory committees.
43.280.900	Index, part headings not law—1990 c 3.
43.280.901	Severability—1990 c 3.
43.280.902	Effective dates—Application—1990 c 3.

43.280.010 Intent. The legislature recognizes the need to increase the services available to the victims of sex offenders. The legislature also recognizes that these services are most effectively planned and provided at the local level through the combined efforts of concerned community and citizens groups, treatment providers, and local government officials. The legislature further recognizes that adequate treatment for victims is not only a matter of justice for the victim, but also a method by which additional abuse can be prevented.

The legislature intends to enhance the community-based treatment services available to the victims of sex offenders by:

- (1) Providing consolidated funding support for local treatment programs which provide services to victims of sex offenders;
- (2) Providing technical assistance and support to help communities plan for and provide treatment services;
- (3) Providing sexual assault services with a victim-focused mission, and consistent standards, policies, and contracting and reporting requirements; and
- (4) Providing communities and local treatment providers with opportunities to share information about successful prevention and treatment programs. [1996 c 123 § 2; 1990 c 3 § 1201.]

Additional notes found at www.leg.wa.gov

43.280.011 Intent, approval of committee recommendations, distribution of services—1996 c 123. The Washington state sexual assault services advisory committee issued a report to the *department of community, trade, and economic development and the department of social and health services in June of 1995. The committee made several recommendations to improve the delivery of services to victims of sexual abuse and assault: (1) Consolidate the administration and funding of sexual assault and abuse services in one agency instead of splitting those functions between the department of social and health services and the *department of community, trade, and economic development; (2) adopt a funding allocation plan to pool all funds for sexual assault services and to distribute them across the state to ensure the delivery of core and specialized services; (3) establish service, data collection, and management standards and outcome measurements for recipients of grants; and (4) create a data collection system to gather pertinent data concerning the delivery of sexual assault services to victims.

The legislature approves the recommendations of the advisory committee and consolidates the functions and funding for sexual assault services in the *department of community, trade, and economic development to implement the advisory committee's recommendations.

The legislature does not intend to effect a reduction in service levels within available funding by transferring department of social and health services' powers and duties to the *department of community, trade, and economic development. At a minimum, the *department of community, trade, and economic development shall distribute the same percentage of the services it provides victims of sexual assault and abuse, pursuant to RCW 43.280.020, 70.125.080, and 74.14B.060, to children as were distributed to children through these programs in fiscal year 1996. [1996 c 123 § 1.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.280.020 Grant program—Funding. There is established in the *department of community, trade, and economic development a grant program to enhance the funding for treating the victims of sex offenders. Activities that can be funded through this grant program are limited to those that:

- (1) Provide effective treatment to victims of sex offenders;
- (2) Increase access to and availability of treatment for victims of sex offenders, particularly if from underserved populations; and
- (3) Create or build on efforts by existing community programs, coordinate those efforts, or develop cooperative efforts or other initiatives to make the most effective use of resources to provide treatment services to these victims.

Funding shall be given to those applicants that emphasize providing stable, victim-focused sexual abuse services and possess the qualifications to provide core services, as defined in RCW 70.125.030. Funds for specialized services, as defined in RCW 70.125.030, shall be disbursed through the request for proposal or request for qualifications process. [1996 c 123 § 3; 1995 c 399 § 113; 1990 c 3 § 1203.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.280.030 Applications. Applications for funding under this chapter must:

(1) Present evidence demonstrating how the criteria in RCW 43.280.010 will be met and demonstrating the effectiveness of the proposal.

(2) Contain evidence of active participation of the community and its commitment to providing an effective treatment service for victims of sex offenders through the participation of local governments, tribal governments, human service and health organizations, and treatment entities and through meaningful involvement from others, including citizen groups. [1990 c 3 § 1204.]

43.280.040 Organizations eligible. Local governments, nonprofit community groups, and nonprofit treatment providers including organizations which provide services, such as emergency housing, counseling, and crisis intervention shall, among others, be eligible for grants under the program established in RCW 43.280.020. [1990 c 3 § 1205.]

43.280.050 Applications—Minimum requirements. At a minimum, grant applications must include the following:

(1) The geographic area from which the victims to be served are expected to come;

(2) A description of the extent and effect of the needs of these victims within the relevant geographic area;

(3) An explanation of how the funds will be used, their relationship to existing services available within the community, and the need that they will fulfill;

(4) An explanation of what organizations were involved in the development of the proposal;

(5) Documentation of capacity to provide core and specialized services, as defined in RCW 70.125.030, provided by the applicant, how the applicant intends to comply with service, data collection, and management standards established by the department; and

(6) An evaluation methodology. [1996 c 123 § 4; 1990 c 3 § 1206.]

Additional notes found at www.leg.wa.gov

43.280.060 Awarding of grants—Peer review committee. (1) Subject to funds appropriated by the legislature, the *department of community, trade, and economic development shall make awards under the grant program established by RCW 43.280.020.

(2) To aid the *department of community, trade, and economic development in making its funding determinations, the department shall form a peer review committee comprised of individuals who are knowledgeable or experienced in the management or delivery of treatment services to victims of sex offenders. The peer review committee shall advise the department on the extent to which each eligible applicant meets the treatment and management standards, as developed by the department. The department shall consider this advice in making awards.

(3) Activities funded under this section may be considered for funding in future years, but shall be considered under

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the same terms and criteria as new activities. Funding under this chapter shall not constitute an obligation by the state of Washington to provide ongoing funding. [1996 c 123 § 5; 1995 c 399 § 114; 1990 c 3 § 1207.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.280.070 Gifts, grants, and endowments. The *department of community, trade, and economic development may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [1995 c 399 § 115; 1990 c 3 § 1208.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.280.080 Office of crime victims advocacy. The office of crime victims advocacy is established in the *department of community, trade, and economic development. The office shall assist communities in planning and implementing services for crime victims, advocate on behalf of crime victims in obtaining needed services and resources, and advise local and state governments on practices, policies, and priorities that impact crime victims. In addition, the office shall administer grant programs for sexual assault treatment and prevention services, as authorized in this chapter. [1995 c 241 § 1.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.280.081 Office of crime victims advocacy—Reports on penalty assessments collection and use of funds for assistance to victims and witnesses of crime. The office of crime victims advocacy shall report to the legislature on December 31, 1999, December 31, 2002, and December 31, 2005, regarding the collection of penalty assessments under chapter 122, Laws of 1996 and the use of collected funds to provide assistance to victims and witnesses of crime. [1996 c 122 § 3.]

43.280.090 Office of crime victims advocacy—Ad hoc advisory committees. The director of the *department of community, trade, and economic development may establish ad hoc advisory committees, as necessary, to obtain advice and guidance regarding the office of crime victims advocacy program. [1995 c 269 § 2102.]

Reviser's note: *(1) The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

(2) 1995 c 269 directed that this section be added to chapter 43.63A RCW. This section has been codified in chapter 43.280 RCW, which relates more directly to the office of crime victims advocacy.

Additional notes found at www.leg.wa.gov

43.280.900 Index, part headings not law—1990 c 3. See RCW 18.155.900.

43.280.901 Severability—1990 c 3. See RCW 18.155.901.

43.280.902 Effective dates—Application—1990 c 3. See RCW 18.155.902.

Chapter 43.290 RCW

OFFICE OF INTERNATIONAL RELATIONS AND PROTOCOL

Sections

- 43.290.005 Finding—Purpose.
- 43.290.010 Office created.
- 43.290.020 Authority of office.
- 43.290.900 Effective date—1991 c 24.

43.290.005 Finding—Purpose. The legislature finds that it is in the public interest to create an office of international relations and protocol in order to: Make international relations and protocol a broad-based, focused, and functional part of state government; develop and promote state policies that increase international literacy and cross-cultural understanding among Washington state's citizens; expand Washington state's international cooperation role in such areas as the environment, education, science, culture, and sports; establish coordinated methods for responding to the increasing number of inquiries by foreign governments and institutions seeking cooperative activities within Washington state; provide leadership in state government on international relations and assistance to the legislature and state elected officials on international issues affecting the state; assist with multistate international efforts; and coordinate and improve communication and resource sharing among various state offices, agencies, and educational institutions with international programs.

It is the purpose of this chapter to bring these functions together in a new office under the office of the governor in order to establish a visible, coordinated, and comprehensive approach to international relations and protocol. [1991 c 24 § 1.]

Additional notes found at www.leg.wa.gov

43.290.010 Office created. The office of international relations and protocol is created under the office of the governor. The office shall serve as the state's official liaison and protocol office with foreign governments. The governor shall appoint a director of the office of international relations and protocol, who shall serve at the pleasure of the governor. Because of the diplomatic character of this office, the director and staff will be exempt from the provisions of chapter 41.06 RCW. The director will be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The director may hire such personnel as may be necessary for the general administration of the office. To the extent permitted by law, state agencies may temporarily loan staff to the office of international relations and protocol to assist in carrying out the office's duties and responsibilities under this chapter. An arrangement to temporarily loan staff must have the approval of the staff members to be loaned and the directors of the office and the agencies involved in the loan. [1991 c 24 § 2.]

[Title 43 RCW—page 682]

43.290.020 Authority of office. The office of international relations and protocol may:

(1) Create temporary advisory committees as necessary to deal with specific international issues. Advisory committee representation may include external organizations such as the Seattle consular corps, world affairs councils, public ports, world trade organizations, private nonprofit organizations dealing with international education or international environmental issues, organizations concerned with international understanding, businesses with experience in international relations, or other organizations deemed appropriate by the director.

(2) Accept or request grants or gifts from citizens and other private sources to be used to defray the costs of appropriate hosting of foreign dignitaries, including appropriate gift-giving and reciprocal gift-giving, or other activities of the office. The office shall open and maintain a bank account into which it shall deposit all money received under this subsection. Such money and the interest accruing thereon shall not constitute public funds, shall be kept segregated and apart from funds of the state, and shall not be subject to appropriation or allotment by the state or subject to chapter 43.88 RCW. [1991 c 24 § 4.]

43.290.900 Effective date—1991 c 24. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991. [1991 c 24 § 15.]

Chapter 43.300 RCW

DEPARTMENT OF FISH AND WILDLIFE

Sections

- 43.300.005 Purpose.
- 43.300.010 Department created—Transfer of powers, duties, and functions.
- 43.300.020 Definitions.
- 43.300.040 Director's duties.
- 43.300.050 Exempt positions.
- 43.300.060 Enforcement in accordance with RCW 43.05.100 and 43.05.110.
- 43.300.070 Exchange of tidelands with private or public landowners.
- 43.300.080 Cost-reimbursement agreements.
- 43.300.090 Notification requirements.
- 43.300.900 Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79.
- 43.300.901 Severability—1993 sp.s. c 2.

Marine resources committees: Chapter 36.125 RCW.

43.300.005 Purpose. Perpetuation of fish and wildlife in Washington requires clear, efficient, streamlined, scientific, management from a single state fish and wildlife agency. Such a consolidation will focus existing funds for the greatest protection of species and stocks. It will bring combined resources to bear on securing, managing, and enhancing habitats. It will simplify licensing, amplify research, increase field staff, avoid duplication, and magnify enforcement of laws and rules. It will provide all fishers, hunters, and observers of fish and wildlife with a single source of consistent policies, procedures, and access. [1993 sp.s. c 2 § 1.]

43.300.010 Department created—Transfer of powers, duties, and functions. There is hereby created a depart-

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ment of state government to be known as the department of fish and wildlife. The department shall be vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law. All powers, duties, and functions of the department of fisheries and the department of wildlife are transferred to the department of fish and wildlife. All references in the Revised Code of Washington to the director or the department of fisheries or the director or department of wildlife shall be construed to mean the director or department of fish and wildlife. [1993 sp.s. c 2 § 2.]

43.300.020 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "Department" means the department of fish and wildlife.
- (2) "Director" means the director of fish and wildlife.
- (3) "Commission" means the fish and wildlife commission. [1993 sp.s. c 2 § 3.]

43.300.040 Director's duties. In addition to other powers and duties granted or transferred to the director, the commission may delegate to the director any of the powers and duties vested in the commission. [1996 c 267 § 33; 1993 sp.s. c 2 § 5.]

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

43.300.050 Exempt positions. The director shall appoint such deputy directors, assistant directors, and up to seven special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW. [1993 sp.s. c 2 § 6.]

43.300.060 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the director or the department shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 627.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

43.300.070 Exchange of tidelands with private or public landowners. (1) The department of fish and wildlife may exchange the tidelands and shorelands it manages with private or public landowners if the exchange is in the public interest.

(2) As used in this section, an exchange of tidelands and shorelands is in the public interest if the exchange would provide significant fish and wildlife habitat or public access to the state's waterways. [1997 c 209 § 3.]

Finding—1997 c 209: "The legislature finds that the department of fish and wildlife manages a large amount of public land and that the department may have opportunities to improve the quality of its land holdings by participating in an exchange with private landowners or other public entities. The legislature declares that it is in the public interest to allow the department to exchange land with private landowners or with public entities if the exchange would provide significant fish and wildlife habitat or public access to the state's waterways." [1997 c 209 § 1.]

Additional notes found at www.leg.wa.gov

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43.300.080 Cost-reimbursement agreements. (1) The department may enter into a written cost-reimbursement agreement with a permit applicant or project proponent to recover from the applicant or proponent the reasonable costs incurred by the department in carrying out the requirements of this chapter, as well as the requirements of other relevant laws, as they relate to permit coordination, environmental review, application review, technical studies, and permit processing.

(2) The cost-reimbursement agreement shall identify the tasks and costs for work to be conducted under the agreement. The agreement must include a schedule that states:

- (a) The estimated number of weeks for initial review of the permit application;
- (b) The estimated number of revision cycles;
- (c) The estimated number of weeks for review of subsequent revision submittals;
- (d) The estimated number of billable hours of employee time;
- (e) The rate per hour; and
- (f) A date for revision of the agreement if necessary.

(3) The written cost-reimbursement agreement shall be negotiated with the permit applicant or project proponent. Under the provisions of a cost-reimbursement agreement, funds from the applicant shall be used by the department to contract with an independent consultant to carry out the work covered by the cost-reimbursement agreement. The department may also use funds provided under a cost-reimbursement agreement to hire temporary employees, to assign current staff to review the work of the consultant, to provide necessary technical assistance when an independent consultant with comparable technical skills is unavailable, and to recover reasonable and necessary direct and indirect costs that arise from processing the permit. The department shall, in developing the agreement, ensure that final decisions that involve policy matters are made by the agency and not by the consultant. The department shall make an estimate of the number of permanent staff hours to process the permits, and shall contract with consultants or hire temporary employees to replace the time and functions committed by these permanent staff to the project. The billing process shall provide for accurate time and cost accounting and may include a billing cycle that provides for progress payments.

(4) The cost-reimbursement agreement must not negatively impact the processing of other permit applications. In order to maintain permit processing capacity, the agency may hire outside consultants, temporary employees, or make internal administrative changes. Consultants or temporary employees hired as part of a cost-reimbursement agreement or to maintain agency capacity are hired as agents of the state not of the permit applicant. The restrictions of chapter 42.52 RCW apply to any cost-reimbursement agreement, and to any person hired as a result of a cost-reimbursement agreement. [2009 c 97 § 11; 2007 c 94 § 13; 2003 c 70 § 4; 2000 c 251 § 5.]

Intent—Captions not law—Effective date—2000 c 251: See notes following RCW 43.21A.690.

43.300.090 Notification requirements. Actions under this chapter are subject to the notification requirements of RCW 43.17.400. [2007 c 62 § 6.]

[Title 43 RCW—page 683]

Finding—Intent—Severability—2007 c 62: See notes following RCW 43.17.400.

43.300.900 Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79. Sections 1 through 6, 8 through 59, and 61 through 79, chapter 2, Laws of 1993 sp. sess. shall take effect March 1, 1994. [1994 c 6 § 4; 1993 sp.s. c 2 § 102.]

43.300.901 Severability—1993 sp.s. c 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 sp.s. c 2 § 106.]

Chapter 43.310 RCW YOUTH GANGS

Sections

43.310.005	Finding.
43.310.007	Intent—Prevention and intervention pilot programs.
43.310.010	Definitions.
43.310.020	Gang risk prevention and intervention pilot programs—Request for proposals.
43.310.030	Gang risk prevention and intervention pilot programs—Scope.
43.310.040	Cultural awareness retreats.

43.310.005 Finding. The legislature finds and declares that:

(1) The number of youth who are members and associates of gangs and commit gang violence has significantly increased throughout the entire greater Puget Sound, Spokane, and other areas of the state;

(2) Youth gang violence has caused a tremendous strain on the progress of the communities impacted. The loss of life, property, and positive opportunity for growth caused by youth gang violence has reached intolerable levels. Increased youth gang activity has seriously strained the budgets of many local jurisdictions, as well as threatened the ability of the educational system to educate our youth;

(3) Among youth gang members the high school dropout rate is significantly higher than among nongang members. Since the economic future of our state depends on a highly educated and skilled workforce, this high school dropout rate threatens the economic welfare of our future workforce, as well as the future economic growth of our state;

(4) The unemployment rate among youth gang members is higher than that among the general youth population. The unusual unemployment rate, lack of education and skills, and the increased criminal activity could significantly impact our future prison population;

(5) Most youth gangs are subcultural. This implies that gangs provide the nurturing, discipline, and guidance to gang youth and potential gang youth that is generally provided by communities and other social systems. The subcultural designation means that youth gang participation and violence can be effectively reduced in Washington communities and schools through the involvement of community, educational, criminal justice, and employment systems working in a unified manner with parents and individuals who have a first-hand knowledge of youth gangs and at-risk youth; and

(6) A strong unified effort among parents and community, educational, criminal justice, and employment systems

would facilitate: (a) The learning process; (b) the control and reduction of gang violence; (c) the prevention of youth joining negative gangs; and (d) the intervention into youth gangs. [1993 c 497 § 1.]

43.310.007 Intent—Prevention and intervention pilot programs. It is the intent of the legislature to cause the development of positive prevention and intervention pilot programs for elementary and secondary age youth through cooperation between individual schools, local organizations, and government. It is also the intent of the legislature that if the prevention and intervention pilot programs are determined to be effective in reducing problems associated with youth gang violence, that other counties in the state be eligible to receive special state funding to establish similar positive prevention and intervention programs. [1993 c 497 § 2.]

43.310.010 Definitions. Unless the context otherwise requires, the following definitions shall apply throughout RCW 43.310.005 through 43.310.040 and *sections 5 and 7 through 10, chapter 497, Laws of 1993:

(1) "School" means any public school within a school district any portion of which is in a county with a population of over one hundred ninety thousand.

(2) "Community organization" means any organization recognized by a city or county as such, as well as private, nonprofit organizations registered with the secretary of state.

(3) "Gang risk prevention and intervention pilot program" means a community-based positive prevention and intervention program for gang members, potential gang members, at-risk youth, and elementary through high school-aged youth directed at all of the following:

(a) Reducing the probability of youth involvement in gang activities and consequent violence.

(b) Establishing ties, at an early age, between youth and community organizations.

(c) Committing local business and community resources to positive programming for youth.

(d) Committing state resources to assist in creating the gang risk prevention and intervention pilot programs.

(4) "Cultural awareness retreat" means a program that temporarily relocates at-risk youth or gang members and their parents from their usual social environment to a different social environment, with the specific purpose of having them performing activities which will enhance or increase their positive behavior and potential life successes. [1993 c 497 § 3.]

***Reviser's note:** Sections 5 and 7 through 10, chapter 497, Laws of 1993 were vetoed by the governor.

43.310.020 Gang risk prevention and intervention pilot programs—Request for proposals. (1) The *department of community, trade, and economic development may recommend existing programs or contract with either school districts or community organizations, or both, through a request for proposal process for the development, administration, and implementation in the county of community-based gang risk prevention and intervention pilot programs.

(2) Proposals by the school district for gang risk prevention and intervention pilot program grant funding shall begin

with school years no sooner than the 1994-95 session, and last for a duration of two years.

(3) The school district or community organization proposal shall include:

(a) A description of the program goals, activities, and curriculum. The description of the program goals shall include a list of measurable objectives for the purpose of evaluation by the *department of community, trade, and economic development. To the extent possible, proposals shall contain empirical data on current problems, such as drop-out rates and occurrences of violence on and off campus by school-age individuals.

(b) A description of the individual school or schools and the geographic area to be affected by the program.

(c) A demonstration of broad-based support for the program from business and community organizations.

(d) A clear description of the experience, expertise, and other qualifications of the community organizations to conduct an effective prevention and intervention program in cooperation with a school or a group of schools.

(e) A proposed budget for expenditure of the grant.

(4) Grants awarded under this section may not be used for the administrative costs of the school district or the individual school. [1995 c 399 § 116; 1993 c 497 § 4.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.310.030 Gang risk prevention and intervention pilot programs—Scope. Gang risk prevention and intervention pilot programs shall include, but are not limited to:

(1) Counseling for targeted at-risk students, parents, and families, individually and collectively.

(2) Exposure to positive sports and cultural activities, promoting affiliations between youth and the local community.

(3) Job training, which may include apprentice programs in coordination with local businesses, job skills development at the school, or information about vocational opportunities in the community.

(4) Positive interaction with local law enforcement personnel.

(5) The use of local organizations to provide job search training skills.

(6) Cultural awareness retreats.

(7) The use of specified state resources, as requested.

(8) Full service schools under *section 9 of this act.

(9) Community service such as volunteerism and citizenship. [1993 c 497 § 6.]

*Reviser's note: Section 9, chapter 497, Laws of 1993 was vetoed by the governor.

43.310.040 Cultural awareness retreats. Cultural awareness retreats shall include but are not limited to the following programs:

(1) To develop positive attitudes and self-esteem.

(2) To develop youth decision-making ability.

(3) To assist with career development and educational development.

(4) To help develop respect for the community, and ethnic origin. [1993 c 497 § 11.]

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Chapter 43.320 RCW

DEPARTMENT OF FINANCIAL INSTITUTIONS

Sections

43.320.005	Finding.
43.320.007	Regulatory reform—Findings—Construction—1994 c 256.
43.320.010	Department created.
43.320.011	Department of general administration and department of licensing powers and duties transferred.
43.320.012	Department of general administration and department of licensing equipment, records, funds transferred.
43.320.013	Department of general administration and department of licensing civil service employees transferred.
43.320.014	Department of general administration or department of licensing rules, business, contracts, and obligations continued.
43.320.015	Department of general administration and department of licensing—Validity of acts.
43.320.016	Apportionment of budgeted funds.
43.320.017	Collective bargaining agreements.
43.320.020	Director—Salary—Powers and duties—Examiners, assistants, personnel.
43.320.030	Director—Qualifications—Conflicts of interest.
43.320.040	Director's authority to adopt rules.
43.320.045	Director's duties—Dissemination of information.
43.320.050	Assistant directors—Divisions—"FDIC" defined.
43.320.060	Deputization of assistant to exercise powers and duties of director.
43.320.070	Oath of examiners—Liability for acts performed in good faith.
43.320.080	Director to maintain office in Olympia—Record of receipts and disbursements—Deposit of funds.
43.320.090	Borrowing money by director, deputy, or employee—Penalty.
43.320.100	Annual report—Contents.
43.320.110	Financial services regulation fund.
43.320.115	Securities prosecution fund.
43.320.140	Mortgage lending fraud prosecution account—Created.
43.320.150	Financial literacy and education programs.
43.320.1501	Financial literacy—Report to governor and legislature.
43.320.160	Prevent or reduce owner-occupied foreclosure program—Report.
43.320.165	Prevent or reduce owner-occupied foreclosure program account.
43.320.170	Prevent or reduce owner-occupied foreclosure program—Households served.
43.320.900	Effective date—1993 c 472.
43.320.901	Implementation—1993 c 472.

43.320.005 Finding. The legislature finds that, given the overlap of powers and products in the companies regulated, the consolidation of the agencies regulating financial institutions and securities into one department will better serve the public interest through more effective use of staff expertise. Therefore, for the convenience of administration and the centralization of control and the more effective use of state resources and expertise, the state desires to combine the regulation of financial institutions and securities into one department. [1993 c 472 § 1.]

43.320.007 Regulatory reform—Findings—Construction—1994 c 256. (1) The legislature finds that the financial services industry is experiencing a period of rapid change with the development and delivery of new products and services and advances in technology.

(2) The legislature further finds it in the public interest to strengthen the regulation, supervision, and examination of business entities furnishing financial services to the people of this state and that this can be accomplished by streamlining and focusing regulation to reduce costs, increase effectiveness, and foster efficiency by eliminating requirements that are not necessary for the protection of the public.

(3) The provisions of chapter 256, Laws of 1994 should not be construed to limit the ability of the director of financial institutions to implement prudent regulation, prevent unsafe, unsound, and fraudulent practices, and undertake necessary enforcement actions to protect the public and promote the public interest. [1994 c 256 § 1.]

43.320.010 Department created. A state department of financial institutions, headed by the director of financial institutions, is created. The department shall be organized and operated in a manner that to the fullest extent permissible under applicable law protects the public interest, protects the safety and soundness of depository institutions and entities under the jurisdiction of the department, ensures access to the regulatory process for all concerned parties, and protects the interests of investors. The department of financial institutions shall be structured to reflect the unique differences in the types of institutions and areas it regulates. [1993 c 472 § 2.]

43.320.011 Department of general administration and department of licensing powers and duties transferred. (1) All powers, duties, and functions of the department of general administration under Titles 30, 31, 32, 33, and 43 RCW and any other title pertaining to duties relating to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, and other similar institutions are transferred to the department of financial institutions. All references to the director of general administration, supervisor of banking, or the supervisor of savings and loan associations in the Revised Code of Washington are construed to mean the director of the department of financial institutions when referring to the functions transferred in this section. All references to the department of general administration in the Revised Code of Washington are construed to mean the department of financial institutions when referring to the functions transferred in this subsection.

(2) All powers, duties, and functions of the department of licensing under chapters 18.44, 19.100, 19.110, 21.20, 21.30, and 48.18A RCW and any other statute pertaining to the regulation under the chapters listed in this subsection of escrow agents, securities, franchises, business opportunities, commodities, and any other speculative investments are transferred to the department of financial institutions. All references to the director or department of licensing in the Revised Code of Washington are construed to mean the director or department of financial institutions when referring to the functions transferred in this subsection. [1995 c 238 § 6; 1993 c 472 § 6.]

Additional notes found at www.leg.wa.gov

43.320.012 Department of general administration and department of licensing equipment, records, funds transferred. All reports, documents, surveys, books, records, files, papers, or other written or electronically stored material in the possession of the department of general administration or the department of licensing and pertaining to the powers, functions, and duties transferred by RCW 43.320.011 shall be delivered to the custody of the department of financial institutions. All cabinets, furniture, office

equipment, motor vehicles, and other tangible property purchased by the division of banking and the division of savings and loan in carrying out the powers, functions, and duties transferred by RCW 43.320.011 shall be transferred to the department of financial institutions. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of licensing in carrying out the powers, functions, and duties transferred by RCW 43.320.011 shall be made available to the department of financial institutions. All funds, credits, or other assets held by the department of general administration or the department of licensing in connection with the powers, functions, and duties transferred by RCW 43.320.011 shall be assigned to the department of financial institutions.

Any appropriations made to the department of general administration or the department of licensing for carrying out the powers, functions, and duties transferred by RCW 43.320.011 shall, on October 1, 1993, be transferred and credited to the department of financial institutions.

If a dispute arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned. [1993 c 472 § 7.]

43.320.013 Department of general administration and department of licensing civil service employees transferred. All employees classified under chapter 41.06 RCW, the state civil service law, who are employees of the department of general administration or the department of licensing engaged in performing the powers, functions, and duties transferred by RCW 43.320.011, except those under chapter 18.44 RCW, are transferred to the department of financial institutions. All such employees are assigned to the department of financial institutions to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service. [1995 c 238 § 7; 1993 c 472 § 9.]

Additional notes found at www.leg.wa.gov

43.320.014 Department of general administration or department of licensing rules, business, contracts, and obligations continued. All rules and all pending business before the department of general administration or the department of licensing pertaining to the powers, functions, and duties transferred by RCW 43.320.011 shall be continued and acted upon by the department of financial institutions. All existing contracts and obligations shall remain in full force and shall be performed by the department of financial institutions. [1993 c 472 § 10.]

43.320.015 Department of general administration and department of licensing—Validity of acts. The transfer of the powers, duties, functions, and personnel of the department of general administration or the department of licensing under RCW 43.320.011 through 43.320.014 does

not affect the validity of any act performed by such an employee before October 1, 1993. [1993 c 472 § 11.]

43.320.016 Apportionment of budgeted funds. If apportionments of budgeted funds are required because of the transfers directed by RCW 43.320.011 through 43.320.015, the director of financial management shall certify the apportionments to the agencies affected, to the state auditor, and to the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification. [1993 c 472 § 12.]

43.320.017 Collective bargaining agreements. Nothing contained in RCW 43.320.011 through 43.320.015 may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the expiration date of the current agreement or until the bargaining unit has been modified by action of the *personnel board as provided by law. [1993 c 472 § 13.]

*Reviser's note: Powers, duties, and functions of the higher education personnel board and the state personnel board were transferred to the Washington personnel resources board by 1993 c 281, effective July 1, 1994.

43.320.020 Director—Salary—Powers and duties—Examiners, assistants, personnel. The director of financial institutions shall be appointed by the governor and shall exercise all powers and perform all of the duties and functions transferred under RCW 43.320.011, and such other powers and duties as may be authorized by law. The director may deputize, appoint, and employ examiners and other such assistants and personnel as may be necessary to carry on the work of the department. The director of financial institutions shall receive a salary in an amount fixed by the governor. [1993 c 472 § 3.]

43.320.030 Director—Qualifications—Conflicts of interest. A person is not eligible for appointment as director of financial institutions unless he or she is, and for the last two years before his or her appointment has been, a citizen of the United States. A person is not eligible for appointment as director of financial institutions if he or she has an interest at the time of appointment, as a director, trustee, officer, or stockholder in any bank, savings bank, savings and loan association, credit union, consumer loan company, trust company, securities broker-dealer or investment advisor, or other institution regulated by the department. [1993 c 472 § 4.]

43.320.040 Director's authority to adopt rules. The director of financial institutions may adopt any rules, under chapter 34.05 RCW, necessary to implement the powers and duties of the director under this chapter. [1993 c 472 § 5.]

43.320.045 Director's duties—Dissemination of information. The director of financial institutions or the director's designee shall:

(1) Disseminate information to the public concerning the laws regulating financial institutions of this state; and

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(2) Provide assistance to members of the public in obtaining information about financial products. [2008 c 3 § 1.]

Effective date—2008 c 3: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 11, 2008]." [2008 c 3 § 5.]

43.320.050 Assistant directors—Divisions—"FDIC" defined. The director of financial institutions may appoint assistant directors for each of the divisions of the department and delegate to them the power to perform any act or duty conferred upon the director. The director is responsible for the official acts of these assistant directors.

The department of financial institutions shall consist of at least the following four divisions: The division of FDIC insured institutions, with regulatory authority over all state-chartered FDIC insured institutions; the division of credit unions, with regulatory authority over all state-chartered credit unions; the division of consumer affairs, with regulatory authority over state-licensed nondepository lending institutions and other regulated entities; and the division of securities, with regulatory authority over securities, franchises, business opportunities, and commodities. The director of financial institutions is granted broad administrative authority to add additional responsibilities to these divisions as necessary and consistent with applicable law.

For purposes of this section, "FDIC" means the Federal Deposit Insurance Corporation. [1993 c 472 § 8.]

43.320.060 Deputization of assistant to exercise powers and duties of director. The director of financial institutions shall appoint, deputize, and employ examiners and such other assistants and personnel as may be necessary to carry on the work of the department of financial institutions.

In the event of the director's absence the director shall have the power to deputize one of the assistants of the director to exercise all the powers and perform all the duties prescribed by law with respect to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, securities, franchises, business opportunities, commodities, escrow agents, and other similar institutions or areas that are performed by the director so long as the director is absent: PROVIDED, That such deputized assistant shall not have the power to approve or disapprove new charters, licenses, branches, and satellite facilities, unless such action has received the prior written approval of the director. Any person so deputized shall possess the same qualifications as those set out in this section for the director. [1995 c 238 § 8; 1993 c 472 § 20; 1977 ex.s. c 185 § 1; 1965 c 8 § 43.19.020. Prior: 1955 c 285 § 5; prior: (i) 1919 c 209 § 2; 1917 c 80 § 2; RRS § 3209. (ii) 1945 c 123 § 1; 1935 c 176 § 12; Rem. Supp. 1945 § 10786-11. Formerly RCW 43.19.020.]

Additional notes found at www.leg.wa.gov

43.320.070 Oath of examiners—Liability for acts performed in good faith. Before entering office each examiner shall take and subscribe an oath faithfully to discharge the duties of the office.

Oaths shall be filed with the secretary of state.

Neither the director of financial institutions, any deputized assistant of the director, nor any examiner or employee shall be personally liable for any act done in good faith in the performance of his or her duties. [1993 c 472 § 21; 1977 ex.s. c 270 § 8; 1975 c 40 § 7; 1965 c 8 § 43.19.030. Prior: 1943 c 217 § 1; 1919 c 209 § 3; 1917 c 80 § 3; Rem. Supp. 1943 § 3210. Formerly RCW 43.19.030.]

Powers and duties of director of general administration as to official bonds:
RCW 43.41.360.

Additional notes found at www.leg.wa.gov

43.320.080 Director to maintain office in Olympia—Record of receipts and disbursements—Deposit of funds. The director of financial institutions shall maintain an office at the state capitol, but may with the consent of the governor also maintain branch offices at other convenient business centers in this state. The director shall keep books of record of all moneys received or disbursed by the director into or from the financial services regulation fund, and any other accounts maintained by the department of financial institutions. [2001 c 177 § 1; 1993 c 472 § 22; 1965 c 8 § 43.19.050. Prior: 1917 c 80 § 4; RRS § 3211. Formerly RCW 43.19.050.]

Effective date—2001 c 177: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 177 § 16.]

43.320.090 Borrowing money by director, deputy, or employee—Penalty. (1) It shall be unlawful for the director of financial institutions, any deputized assistant of the director, or any employee of the department of financial institutions to borrow money from any bank, consumer loan company, credit union, foreign bank branch, savings bank, savings and loan association, or trust company or department, securities broker-dealer or investment advisor, or similar lending institution under the department's direct jurisdiction unless the extension of credit:

(a) Is made on substantially the same terms (including interest rates and collateral) as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the financial institution with other persons that are not employed by either the department or the institution; and

(b) Does not involve more than the normal risk of repayment or present other unfavorable features.

(2) The director of the office of financial management shall adopt rules, policies, and procedures interpreting and implementing this section.

(3) Every person who knowingly violates this section shall forfeit his or her office or employment and be guilty of a gross misdemeanor. [1993 c 472 § 23; 1965 c 8 § 43.19.080. Prior: 1917 c 80 § 11; RRS § 3218. Formerly RCW 43.19.080.]

43.320.100 Annual report—Contents. The director of financial institutions shall file in his or her office all reports required to be made to the director, prepare and furnish to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies,

check cashers and sellers, and trust companies and departments blank forms for such reports as are required of them, and, beginning in the 2009-2011 fiscal biennium and each biennium thereafter, make a report to the governor showing:

(1) A summary of the conditions of the banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, and trust companies and departments at the date of their last report; and

(2) A list of those organized or closed during the year.

The director may publish such other statements, reports, and pamphlets as he or she deems advisable. [2009 c 518 § 11; 1993 c 472 § 24; 1977 c 75 § 43; 1965 c 8 § 43.19.090. Prior: 1917 c 80 § 13; RRS § 3220. Formerly RCW 43.19.090.]

43.320.110 Financial services regulation fund. There is created a local fund known as the "financial services regulation fund" which shall consist of all moneys received by the divisions of the department of financial institutions, except for the division of securities which shall deposit thirteen percent of all moneys received, except as provided in RCW 43.320.115, and which shall be used for the purchase of supplies and necessary equipment; the payment of salaries, wages, and utilities; the establishment of reserves; and other incidental costs required for the proper regulation of individuals and entities subject to regulation by the department. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

During the 2009-2011 fiscal biennium, the legislature may transfer from the financial services regulation fund to the state general fund such amounts as reflect the excess fund balance of the fund. [2010 1st sp.s. c 37 § 934; 2005 c 518 § 932. Prior: 2003 1st sp.s. c 25 § 921; 2003 c 288 § 1; 2002 c 371 § 912; 2001 2nd sp.s. c 7 § 911; 2001 c 177 § 2; 1995 c 238 § 9; 1993 c 472 § 25; 1981 c 241 § 1. Formerly RCW 43.19.095.]

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Severability—Effective date—2005 c 518: See notes following RCW 28A.500.030.

Severability—Effective date—2003 1st sp.s. c 25: See notes following RCW 19.28.351.

Severability—Effective date—2002 c 371: See notes following RCW 9.46.100.

Severability—2001 2nd sp.s. c 7: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2001 2nd sp.s. c 7 § 923.]

Effective date—2001 2nd sp.s. c 7: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 26, 2001], except for section 911 of this act which takes effect July 1, 2001." [2001 2nd sp.s. c 7 § 924.]

Effective date—2001 c 177: See note following RCW 43.320.080.

Additional notes found at www.leg.wa.gov

43.320.115 Securities prosecution fund. (1) The securities prosecution fund is created in the custody of the state treasurer and shall consist of all fines received by the division of securities under RCW 21.20.400(2), 21.20.110, and 21.20.395 and all undistributed funds from orders of disgorgement and restitution under RCW 21.20.110(8) and 21.20.390(6). No appropriation is required to permit expenditures from this fund, but the account is subject to allotment procedures under chapter 43.88 RCW.

(2) Expenditures from this fund may be used solely for administering the fund and for payment of costs, expenses, and charges incurred in the preparation, initiation, and prosecution of criminal charges for violations of chapters 21.20, 21.30, 19.100, and 19.110 RCW. Only the director or the director's designee may authorize expenditures from the fund.

(3) Applications for fund expenditures must be submitted by the attorney general or the proper prosecuting attorney to the director. The application must clearly identify the alleged criminal violations identified in subsection (2) of this section and indicate the purpose for which the funds will be used. The application must also certify that any funds received will be expended only for the purpose requested. Funding requests must be approved by the director prior to any expenditure being incurred by the requesting attorney general or prosecuting attorney. At the conclusion of the prosecution, the attorney general or prosecuting attorney shall provide the director with an accounting of fund expenditures, a summary of the case, and certify his or her compliance with any rules adopted by the director relating to the administration of the fund.

(4) If the balance of the securities prosecution fund reaches three hundred fifty thousand dollars, all fines received by the division of securities under RCW 21.20.400(2), 21.20.110, and 21.20.395 and all undistributed funds from orders of disgorgement and restitution under RCW 21.20.110(8) and 21.20.390(6) shall be deposited in the financial services regulation fund until such time as the balance in the fund falls below three hundred fifty thousand dollars, at which time the fines received by the division of securities under RCW 21.20.400(2), 21.20.110, and 21.20.395 and all undistributed funds from orders of disgorgement and restitution under RCW 21.20.110(8) and 21.20.390(6) shall be deposited to the securities prosecution fund until balance in the fund once again reaches three hundred fifty thousand dollars. [2003 c 288 § 2.]

43.320.140 Mortgage lending fraud prosecution account—Created. (Expires June 30, 2011.) (1) The mortgage lending fraud prosecution account is created in the custody of the state treasurer. All receipts from the surcharge imposed in RCW 36.22.181, except those retained by the county auditor for administration, must be deposited into the account. Except as otherwise provided in this section, expenditures from the account may be used only for criminal prosecution of fraudulent activities related to mortgage lending fraud crimes. Only the director of the department of financial institutions or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2010 Ed.)

(2) This section expires June 30, 2011. [2006 c 21 § 2; 2003 c 289 § 2.]

43.320.150 Financial literacy and education programs. The director of financial institutions or the director's designee may establish, administer, and implement financial literacy and education programs, including but not limited to:

(1) Education and outreach programs that assist Washington citizens of all ages in understanding saving, investing, and budgeting, and other skills necessary to obtain individual financial independence, fiscal responsibility, and financial management skills.

(2) Counseling, marketing, and outreach programs regarding residential mortgage transactions, nontraditional or subprime mortgages, predatory lending practices, or other financial products or practices in the marketplace relating to homeownership.

The department may deliver the programs in subsections (1) and (2) of this section using grants, contracts, or interagency agreements with state and local governments and other nongovernmental organizations as necessary. The department may coordinate these programs with ongoing efforts by other public and private sector entities to maximize the programs' effectiveness. [2008 c 3 § 2.]

Effective date—2008 c 3: See note following RCW 43.320.045.

43.320.1501 Financial literacy—Report to governor and legislature. The director or his or her designee shall convene an interagency work group to identify current state funded efforts to support financial literacy, assess whether there are opportunities to create a centralized location of information regarding these existing state efforts, and to identify whether there are opportunities for expanding partnerships with other community entities also providing financial literacy services. A report of the findings and recommendations of this interagency work group shall be due to the governor and the appropriate committees of the legislature by December 1, 2008. [2008 c 3 § 3.]

Effective date—2008 c 3: See note following RCW 43.320.045.

43.320.160 Prevent or reduce owner-occupied foreclosure program—Report. (Effective until June 30, 2011.)

(1) The prevent or reduce owner-occupied foreclosure program is created in the department to assist borrowers facing foreclosure in achieving work-outs, loan modifications, or other results that keep them in their homes. The borrowers are households, families, and individuals who are residents of Washington state, with an emphasis on borrowers with incomes up to one hundred forty percent of median income level of the county in which the borrower resides.

(2) The department shall enter into an interagency agreement with the Washington state housing finance commission to implement and administer this program with moneys from the account created in RCW 43.320.165. The Washington state housing finance commission will request funds from the department as needed to implement and operate the program.

(3) The commission shall, under terms and conditions to be determined by the commission, in consultation with the department, assist homeowners who are facing foreclosure in achieving work-outs, loan modifications, or other results that

keep them in their homes. Moneys may also be used for outreach activities to raise awareness of this program; creating and maintaining a pool of volunteers consisting of attorneys, accountants, banking professionals, mortgage brokers, housing counselors, and other relevant professionals who participate in the program as needed and without compensation to provide advice and representation to the borrower in achieving work-outs, loan modifications, or other results that keep them in their homes; and administering assignments of volunteers to borrowers in the most productive manner. Not more than four percent of the total appropriation for this program may be used for administrative expenses of the department and the commission.

(4) The commission must provide an annual report to the legislature at the end of each fiscal year of program operation. The report must include information determined by the prevent or reduce owner-occupied foreclosure oversight committee established under *section 4 of this act to be useful in assessing the success of the program. The commission shall establish and report upon performance measures, including measures to gauge program efficiency and effectiveness and customer satisfaction.

(5) For the purposes of this section, "work-out" means an agreement made between the borrower and the mortgagee or beneficiary under a deed of trust, or with the authorized agent of the mortgagee or beneficiary, that results in the borrower's continued residence in the mortgaged residential property. [2009 c 386 § 1; 2008 c 322 § 1.]

*Reviser's note: Section 4 of this act was vetoed.

43.320.165 Prevent or reduce owner-occupied foreclosure program account. (Effective until June 30, 2011.) The prevent or reduce owner-occupied foreclosure program account is created in the custody of the state treasurer. All receipts from the appropriation in section 4, chapter 322, Laws of 2008 as well as receipts from private contributions and all other sources that are specifically designated for the prevent or reduce owner-occupied foreclosure program must be deposited into the account. Expenditures from the account may be used solely for the purpose of preventing or reducing owner-occupied foreclosures through the prevent or reduce owner-occupied foreclosure program as described in RCW 43.320.160. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. During the 2009-2011 fiscal biennium, the legislature may transfer from the prevent or reduce owner-occupied foreclosure program account to the financial education public-private partnership account such amounts as reflect the excess fund balance of the account. [2010 1st sp.s. c 37 § 935; 2009 c 386 § 2; 2008 c 322 § 2.]

Expiration date—2010 1st sp.s. c 37 § 935: "Section 935 of this act expires June 30, 2011." [2010 1st sp.s. c 37 § 957.]

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

43.320.170 Prevent or reduce owner-occupied foreclosure program—Households served. (Effective until June 30, 2011.) The Washington state housing finance commission shall serve households, families, and individuals who

are residents of Washington state, with an emphasis on borrowers with incomes up to one hundred forty percent of the median income level of the county in which the borrower resides, through the prevent or reduce owner-occupied foreclosure program described in RCW 43.320.160 using state appropriated general funds in the prevent or reduce owner-occupied foreclosure program account created in RCW 43.320.165 and contributions from private and other sources. [2009 c 386 § 3; 2008 c 322 § 3.]

43.320.900 Effective date—1993 c 472. This act takes effect October 1, 1993. [1993 c 472 § 31.]

43.320.901 Implementation—1993 c 472. The directors of the department of general administration and the department of licensing shall take such steps as are necessary to ensure that this act is implemented on October 1, 1993. [1993 c 472 § 32.]

Chapter 43.325 RCW

ENERGY FREEDOM PROGRAM

Sections

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43.325.903	Part headings not law—2007 c 348.
43.325.904	Effective date—2007 c 348 §§ 205 and 301-307.

43.325.001 Findings—2006 c 171. (Expires June 30, 2016.) The legislature finds that:

(1) Washington's dependence on energy supplied from outside the state and volatile global energy markets makes its economy and citizens vulnerable to unpredictable and high energy prices;

(2) Washington's dependence on petroleum-based fuels increases energy costs for citizens and businesses;

(3) Diesel soot from diesel engines ranks as the highest toxic air pollutant in Washington, leading to hundreds of premature deaths and increasing rates of asthma and other lung diseases;

(4) The use of biodiesel results in significantly less air pollution than traditional diesel fuels;

(5) Improper disposal and treatment of organic waste from farms and livestock operations can have a significant negative impact on water quality;

(6) Washington has abundant supplies of organic wastes from farms that can be used for energy production and abundant farmland where crops could be grown to supplement or supplant petroleum-based fuels;

(7) The use of energy and fuel derived from these sources can help citizens and businesses conserve energy and reduce the use of petroleum-based fuels, would improve air and water quality in Washington, reduce environmental risks from farm wastes, create new markets for farm products, and provide new industries and jobs for Washington citizens;

(8) The bioenergy industry is a new and developing industry that is, in part, limited by the availability of capital for the construction of facilities for converting farm and forest products into energy and fuels;

(9) Instead of leaving our economy at the mercy of global events, and the policies of foreign nations, Washington state should adopt a policy of energy independence; and

(10) The energy freedom program is meant to lead Washington state towards energy independence.

Therefore, the legislature finds that it is in the public interest to encourage the rapid adoption and use of bioenergy, to develop a viable bioenergy industry within Washington state, to promote public research and development in bioenergy sources and markets, and to support a viable agriculture industry to grow bioenergy crops. To accomplish this, the energy freedom program is established to promote public research and development in bioenergy, and to stimulate the construction of facilities in Washington to generate energy from farm sources or convert organic matter into fuels. [2006 c 171 § 1. Formerly RCW 15.110.005.]

43.325.005 Findings—2007 c 348. (1) The legislature finds that excessive dependence on fossil fuels jeopardizes Washington's economic security, environmental integrity, and public health. Accelerated development and use of clean fuels and clean vehicle technologies will reduce the drain on Washington's economy from importing fossil fuels. As fossil fuel prices rise, clean fuels and vehicles can save consumers money while promoting the development of a major, sustainable industry that provides good jobs and a new source of rural prosperity. In addition, clean fuels and vehicles protect public health by reducing toxic air and climate change emissions.

(2) The legislature also finds that climate change is expected to have significant impacts in the Pacific Northwest region in the near and long-term future. These impacts include: Increased temperatures, declining snowpack, more frequent heavy rainfall and flooding, receding glaciers, rising sea levels, increased risks to public health due to insect and rodent-borne diseases, declining salmon populations, and increased drought and risk of forest fires. The legislature recognizes the need at this time to continue to gather and analyze information related to climate protection. This analysis will allow prudent steps to be taken to avoid, mitigate, or respond to climate impacts and protect our communities.

(3) Finally, the legislature finds that to reduce fossil fuel dependence, build our clean energy economy, and reduce climate impacts, the state should develop policies and incentives that help businesses, consumers, and farmers gain greater access to affordable clean fuels and vehicles and to produce clean fuels in the state. These policies and incentives should include: Incentives for replacement of the most polluting diesel engines, especially in school buses; transitional incentives for development of the most promising in-state clean fuels and fuel feedstocks, including biodiesel

crops, ethanol from plant waste, and liquid natural gas from landfill or wastewater treatment gases; reduced fossil fuel consumption by state fleets; development of promising new technologies for displacing petroleum with electricity, such as "plug-in hybrids"; and impact analysis and emission accounting procedures that prepare Washington to respond and prosper as climate change impacts occur, and as policies and markets to reduce climate pollution are developed. [2007 c 348 § 1.]

43.325.010 Definitions. (Expires June 30, 2016.) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Alternative fuel" means all products or energy sources used to propel motor vehicles, other than conventional gasoline, diesel, or reformulated gasoline. "Alternative fuel" includes, but is not limited to, cellulose, liquefied petroleum gas, liquefied natural gas, compressed natural gas, bio-fuels, biodiesel fuel, E85 motor fuel, fuels containing seventy percent or more by volume of alcohol fuel, fuels that are derived from biomass, hydrogen fuel, anhydrous ammonia fuel, nonhazardous motor fuel, or electricity, excluding onboard electric generation.

(2) "Applicant" means the state and any political subdivision of the state, including port districts, counties, cities, towns, special purpose districts, and other municipal corporations or quasi-municipal corporations. "Applicant" may also include federally recognized tribes, state institutions of higher education with appropriate research capabilities, any organization described in section 501(c)(3) of the internal revenue code, and private entities that are eligible to receive federal funds.

(3) "Assistance" includes loans, leases, product purchases, or other forms of financial or technical assistance.

(4) "Biofuel" includes, but is not limited to, biodiesel, ethanol, and ethanol blend fuels and renewable liquid natural gas or liquid compressed natural gas made from biogas.

(5) "Biogas" includes waste gases derived from landfills and wastewater treatment plants and dairy and farm wastes.

(6) "Cellulose" means lignocellulosic, hemicellulosic, or other cellulosic matter that is available on a renewable or recurring basis, including dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fibers, animal wastes and other waste materials, and municipal solid waste.

(7) "Coordinator" means the person appointed by the director of the department of commerce.

(8) "Department" means the department of commerce.

(9) "Director" means the director of the department of commerce.

(10) "Energy efficiency improvement" means an installation or modification that is designed to reduce energy consumption. The term includes, but is not limited to: Insulation; storm windows and doors; automatic energy control systems; energy efficiency audits; heating, ventilating, or air conditioning and distribution system modifications or replacements in buildings or central plants; caulking and weather stripping; energy recovery systems; geothermal heat pumps; and day lighting systems.

(11) "Green highway zone" means an area in the state designated by the department that is within reasonable prox-

imity of state route number 5, state route number 90, and state route number 82.

(12) "Innovative energy technology" means, but is not limited to, the following: Smart grid or smart metering; biogas from landfills, wastewater treatment plants, anaerobic digesters, or other processes; wave or tidal power; fuel cells; high efficiency cogeneration; and energy storage systems.

(13) "Peer review committee" means a board, appointed by the director, that includes bioenergy specialists, energy conservation specialists, scientists, and individuals with specific recognized expertise.

(14) "Project" includes: (a) The construction of facilities, including the purchase of equipment, to convert farm products or wastes into electricity or gaseous or liquid fuels or other coproducts associated with such conversion; (b) clean energy projects identified by the clean energy leadership council, created in section 2, chapter 318, Laws of 2009; and (c) energy efficiency improvements, renewable energy improvements, or innovative energy technologies. These specifically include fixed or mobile facilities to generate electricity or methane from the anaerobic digestion of organic matter, and fixed or mobile facilities for extracting oils from canola, rape, mustard, and other oilseeds. "Project" may also include the construction of facilities associated with such conversion for the distribution and storage of such feedstocks and fuels. The definition of project does not apply to projects as described in RCW 43.325.020(5).

(15) "Renewable energy improvements" means a fixture, product, system, device, or interacting group of devices that produces energy from renewable resources. The term includes, but is not limited to: Photovoltaic systems; solar thermal systems; small wind systems; biomass systems; and geothermal systems.

(16) "Refueling project" means the construction of new alternative fuel refueling facilities, as well as upgrades and expansion of existing refueling facilities, that will enable these facilities to offer alternative fuels to the public.

(17) "Research and development project" means research and development, by an institution of higher education as defined in subsection (2) of this section, relating to:

(a) Bioenergy sources including but not limited to biomass and associated gases; or

(b) The development of markets for bioenergy coproducts. [2009 c 565 § 41; 2009 c 451 § 2; 2007 c 348 § 301; 2006 c 171 § 2. Formerly RCW 15.110.010.]

Reviser's note: (1) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(2) This section was amended by 2009 c 451 § 2 and by 2009 c 565 § 41, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration dates—2009 c 565 §§ 16 and 41: See note following RCW 43.330.300.

Expiration dates—2009 c 451 §§ 2, 3, 5, 6, and 7: "(1) Sections 2, 3, 5, and 6 of this act expire June 30, 2016.

(2) Section 7 of this act expires July 1, 2009." [2009 c 451 § 10.]

Effective date—2009 c 451: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 11, 2009]." [2009 c 451 § 11.]

Intent—2009 c 451: "The legislature intends to modify the energy freedom program and account in order to receive federal funds and other sources of funding. Also, the legislature intends to expand the mission of the energy

freedom program to accelerate energy efficiency improvements, renewable energy improvements, and deployment of innovative energy technologies. Additionally, the legislature intends to support, through the energy freedom program, research, demonstration, and commercialization of energy efficiency improvements, renewable energy improvements, and innovation energy technologies." [2009 c 451 § 1.]

43.325.020 Energy freedom program—Established. (Expires June 30, 2016.)

(1) The energy freedom program is established within the department. The director may establish policies and procedures necessary for processing, reviewing, and approving applications made under this chapter.

(2) When reviewing applications submitted under this program, the director shall consult with those agencies and other public entities having expertise and knowledge to assess the technical and business feasibility of the project and probability of success. These agencies may include, but are not limited to, Washington State University, the University of Washington, the department of ecology, the department of natural resources, the department of agriculture, the department of general administration, local clean air authorities, the Washington state conservation commission, and the clean energy leadership council created in section 2, chapter 318, Laws of 2009.

(3) Except as provided in subsections (4) and (5) of this section, the director, in cooperation with the department of agriculture, may approve an application only if the director finds:

(a) The project will convert farm products, wastes, cellulose, or biogas directly into electricity or biofuel or other coproducts associated with such conversion;

(b) The project demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace for use by Washington state citizens;

(c) The facility will produce long-term economic benefits to the state, a region of the state, or a particular community in the state;

(d) The project does not require continuing state support;

(e) The assistance will result in new jobs, job retention, or higher incomes for citizens of the state;

(f) The state is provided an option under the assistance agreement to purchase a portion of the fuel or feedstock to be produced by the project, exercisable by the department of general administration;

(g) The project will increase energy independence or diversity for the state;

(h) The project will use feedstocks produced in the state, if feasible, except this criterion does not apply to the construction of facilities used to distribute and store fuels that are produced from farm products or wastes;

(i) Any product produced by the project will be suitable for its intended use, will meet accepted national or state standards, and will be stored and distributed in a safe and environmentally sound manner;

(j) The application provides for adequate reporting or disclosure of financial and employment data to the director, and permits the director to require an annual or other periodic audit of the project books; and

(k) For research and development projects, the application has been independently reviewed by a peer review com-

mittee as defined in RCW 43.325.010 and the findings delivered to the director.

(4) When reviewing an application for a refueling project, the coordinator may award a grant or a loan to an applicant if the director finds:

(a) The project will offer alternative fuels to the motoring public;

(b) The project does not require continued state support;

(c) The project is located within a green highway zone as defined in RCW 43.325.010;

(d) The project will contribute towards an efficient and adequately spaced alternative fuel refueling network along the green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

(e) The project will result in increased access to alternative fueling infrastructure for the motoring public along the green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140.

(5) When reviewing an application for energy efficiency improvements, renewable energy improvements, or innovative energy technology, the director may award a grant or a loan to an applicant if the director finds:

(a) The project or program will result in increased access for the public, state and local governments, and businesses to energy efficiency improvements, renewable energy improvements, or innovative energy technologies;

(b) The project or program demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace for use by Washington state citizens;

(c) The project or program does not require continued state support; or

(d) The federal government has provided funds with a limited time frame for use for energy independence and security, energy efficiency, renewable energy, innovative energy technologies, or conservation.

(6)(a) The director may approve a project application for assistance under subsection (3) of this section up to five million dollars. In no circumstances shall this assistance constitute more than fifty percent of the total project cost.

(b) The director may approve a refueling project application for a grant or a loan under subsection (4) of this section up to fifty thousand dollars. In no circumstances shall a grant or a loan award constitute more than fifty percent of the total project cost.

(7) The director shall enter into agreements with approved applicants to fix the terms and rates of the assistance to minimize the costs to the applicants, and to encourage establishment of a viable bioenergy or biofuel industry, or a viable energy efficiency, renewable energy, or innovative energy technology industry. The agreement shall include provisions to protect the state's investment, including a requirement that a successful applicant enter into contracts with any partners that may be involved in the use of any assistance provided under this program, including services, facilities, infrastructure, or equipment. Contracts with any partners shall become part of the application record.

(8) The director may defer any payments for up to twenty-four months or until the project starts to receive revenue from operations, whichever is sooner. [2009 c 451 § 3;

(2010 Ed.)

2007 c 348 § 302; 2006 c 171 § 3. Formerly RCW 15.110.020.]

Expiration dates—2009 c 451 §§ 2, 3, 5, 6, and 7: See note following RCW 43.325.010.

Effective date—Intent—2009 c 451: See notes following RCW 43.325.010.

43.325.030 Coordinator—Duties. The director of the department shall appoint a coordinator that is responsible for:

(1) Managing, directing, inventorying, and coordinating state efforts to promote, develop, and encourage biofuel and energy efficiency, renewable energy, and innovative energy technology markets in Washington;

(2) Developing, coordinating, and overseeing the implementation of a plan, or series of plans, for the production, transport, distribution, and delivery of biofuels produced predominantly from recycled products or Washington feedstocks;

(3) Working with the departments of transportation and general administration, and other applicable state and local governmental entities and the private sector, to ensure the development of biofuel fueling stations for use by state and local governmental motor vehicle fleets, and to provide greater availability of public biofuel fueling stations for use by state and local governmental motor vehicle fleets;

(4) Coordinating with the Western Washington University alternative automobile program for opportunities to support new Washington state technology for conversion of fossil fuel fleets to biofuel, hybrid, or alternative fuel propulsion;

(5) Coordinating with the University of Washington's college of forest management and the Olympic natural resources center for the identification of barriers to using the state's forest resources for fuel production, including the economic and transportation barriers of physically bringing forest biomass to the market;

(6) Coordinating with the department of agriculture and Washington State University for the identification of other barriers for future biofuels development and development of strategies for furthering the penetration of the Washington state fossil fuel market with Washington produced biofuels, particularly among public entities. [2009 c 451 § 4; 2007 c 348 § 205.]

Effective date—Intent—2009 c 451: See notes following RCW 43.325.010.

43.325.040 Energy freedom account—Green energy incentive account—Energy recovery act account.

(Expires June 30, 2016.) (1) The energy freedom account is created in the state treasury. All receipts from appropriations made to the account and any loan payments of principal and interest derived from loans made under the energy freedom account must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for financial assistance for further funding for projects consistent with this chapter or otherwise authorized by the legislature.

(2) The green energy incentive account is created in the state treasury as a subaccount of the energy freedom account. All receipts from appropriations made to the green energy incentive account shall be deposited into the account, and

may be spent only after appropriation. Expenditures from the account may be used only for:

- (a) Refueling projects awarded under this chapter;
- (b) Pilot projects for plug-in hybrids, including grants provided for the electrification program set forth in RCW 43.325.110; and
- (c) Demonstration projects developed with state universities as defined in RCW 28B.10.016 and local governments that result in the design and building of a hydrogen vehicle fueling station.

(3)(a) The energy recovery act account is created in the state treasury. State and federal funds may be deposited into the account and any loan payments of principal and interest derived from loans made from the energy recovery act account must be deposited into the account. Moneys in the account may be spent only after appropriation.

(b) Expenditures from the account may be used only for loans, loan guarantees, and grants that encourage the establishment of innovative and sustainable industries for renewable energy and energy efficiency technology, including but not limited to:

- (i) Renewable energy projects or programs that require interim financing to complete project development and implementation;
- (ii) Companies with innovative, near-commercial or commercial, clean energy technology; and
- (iii) Energy efficiency technologies that have a viable repayment stream from reduced utility costs.

(c) The director shall establish policies and procedures for processing, reviewing, and approving applications for funding under this section. When developing these policies and procedures, the department must consider the clean energy leadership strategy developed under section 2, chapter 318, Laws of 2009.

(d) The director shall enter into agreements with approved applicants to fix the term and rates of funding provided from this account.

(e) The policies and procedures of this subsection (3) do not apply to assistance awarded for projects under RCW 43.325.020(3).

(4) Any state agency receiving funding from the energy freedom account is prohibited from retaining greater than three percent of any funding provided from the energy freedom account for administrative overhead or other deductions not directly associated with conducting the research, projects, or other end products that the funding is designed to produce unless this provision is waived in writing by the director.

(5) Any university, institute, or other entity that is not a state agency receiving funding from the energy freedom account is prohibited from retaining greater than fifteen percent of any funding provided from the energy freedom account for administrative overhead or other deductions not directly associated with conducting the research, projects, or other end products that the funding is designed to produce.

(6) Subsections (2), (4) and (5) of this section do not apply to assistance awarded for projects under RCW 43.325.020(3).

(7) During the 2009-2011 fiscal biennium, the legislature may transfer from the energy freedom account to the state general fund such amounts as reflect the excess fund balance of the account. [2009 c 564 § 942; 2009 c 451 § 5; 2007 c 348

§ 305; 2006 c 371 § 223; 2006 c 171 § 6. Formerly RCW 15.110.050.]

Reviser's note: This section was amended by 2009 c 451 § 5 and by 2009 c 564 § 942, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2009 c 564: See note following RCW 2.68.020.

Expiration dates—2009 c 451 §§ 2, 3, 5, 6, and 7: See note following RCW 43.325.010.

Effective date—Intent—2009 c 451: See notes following RCW 43.325.010.

Part headings not law—2006 c 371: "Part headings in this act are not any part of the law." [2006 c 371 § 240.]

Severability—2006 c 371: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2006 c 371 § 241.]

Effective date—2006 c 371: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2006]." [2006 c 371 § 242.]

43.325.050 Director's report. (Expires June 30, 2016.) The director shall report to the legislature and governor on the status of the energy freedom program created under this chapter, on or before December 1, 2006, and biennially thereafter. This report must include information on the projects that have been funded, the status of these projects, and their environmental, energy savings, and job creation benefits. [2009 c 518 § 20; 2006 c 171 § 7. Formerly RCW 15.110.060.]

Expiration date—2009 c 518 § 20: "Section 20 of this act expires June 30, 2016." [2009 c 518 § 26.]

43.325.060 Suspension or cancellation of assistance. (Expires June 30, 2016.) (1) Upon written notice to the recipient of any assistance under this program, the director may suspend or cancel the assistance if any of the following occur:

(a) The recipient fails to make satisfactory and reasonable progress to complete the project, or the director concludes the recipient will be unable to complete the project or any portion of it; or

(b) The recipient has made misrepresentations in any information furnished to the director in connection with the project.

(2) In the event that any assistance has been awarded to the recipient under this program at the time of breach, or failure of the recipient to satisfactorily perform, the director may require that the full amount or value of the assistance, or a portion thereof, be repaid within a period specified by the director. [2006 c 171 § 4. Formerly RCW 15.110.030.]

43.325.070 Applications—Criteria. (Expires June 30, 2016.) (1) If the total requested dollar amount of assistance awarded for projects under RCW 43.325.020(3) exceeds the amount available in the energy freedom account created in RCW 43.325.040, the applications must be prioritized based upon the following criteria:

(a) The extent to which the project will help reduce dependence on petroleum fuels and imported energy either directly or indirectly;

(b) The extent to which the project will reduce air and water pollution either directly or indirectly;

(c) The extent to which the project will establish a viable bioenergy or biofuel production capacity, energy efficiency, renewable energy, or innovative energy technology industry in Washington;

(d) The benefits to Washington's agricultural producers;

(e) The benefits to the health of Washington's forests;

(f) The beneficial uses of biogas;

(g) The number and quality of jobs and economic benefits created by the project; and

(h) Other criteria as determined by the clean energy leadership council created in section 2, chapter 318, Laws of 2009.

(2) This section does not apply to grants or loans awarded for refueling projects under RCW 43.325.020 (4) and (5). [2009 c 451 § 6; 2007 c 348 § 303; 2006 c 171 § 5. Formerly RCW 15.110.040.]

Expiration dates—2009 c 451 §§ 2, 3, 5, 6, and 7: See note following RCW 43.325.010.

Effective date—Intent—2009 c 451: See notes following RCW 43.325.010.

43.325.080 Electricity and biofuel usage goals—

Rules. By June 1, 2010, the department shall adopt rules to define practicability and clarify how state agencies and local government subdivisions will be evaluated in determining whether they have met the goals set out in RCW 43.19.648(1). At a minimum, the rules must address:

(1) Criteria for determining how the goal in RCW 43.19.648(1) will be met by June 1, 2015;

(2) Factors considered to determine compliance with the goal in RCW 43.19.648(1), including but not limited to: The regional availability of fuels; vehicle costs; differences between types of vehicles, vessels, or equipment; the cost of program implementation; and cost differentials in different parts of the state; and

(3) A schedule for phased-in progress towards meeting the goal in RCW 43.19.648(1) that may include different schedules for different fuel applications or different quantities of biofuels. [2007 c 348 § 204.]

43.325.090 Refueling projects. If the total requested dollar amount of funds for refueling projects under RCW 43.325.020(4) exceeds the amount available for refueling projects in the energy freedom account created in RCW 43.325.040, the applications must be prioritized based upon the following criteria:

(1) The extent to which the project will help reduce dependence on petroleum fuels and imported energy either directly or indirectly;

(2) The extent to which the project will reduce air and water pollution either directly or indirectly;

(3) The extent to which the project will establish a viable bioenergy production capacity in Washington;

(4) The extent to which the project will make biofuels more accessible to the motoring public;

(5) The benefits to Washington's agricultural producers; and

(6) The number and quality of jobs and economic benefits created by the project. [2007 c 348 § 304.]

(2010 Ed.)

43.325.100 Framework to mitigate climate change—

Report. (1) The *department of community, trade, and economic development and the department of ecology shall develop a framework for the state of Washington to participate in emerging regional, national, and to the extent possible, global markets to mitigate climate change, on a multisector basis. This framework must include, but not be limited to, credible, verifiable, replicable inventory and accounting methodologies for each sector involved, along with the completion of the stakeholder process identified in executive order number 07-02 creating the Washington state climate change challenge.

(2) The *department of community, trade, and economic development and the department of ecology shall include the forestry sector and work closely with the department of natural resources on those recommendations.

(3) The department must provide a report to the legislature by December 1, 2008. The report may be included within the report produced for executive order number 07-02. [2007 c 348 § 403.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.325.110 Vehicle electrification demonstration grant program.

(1) The vehicle electrification demonstration grant program is established within the *department of community, trade, and economic development. The director may establish policies and procedures necessary for processing, reviewing, and approving applications made under this chapter.

(2) The director may approve an application for a vehicle electrification demonstration project only if the director finds:

(a) The applicant is a state agency, public school district, public utility district, or a political subdivision of the state, including port districts, counties, cities, towns, special purpose districts, and other municipal corporations or quasi-municipal corporations or a state institution of higher education;

(b) The project partially funds the purchase of or conversion of existing vehicles to plug-in hybrid electric vehicles or battery electric vehicles for use in the applicant's fleet or operations;

(c) The project partners with an electric utility and demonstrates technologies to allow controlled vehicle charging, including the use of power electronics or wireless technologies, to regulate time-of-day and duration of charging;

(d) The project provides matching resources; and

(e) The project provides evaluation of fuel savings, greenhouse gas reductions, battery capabilities, energy management system, charge controlling technologies, and other relevant information determined on the advice of the vehicle electrification work group.

(3) The director may approve an application for a vehicle electrification demonstration project if the project, in addition to meeting the requirements of subsection (2) of this section, also demonstrates charging using on-site renewable resources or vehicle-to-grid capabilities that enable the vehicle to discharge electricity into the grid. [2007 c 348 § 408.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.325.900 Expiration date—Transfer of moneys—2006 c 171 §§ 1-7. Sections 1 through 7 of this act expire June 30, 2016. Any moneys in the energy freedom account on that date and any moneys received pursuant to assistance made under this chapter must be deposited in the general fund. [2006 c 171 § 11. Formerly RCW 15.110.900.]

43.325.901 Severability—2006 c 171. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2006 c 171 § 15. Formerly RCW 15.110.901.]

43.325.902 Servicing and management of projects in effect before July 1, 2007. (1) Energy freedom program projects funded pursuant to RCW 43.325.040 or by the legislature pursuant to sections 191 and 192, chapter 371, Laws of 2006 for which the department of agriculture has signed loan agreements and disbursed funds prior to June 30, 2007, shall continue to be serviced by the department of agriculture.

(2) Energy freedom program projects funded pursuant to RCW 43.325.040 or by the legislature pursuant to sections 191 and 192, chapter 371, Laws of 2006 for which moneys have been appropriated but loan agreements or disbursements have not been completed must be transferred to the department for project management on July 1, 2007, subject to the ongoing requirements of the energy freedom program. [2007 c 348 § 307.]

43.325.903 Part headings not law—2007 c 348. Part headings used in this act are not any part of the law. [2007 c 348 § 501.]

43.325.904 Effective date—2007 c 348 §§ 205 and 301-307. Sections 205 and 301 through 307 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2007. [2007 c 348 § 503.]

Chapter 43.330 RCW

DEPARTMENT OF COMMERCE

(Formerly: Department of community, trade, and economic development)

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Broadband mapping, deployment, and adoption—Reports: RCW 43.105.376.

Centers of excellence: RCW 28B.50.902.

Community development, programs of former department of: Chapter 43.63A RCW.

Projects of statewide significance—Assignment of project facilitator or coordinator: RCW 43.157.030.

Trade and economic development, programs of former department of: Chapter 43.31 RCW.

43.330.005 Findings. The legislature finds that the long-term economic health of the state and its citizens depends upon the strength and vitality of its communities and businesses. It is the intent of this chapter to create a department of commerce that fosters new partnerships for strong and sustainable communities. The mission of the department is to grow and improve jobs in Washington and facilitate innovation. To carry out its mission, the department will bring together focused efforts to: Streamline access to business assistance and economic development services by providing them through sector-based, cluster-based, and regional partners; provide focused and flexible responses to changing economic conditions; generate greater local capacity to respond to both economic growth and environmental challenges; increase accountability to the public, the executive branch, and the legislature; manage growth and achieve sustainable development; diversify the state's economy and export goods and services; provide greater access to economic opportunity; stimulate private sector investment and entrepreneurship; provide stable family-wage jobs and meet the diverse needs of families; provide affordable housing and housing services; and construct public infrastructure.

The legislature further finds that as a result of the rapid pace of global social and economic change, the state and local communities will require coordinated and creative responses by every segment of the community. The state can play a role in assisting such local efforts by reorganizing state assistance efforts to promote such partnerships. The department has a primary responsibility to provide financial and technical assistance to the communities of the state, to assist in improving the delivery of federal, state, and local programs, and to provide communities with opportunities for productive and coordinated development beneficial to the well-being of communities and their residents. It is the intent of the legislature in creating the department to maximize the use of local expertise and resources in the delivery of community and economic development services. [2010 c 271 § 2; 1993 c 280 § 1.]

Purpose—2010 c 271: "In 2009, the legislature changed the name of the department of community, trade, and economic development to the department of commerce and directed the agency to, among other things, develop a report with recommendations on statutory changes to ensure that the department's efforts: Are organized around a concise core mission and aligned with the state's comprehensive plan for economic development; generate greater local capacity; maximize results through partnerships and the use of intermediaries; and provide transparency and increased accountability. Recommendations for creating or consolidating programs deemed important to meeting the department's core mission and recommendations for terminating or transferring specific programs if they are not consistent with the department's core mission were to be included in the report.

In accordance with that legislation, chapter 565, Laws of 2009, in November 2009 the department of commerce submitted a plan that establishes a mission of growing and improving jobs in the state and recognizes the need for an innovation-driven economy. The plan also outlines agency priorities, efficiencies, and program transfers that will help to advance the new mission.

The primary purpose of this act is to implement portions of the department of commerce plan by transferring certain programs from the department (2010 Ed.)

ment of commerce to other state agencies whose missions are more closely aligned with the core functions of those programs. This act also directs additional efficiencies in state government and directs development of a statewide clean energy strategy, which will better enable the department of commerce to focus on its new mission." [2010 c 271 § 1.]

Effective date—2010 c 271: "This act takes effect July 1, 2010." [2010 c 271 § 803.]

43.330.007 Management responsibility. (1) The purpose of this chapter is to establish the broad outline of the structure of the department of commerce, leaving specific details of its internal organization and management to those charged with its administration. This chapter identifies the broad functions and responsibilities of the department and is intended to provide flexibility to the director to reorganize these functions to more closely reflect its customers, its mission, and its priorities, and to make recommendations for changes.

(2) In order to generate greater local capacity, maximize results through partnerships and the use of intermediaries, and leverage the use of state resources, the department shall, in carrying out its business assistance and economic development functions, provide business and economic development services primarily through sector-based, cluster-based, and regionally based organizations rather than providing assistance directly to individual firms. [2010 c 271 § 3; 2009 c 565 § 1; 1993 c 280 § 2.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.330.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

(2) "Department" means the department of commerce.

(3) "Director" means the director of the department of commerce.

(4) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business in this state under state or federal law.

(5) "Microenterprise development organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or other locally operated nonprofit entity that provides services to low-income entrepreneurs.

(6) "Statewide microenterprise association" means a nonprofit entity with microenterprise development organizations as members that serves as an intermediary between the department of commerce and local microenterprise development organizations. [2009 c 565 § 2; 2007 c 322 § 2; 1993 c 280 § 3.]

Findings—Purpose—Intent—2007 c 322: See note following RCW 43.330.290.

43.330.020 Department created. A department of commerce is created. The department shall be vested with all

powers and duties established or transferred to it under this chapter and such other powers and duties as may be authorized by law. Unless otherwise specifically provided, the existing responsibilities and functions of the agency programs will continue to be administered in accordance with their implementing legislation. [2009 c 565 § 3; 1993 c 280 § 4.]

43.330.030 Director—Appointment—Salary. The executive head of the department shall be the director. The director shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. [1993 c 280 § 5.]

43.330.040 Director powers and duties. (1) The director shall supervise and administer the activities of the department and shall advise the governor and the legislature with respect to community and economic development matters affecting the state.

(2) In addition to other powers and duties granted to the director, the director shall have the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the purposes of this chapter;

(b) Act for the state in the initiation of or participation in any multigovernmental program relative to the purpose of this chapter;

(c) Accept and expend gifts and grants, whether such grants be of federal or other funds;

(d) Appoint such deputy directors, assistant directors, and up to seven special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW;

(e) Prepare and submit budgets for the department for executive and legislative action;

(f) Submit recommendations for legislative actions as are deemed necessary to further the purposes of this chapter;

(g) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(h) Delegate powers, duties, and functions as the director deems necessary for efficient administration, but the director shall be responsible for the official acts of the officers and employees of the department; and

(i) Perform other duties as are necessary and consistent with law.

(3) When federal or other funds are received by the department, they shall be promptly transferred to the state treasurer and thereafter expended only upon the approval of the director.

(4) The director may request information and assistance from all other agencies, departments, and officials of the state, and may reimburse such agencies, departments, or officials if such a request imposes any additional expenses upon any such agency, department, or official.

(5) The director shall, in carrying out the responsibilities of office, consult with governmental officials, private groups, and individuals and with officials of other states. All state agencies and their officials and the officials of any political

subdivision of the state shall cooperate with and give such assistance to the department, including the submission of requested information, to allow the department to carry out its purposes under this chapter.

(6) The director may establish additional advisory or coordinating groups with the legislature, within state government, with state and other governmental units, with the private sector and nonprofit entities or in specialized subject areas as may be necessary to carry out the purposes of this chapter.

(7) The internal affairs of the department shall be under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director shall have complete charge and supervisory powers over the department. The director may create such administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ such personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law. [1993 c 280 § 6.]

43.330.050 Community and economic development responsibilities. The department shall be responsible for promoting community and economic development within the state by assisting the state's communities to increase the quality of life of their citizens and their economic vitality, and by assisting the state's businesses to maintain and increase their economic competitiveness, while maintaining a healthy environment. Community and economic development efforts shall include: Efforts to increase economic opportunity; local planning to manage growth; the promotion and provision of affordable housing and housing-related services; providing public infrastructure; business and trade development; assisting firms and industrial sectors to increase their competitiveness; fostering the development of minority and women-owned businesses; facilitating technology development, transfer, and diffusion; community services and advocacy for low-income persons; and public safety efforts. The department shall have the following general functions and responsibilities:

(1) Provide advisory assistance to the governor, other state agencies, and the legislature on community and economic development matters and issues;

(2) Assist the governor in coordinating the activities of state agencies that have an impact on local government and communities;

(3) Cooperate with the Washington state economic development commission, the legislature, and the governor in the development and implementation of strategic plans for the state's community and economic development efforts;

(4) Solicit private and federal grants for economic and community development programs and administer such programs in conjunction with other programs assigned to the department by the governor or the legislature;

(5) Cooperate with and provide technical and financial assistance to local governments, businesses, and community-based organizations serving the communities of the state for the purpose of aiding and encouraging orderly, productive, and coordinated development of the state, and, unless stipulated otherwise, give additional consideration to local com-

munities and individuals with the greatest relative need and the fewest resources;

(6) Participate with other states or subdivisions thereof in interstate programs and assist cities, counties, municipal corporations, governmental conferences or councils, and regional planning commissions to participate with other states and provinces or their subdivisions;

(7) Hold public hearings and meetings to carry out the purposes of this chapter;

(8) Conduct research and analysis in furtherance of the state's economic and community development efforts including maintenance of current information on market, demographic, and economic trends as they affect different industrial sectors, geographic regions, and communities with special economic and social problems in the state; and

(9) Develop a schedule of fees for services where appropriate. [2005 c 136 § 12; 1993 c 280 § 7.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

43.330.060 Trade and business responsibilities. (1)

The department shall (a) assist in expanding the state's role as an international center of trade, culture, and finance; (b) promote and market the state's products and services both nationally and internationally; (c) work in close cooperation with other private and public international trade efforts; (d) act as a centralized location for the assimilation and distribution of trade information; and (e) establish and operate foreign offices promoting overseas trade and commerce.

(2) The department shall identify and work with Washington businesses that can use local, state, and federal assistance to increase domestic and foreign exports of goods and services.

(3) The department shall work generally with small businesses and other employers to facilitate resolution of siting, regulatory, expansion, and retention problems. This assistance shall include but not be limited to assisting in workforce training and infrastructure needs, identifying and locating suitable business sites, and resolving problems with government licensing and regulatory requirements. The department shall identify gaps in needed services and develop steps to address them including private sector support and purchase of these services.

(4) The department shall work to increase the availability of capital to small businesses by developing new and flexible investment tools; by assisting in targeting and improving the efficiency of existing investment mechanisms; and by assisting in the procurement of managerial and technical assistance necessary to attract potential investors.

(5) The department shall assist women and minority-owned businesses in overcoming barriers to entrepreneurial success. The department shall contract with public and private agencies, institutions, and organizations to conduct entrepreneurial training courses for minority and women-owned businesses. The instruction shall be intensive, practical training courses in financing, marketing, managing, accounting, and recordkeeping for a small business, with an emphasis on federal, state, local, or private programs available to assist small businesses. Instruction shall be offered in major population centers throughout the state at times and

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locations that are convenient for minority and women small business owners.

(6)(a) Subject to the availability of amounts appropriated for this specific purpose, by December 1, 2010, the department, in conjunction with the small business development center, must prepare and present to the governor and appropriate legislative committees a specific, actionable plan to increase access to capital and technical assistance to small businesses and entrepreneurs beginning with the 2011-2013 biennium. In developing the plan, the department and the center may consult with the Washington state microenterprise association, and with other government, nonprofit, and private organizations as necessary. The plan must identify:

(i) Existing sources of capital and technical assistance for small businesses and entrepreneurs;

(ii) Critical gaps and barriers to availability of capital and delivery of technical assistance to small businesses and entrepreneurs;

(iii) Workable solutions to filling the gaps and removing barriers identified in (a)(ii) of this subsection; and

(iv) The financial resources and statutory changes necessary to put the plan into effect beginning with the 2011-2013 biennium.

(b) With respect to increasing access to capital, the plan must identify specific, feasible sources of capital and practical mechanisms for expanding access to it.

(c) The department and the center must include, within the analysis and recommendations in (a) of this subsection, any specific gaps, barriers, and solutions related to rural and low-income communities and small manufacturers interested in exporting. [2010 c 165 § 2; 2005 c 136 § 13; 1993 c 280 § 9.]

Findings—Intent—2010 c 165: "The legislature finds that small businesses and entrepreneurs are a fundamental source of economic and community vitality for our state. They employ state residents, pay state taxes, purchase goods and services from local and regional companies, and contribute to our communities in many other ways. The legislature finds that small businesses and entrepreneurs need increased access to capital and technical assistance in order to maximize their potential. The legislature intends that the department of commerce and the small business development center each build upon their existing relevant statutory missions and authorities by collaborating on a specific plan to expand services to small businesses and entrepreneurs beginning in the 2011-2013 biennium." [2010 c 165 § 1.]

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

Additional notes found at www.leg.wa.gov

43.330.065 Identification of countries of strategic importance for international trade relations. The *department of community, trade, and economic development, in consultation with the office of protocol, the office of the secretary of state, the department of agriculture, and the employment security department shall identify up to fifteen countries that are of strategic importance to the development of Washington's international trade relations. [1996 c 253 § 303.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 28B.109.010.

43.330.068 International companies investing in Washington—Eligibility for excise tax incentives. An international company investing in Washington is included

within the definition of person in RCW 82.04.030 and is eligible for excise tax incentives provided in Title 82 RCW in the same manner as any domestic company. [2005 c 135 § 2.]

Finding—Intent—2005 c 135: "The legislature finds that many international companies with an interest in operating in Washington are not aware of the various tax incentives that are available. It is the intent of the legislature to ensure that these international companies understand that they are eligible for these business and occupation tax and sales and use tax deferrals when investing in Washington. It is the further intent of the legislature that the *department of community, trade, and economic development and associate development organizations make clear to international companies that they are eligible for the state's various tax incentives." [2005 c 135 § 1.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.330.070 Local development capacity—Training and technical assistance. (1) The department shall work closely with local communities to increase their capacity to respond to economic, environmental, and social problems and challenges. The department shall coordinate the delivery of development services and technical assistance to local communities or regional areas. It shall promote partnerships between the public and private sectors and between state and local officials to encourage appropriate economic growth and opportunity in communities throughout the state. The department shall promote appropriate local development by: Supporting the ability of communities to develop and implement strategic development plans; assisting businesses to start up, maintain, or expand their operations; encouraging public infrastructure investment and private and public capital investment in local communities; supporting efforts to manage growth and provide affordable housing and housing services; providing for the identification and preservation of the state's historical and cultural resources; and expanding employment opportunities.

(2) The department shall define a set of services including training and technical assistance that it will make available to local communities, community-based nonprofit organizations, regional areas, or businesses. The department shall simplify access to these programs by providing more centralized and user-friendly information and referral. The department shall coordinate community and economic development efforts to minimize program redundancy and maximize accessibility. The department shall develop a set of criteria for targeting services to local communities.

(3) The department shall develop a coordinated and systematic approach to providing training to community-based nonprofit organizations, local communities, and businesses. The approach shall be designed to increase the economic and community development skills available in local communities by providing training and funding for training for local citizens, nonprofit organizations, and businesses. The department shall emphasize providing training in those communities most in need of state assistance. [1993 c 280 § 10.]

43.330.075 Local government regulation and policy handouts—Technical assistance. The department shall provide technical assistance in the compilation of and support in the production of the handouts to be published and kept current by counties and cities under RCW 36.70B.220. [1996 c 206 § 11.]

Findings—1996 c 206: See note following RCW 43.05.030.

43.330.080 Coordination of community and economic development services—Contracts with county-designated associate development organizations—Scope of services. The department shall contract with county-designated associate development organizations to increase the support for and coordination of community and economic development services in communities or regional areas. The organizations contracted with in each community or regional area shall be broadly representative of community and economic interests. The organization shall be capable of identifying key economic and community development problems, developing appropriate solutions, and mobilizing broad support for recommended initiatives. The contracting organization shall work with and include local governments, local chambers of commerce, workforce development councils, port districts, labor groups, institutions of higher education, community action programs, and other appropriate private, public, or nonprofit community and economic development groups. The scope of services delivered under these contracts shall include two broad areas of work:

(1) Direct assistance, including business planning, to companies who need support to stay in business, expand, or relocate to Washington from out of state or other countries. Assistance includes:

(a) Working with the appropriate partners, including but not limited to, local governments, workforce development councils, port districts, community and technical colleges and higher education institutions, export assistance providers, the Washington manufacturing services, the Washington state quality award council, small business assistance programs, and other federal, state, and local programs to facilitate the alignment of planning efforts and the seamless delivery of business support services in the county;

(b) Providing information on state and local permitting processes, tax issues, and other essential information for operating, expanding, or locating a business in Washington;

(c) Marketing Washington and local areas as excellent locations to expand or relocate a business and positioning Washington as a globally competitive place to grow business, which may include developing and executing regional plans to attract companies from out of state;

(d) Working with businesses on site location and selection assistance;

(e) Providing business retention and expansion services, including business outreach and monitoring efforts to identify and address challenges and opportunities faced by businesses; and

(f) Participating in economic development system-wide discussions regarding gaps in business start-up assistance in Washington; and

(2) Support for regional economic research and regional planning efforts to implement target industry sector strategies and other economic development strategies, including cluster-based strategies, that support increased living standards and increase foreign direct investment throughout Washington. Activities include:

(a) Participation in regional planning efforts with workforce development councils involving coordinated strategies around workforce development and economic development policies and programs. Coordinated planning efforts shall

include, but not be limited to, assistance to industry clusters in the region;

(b) Participation between the contracting organization and the state board for community and technical colleges as created in RCW 28B.50.050, and any community and technical colleges in providing for the coordination of the job skills training program and the customized training program within its region;

(c) Collecting and reporting data as specified by the contract with the department for statewide systemic analysis. The department shall consult with the Washington state economic development commission in the establishment of such uniform data as is needed to conduct a statewide systemic analysis of the state's economic development programs and expenditures. In cooperation with other local, regional, and state planning efforts, contracting organizations may provide insight into the needs of target industry clusters, business expansion plans, early detection of potential relocations or layoffs, training needs, and other appropriate economic information;

(d) In conjunction with other governmental jurisdictions and institutions, participate in the development of a countywide economic development plan, consistent with the state comprehensive plan for economic development developed by the Washington state economic development commission. [2009 c 151 § 10; 2007 c 249 § 2; 1997 c 60 § 1; 1993 c 280 § 11.]

Findings—Intent—2007 c 249: "The legislature finds that economic development success requires coordinated state and local efforts. The legislature further finds that economic development happens at the local level. County-designated associate development organizations serve as a networking tool and resource hub for business retention, expansion, and relocation in Washington. Economic development success requires an adequately funded and coordinated state effort and an adequately funded and coordinated local effort. The legislature intends to bolster the partnership between state and local economic development efforts, provide increased funding for local economic development services, and increase local economic development service effectiveness, efficiency, and outcomes." [2007 c 249 § 1.]

43.330.082 Contracting associate development organizations—Performance measures—Remediation plans—Reports. (1) Contracting associate development organizations shall provide the department with measures of their performance. Annual reports shall include information on the impact of the contracting organization on employment, wages, tax revenue, and capital investment. Specific measures shall be developed in the contracting process between the department and the contracting organization every two years. Performance measures should be consistent across regions to allow for statewide evaluation.

(2)(a) The department and contracting organizations shall agree upon specific target levels for the performance measures in subsection (1) of this section. Comparison of agreed thresholds and actual performance shall occur annually.

(b) Contracting organizations that fail to achieve the agreed performance targets in more than one-half of the agreed measures shall develop remediation plans to address performance gaps. The remediation plans shall include revised performance thresholds specifically chosen to provide evidence of progress in making the identified service changes.

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(c) Contracts and state funding shall be terminated for one year for organizations that fail to achieve the agreed upon progress toward improved performance defined under (b) of this subsection. During the year in which termination for nonperformance is in effect, organizations shall review alternative delivery strategies to include reorganization of the contracting organization, merging of previous efforts with existing regional partners, and other specific steps toward improved performance. At the end of the period of termination, the department may contract with the associate development organization or its successor as it deems appropriate.

(3) The department shall report to the legislature and the Washington economic development commission by December 31st of each even-numbered year on the performance results of the contracts with associate development organizations. [2009 c 518 § 15; 2007 c 249 § 3.]

Findings—Intent—2007 c 249: See note following RCW 43.330.080.

43.330.084 Washington state quality award—Reimbursement of application fee. Up to five associate development organizations per year contracting with the department under chapter 249, Laws of 2007 that apply for the Washington state quality award or its equivalent shall receive reimbursement for the award application fee, but may not be reimbursed more than once every three years. [2007 c 249 § 4.]

Findings—Intent—2007 c 249: See note following RCW 43.330.080.

43.330.086 Contracts with associate development organizations—Schedule of awards. To the extent that funds are specifically appropriated therefor, contracts with associate development organizations for the provision of services under RCW 43.330.080(1) shall be awarded according to the following annual schedule:

(1) For associate development associations serving urban counties, which are counties other than rural counties as defined in RCW 82.14.370, a locally matched allocation of up to ninety cents per capita, totaling no more than three hundred thousand dollars per organization; and

(2) For associate development associations in rural counties, as defined in RCW 82.14.370, a per county base allocation of up to forty thousand dollars and a locally matched allocation of up to ninety cents per capita. [2008 c 131 § 3; 2007 c 249 § 5.]

Effective date—2008 c 131: See note following RCW 43.160.020.

Findings—Intent—2007 c 249: See note following RCW 43.330.080.

43.330.090 Economic diversification strategies—Targeted industry sectors—Film and video production.

(1) The department shall work with private sector organizations, industry and sector associations, federal agencies, state agencies that use a sector-based approach to service delivery, local governments, local associate development organizations, and higher education and training institutions in the development of industry sector-based strategies to diversify the economy, facilitate technology transfer and diffusion, and increase value-added production. The industry sectors targeted by the department may include, but are not limited to, aerospace, agriculture, food processing, forest products, marine services, health and biomedical, software, digital and interactive media, transportation and distribution, and micro-

electronics. The department shall, on a continuing basis, evaluate the potential return to the state from devoting additional resources to an industry sector-based approach to economic development and identifying and assisting additional sectors.

(2) The department's sector-based strategies shall include, but not be limited to, cluster-based strategies that focus on assisting regional industry sectors and related firms and institutions that meet the definition of an industry cluster in this section and based on criteria identified by the working group established in this chapter.

(3)(a) The department shall promote, market, and encourage growth in the production of films and videos, as well as television commercials within the state; to this end the department is directed to assist in the location of a film and video production studio within the state.

(b) The department may, in carrying out its efforts to encourage film and video production in the state, solicit and receive gifts, grants, funds, fees, and endowments, in trust or otherwise, from tribal, local, or other governmental entities, as well as private sources, and may expend the same or any income therefrom for the encouragement of film and video production. All revenue received for such purposes shall be deposited into the film and video promotion account created in RCW 43.330.092.

(4) In assisting in the development of regional and state-wide industry cluster-based strategies, the department's activities shall include, but are not limited to:

(a) Facilitating regional focus group discussions and conducting studies to identify industry clusters, appraise the current information linkages within a cluster, and identify issues of common concern within a cluster;

(b) Supporting industry and cluster associations, publications of association and cluster directories, and related efforts to create or expand the activities of industry and cluster associations;

(c) Administering a competitive grant program to fund economic development activities designed to further regional cluster growth. In administering the program, the department shall work with the economic development commission, the workforce training and education coordinating board, the state board for community and technical colleges, the employment security department, business, and labor.

(i) The department shall seek recommendations on criteria for evaluating applications for grant funds and recommend applicants for receipt of grant funds. Criteria shall include not duplicating the purpose or efforts of industry skill panels.

(ii) Applicants must include organizations from at least two counties and participants from the local business community. Eligible organizations include, but are not limited to, local governments, economic development councils, chambers of commerce, federally recognized Indian tribes, workforce development councils, and educational institutions.

(iii) Applications must evidence financial participation of the partner organizations.

(iv) Eligible activities include the formation of cluster economic development partnerships, research and analysis of economic development needs of the cluster, the development of a plan to meet the economic development needs of the cluster, and activities to implement the plan.

(v) Priority shall be given to applicants that complement industry skill panels and will use the grant funds to build linkages and joint projects.

(vi) The maximum amount of a grant is one hundred thousand dollars.

(vii) A maximum of one hundred thousand dollars total can go to King, Pierce, Kitsap, and Snohomish counties combined.

(viii) No more than ten percent of funds received for the grant program may be used by the department for administrative costs.

(5) As used in this chapter, "industry cluster" means a geographic concentration of interconnected companies in a single industry, related businesses in other industries, including suppliers and customers, and associated institutions, including government and education. [2010 1st sp.s. c 7 § 59; 2009 c 151 § 1; 2007 c 228 § 201; 2006 c 105 § 1; 2005 c 136 § 14; 2003 c 153 § 2; 1998 c 245 § 85; 1994 c 144 § 1; 1993 c 280 § 12.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Part headings not law—2007 c 228: See RCW 43.336.900.

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

Findings—2003 c 153: "The legislature finds that tourism is a growing sector of the Washington economy. Washington has a diverse geography, geology, climate, and natural resources, and offers abundant opportunities for wildlife viewing. Nature-based tourism is the fastest growing outdoor activity and segment of the travel industry and the state can take advantage of this by marketing Washington's natural assets to international as well as national tourist markets. Expanding tourism efforts can provide Washington residents with jobs and local communities with needed revenues.

The legislature also finds that current efforts to promote Washington's natural resources and nature-based tourism to national and international markets are too diffuse and limited by funding and that a collaborative effort among state and local governments, tribes, and private enterprises can serve to leverage the investments in nature-based tourism made by each." [2003 c 153 § 1.]

Additional notes found at www.leg.wa.gov

43.330.092 Film and video promotion account—Promotion of film and video production industry. The film and video promotion account is created in the state treasury. All revenue received for film and video promotion purposes under *RCW 43.330.090(2)(b) and all receipts from RCW 36.102.060(14) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department of commerce only for the purposes of promotion of the film and video production industry in the state of Washington. [2009 c 565 § 5; 2005 c 136 § 15; 1997 c 220 § 222 (Referendum Bill No. 48, approved June 17, 1997).]

***Reviser's note:** RCW 43.330.090 was amended by 2009 c 151 § 1, changing subsection (2)(b) to subsection (3)(b).

Savings—Effective date—2005 c 136: See notes following RCW 43.168.020.

Referendum—Other legislation limited—Legislators' personal intent not indicated—Reimbursements for election—Voters' pamphlet, election requirements—1997 c 220: See RCW 36.102.800 through 36.102.803.

Additional notes found at www.leg.wa.gov

43.330.094 Tourism development and promotion account—Promotion of tourism industry. The tourism

development and promotion account is created in the state treasury. All receipts from RCW 36.102.060(10) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department of commerce only for the purposes of expanding and promoting the tourism industry in the state of Washington. [2009 c 565 § 6; 2007 c 228 § 202; 2003 c 153 § 4; 1997 c 220 § 223 (Referendum Bill No. 48, approved June 17, 1997).]

Part headings not law—2007 c 228: See RCW 43.336.900.

Findings—2003 c 153: See note following RCW 43.330.090.

Referendum—Other legislation limited—Legislators' personal intent not indicated—Reimbursements for election—Voters' pamphlet, election requirements—1997 c 220: See RCW 36.102.800 through 36.102.803.

Additional notes found at www.leg.wa.gov

43.330.100 Local infrastructure and public facilities—Grants and loans. (1) The department shall support the development and maintenance of local infrastructure and public facilities and provide local communities with flexible sources of funding. The department shall coordinate grant and loan programs that provide infrastructure and investment in local communities. This shall include coordinating funding for eligible projects with other federal, state, local, private, and nonprofit funding sources.

(2) At a minimum, the department shall provide coordinated procedures for applying for and tracking grants and loans among and between the community economic revitalization board, the public works trust fund, and community development block grants. [1993 c 280 § 13.]

43.330.110 Housing—Energy assistance. (1) The department shall maintain an active effort to help communities, families, and individuals build and maintain capacity to meet housing needs in Washington state. The department shall facilitate partnerships among the many entities related to housing issues and leverage a variety of resources and services to produce comprehensive, cost-effective, and innovative housing solutions.

(2) The department shall assist in the production, development, rehabilitation, and operation of owner-occupied or rental housing for very low, low, and moderate-income persons; operate programs to assist home ownership, offer housing services, and provide emergency, transitional, and special needs housing services; and qualify as a participating state agency for all programs of the federal department of housing and urban development or its successor. The department shall develop or assist local governments in developing housing plans required by the state or federal government.

(3) The department shall coordinate and administer energy assistance and residential energy conservation and rehabilitation programs of the federal and state government through nonprofit organizations, local governments, and housing authorities. [1993 c 280 § 14.]

43.330.120 Growth management. (1) The department shall serve as the central coordinator for state government in the implementation of the growth management act, chapter 36.70A RCW. The department shall work closely with all Washington communities planning for future growth and

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responding to the pressures of urban sprawl. The department shall ensure coordinated implementation of the growth management act by state agencies.

(2) The department shall offer technical and financial assistance to cities and counties planning under the growth management act. The department shall help local officials interpret and implement the different requirements of the act through workshops, model ordinances, and information materials.

(3) The department shall provide alternative dispute resolution to jurisdictions and organizations to mediate disputes and to facilitate consistent implementation of the growth management act. The department shall review local governments compliance with the requirements of the growth management act and make recommendations to the governor. [1993 c 280 § 15.]

43.330.125 Assistance to counties and cities. The department of commerce shall provide training and technical assistance to counties and cities to assist them in fulfilling the requirements of chapter 36.70B RCW. [2009 c 565 § 7; 1995 c 347 § 430.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

43.330.130 Services to poor and disadvantaged persons—Preschool children—Substance abuse—Family services—Fire protection and emergency management.

(1) The department shall coordinate services to communities that are directed to the poor and disadvantaged through private and public nonprofit organizations and units of general purpose local governments. The department shall coordinate these programs using, to the extent possible, integrated case management methods, with other community and economic development efforts that promote self-sufficiency.

(2) These services may include, but not be limited to, comprehensive education services to preschool children from low-income families, providing for human service needs and advocacy, promoting volunteerism and citizen service as a means for accomplishing local community and economic development goals, and providing for human service needs through community-based organizations.

(3) The department shall provide local communities and at-risk individuals with programs that provide community protection and assist in developing strategies to reduce substance abuse. The department shall administer programs that develop collaborative approaches to prevention, intervention, and interdiction programs. The department shall administer programs that support crime victims, address youth and domestic violence problems, provide indigent defense for low-income persons, border town disputes, and administer family services and programs to promote the state's policy as provided in RCW 74.14A.025.

(4) The department shall provide fire protection and emergency management services to support and strengthen local capacity for controlling risk to life, property, and community vitality that may result from fires, emergencies, and disasters. [2010 c 68 § 2; 1993 c 280 § 16.]

Effective date—2010 c 68: See note following RCW 43.23.290.

43.330.135 Court-appointed special advocate programs—Funds—Eligibility. (1) The department of commerce shall distribute such funds as are appropriated for the statewide technical support, development, and enhancement of court-appointed special advocate programs.

(2) In order to receive money under subsection (1) of this section, an organization providing statewide technical support, development, and enhancement of court-appointed special advocate programs must meet all of the following requirements:

(a) The organization must provide statewide support, development, and enhancement of court-appointed special advocate programs that offer guardian ad litem services as provided in RCW 26.12.175, 26.44.053, and 13.34.100;

(b) All guardians ad litem working under court-appointed special advocate programs supported, developed, or enhanced by the organization must be volunteers and may not receive payment for services rendered pursuant to the program. The organization may include paid positions that are exclusively administrative in nature, in keeping with the scope and purpose of this section; and

(c) The organization providing statewide technical support, development, and enhancement of court-appointed special advocate programs must be a public benefit nonprofit corporation as defined in RCW 24.03.490.

(3) If more than one organization is eligible to receive money under this section, the department shall develop criteria for allocation of appropriated money among the eligible organizations. [2009 c 565 § 8; 1995 c 13 § 1.]

43.330.145 Entrepreneurial assistance—Recipients of temporary assistance for needy families—Cooperation with agencies for training and industrial recruitment. (1) The department shall ensure that none of its rules or practices act to exclude recipients of temporary assistance for needy families from any small business loan opportunities or entrepreneurial assistance it makes available through its community development block grant program or otherwise provides using state or federal resources. The department shall encourage local administrators of microlending programs using public funds to conduct outreach activities to encourage recipients of temporary assistance for needy families to explore self-employment as an option. The department shall compile information on private and public sources of entrepreneurial assistance and loans for start-up businesses and provide the department of social and health services with the information for dissemination to recipients of temporary assistance for needy families.

(2) The department shall, as part of its industrial recruitment efforts, work with the workforce training and education coordinating board to identify the skill sets needed by companies locating in the state. The department shall provide the department of social and health services with the information about the companies' needs in order that recipients of public assistance and service providers assisting such recipients through training and placement programs may be informed and respond accordingly. The department shall work with the state board for community and technical colleges, the job skills program, the employment security department, and other employment and training programs to facilitate the inclusion of recipients of temporary assistance for needy

families in relevant training that would make them good employees for recruited firms.

(3) The department shall perform the duties under this section within available funds. [1997 c 58 § 323.]

Additional notes found at www.leg.wa.gov

43.330.150 Fees—Conferences, workshops, training. The department is authorized to charge reasonable fees to cover costs for conferences, workshops, and training purposes and to expend those fees for the purposes for which they were collected. [1994 c 284 § 1.]

Additional notes found at www.leg.wa.gov

43.330.152 Fees—Service and product delivery areas. In order to extend its services and programs, the department may charge reasonable fees for services and products provided in the areas of financial assistance, housing, international trade, community assistance, economic development, and other service delivery areas, except as otherwise provided. These fees are not intended to exceed the costs of providing the service or preparing and distributing the product. [1994 c 284 § 2.]

Additional notes found at www.leg.wa.gov

43.330.155 Community and economic development fee account. The community and economic development fee account is created in the state treasury. The department may create subaccounts as necessary. The account consists of all receipts from fees charged by the department under RCW 43.330.150, 43.330.152, and *43.210.110. Expenditures from the account may be used only for the purposes of this chapter. Only the director or the director's designee may authorize expenditures from the account. Expenditures from the account may be spent only after appropriation. [1994 c 284 § 4.]

*Reviser's note: RCW 43.210.110 was repealed by 1991 c 314 § 18, effective June 30, 1997.

Additional notes found at www.leg.wa.gov

43.330.156 Fees—Adoption by rule. The fees authorized under RCW 43.330.150, 43.330.152, *70.95H.040, and **43.210.110 shall be adopted by rule pursuant to chapter 34.05 RCW. [1994 c 284 § 8.]

Reviser's note: *(1) The governor vetoed 1994 c 284 § 5, the amendment to RCW 70.95H.040 that provided for fees.

** (2) RCW 43.210.110 was repealed by 1991 c 314 § 18, effective June 30, 1997.

Additional notes found at www.leg.wa.gov

43.330.165 Housing for farmworkers—Proposal review and funding recommendations—Farmworker housing advisory group. (1) The department shall work with the advisory group established in subsection (2) of this section to review proposals and make prioritized funding recommendations to the department or funding approval board that oversees the distribution of housing trust fund grants and loans to be used for the development, maintenance, and operation of housing for low-income farmworkers.

(2) A farmworker housing advisory group representing growers, farmworkers, and other interested parties shall be

formed to assist the department in the review and priority funding recommendations under this section. [1998 c 37 § 8.]

43.330.167 Homeless families services fund—Created—Eligible activities. (1)(a) There is created in the custody of the state treasurer an account to be known as the homeless families services fund. Revenues to the fund consist of a one-time appropriation by the legislature, private contributions, and all other sources deposited in the fund.

(b) Expenditures from the fund may only be used for the purposes of the program established in this section, including administrative expenses. Only the director of the department of commerce, or the director's designee, may authorize expenditures.

(c) Expenditures from the fund are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. However, money used for program administration by the department is subject to the allotment and budgetary controls of chapter 43.88 RCW, and an appropriation is required for these expenditures.

(2) The department may expend moneys from the fund to provide state matching funds for housing-based supportive services for homeless families over a period of at least ten years.

(3) Activities eligible for funding through the fund include, but are not limited to, the following:

- (a) Case management;
- (b) Counseling;
- (c) Referrals to employment support and job training services and direct employment support and job training services;
- (d) Domestic violence services and programs;
- (e) Mental health treatment, services, and programs;
- (f) Substance abuse treatment, services, and programs;
- (g) Parenting skills education and training;
- (h) Transportation assistance;
- (i) Child care; and
- (j) Other supportive services identified by the department to be an important link for housing stability.

(4) Organizations that may receive funds from the fund include local housing authorities, nonprofit community or neighborhood-based organizations, public development authorities, federally recognized Indian tribes in the state, and regional or statewide nonprofit housing assistance organizations. [2009 c 565 § 9; 2004 c 276 § 718.]

Severability—2004 c 276: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2004 c 276 § 915.]

Effective date—2004 c 276: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 1, 2004]." [2004 c 276 § 916.]

43.330.170 Statewide housing market analysis. The office of community development of the department of commerce is directed to conduct a statewide housing market analysis by region. The purpose of the analysis is to identify areas of greatest need for the appropriate investment of state affordable housing funds, using vacancy data and other appropriate measures of need for low-income housing. The

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analysis shall include the number and types of projects that counties have developed using the funds collected under chapter 294, Laws of 2002. The analysis shall be completed by September 2003, and updated every two years thereafter. [2009 c 565 § 10; 2002 c 294 § 4.]

Findings—2002 c 294: See note following RCW 36.22.178.

43.330.175 Disability lifeline housing voucher program. (1) To address the housing issues faced by the disability lifeline applicants in RCW 74.04.005(5)(b), the department of commerce and the department of social and health services shall jointly develop a housing voucher program. The departments also shall develop housing resources to be used by the applicants in RCW 74.04.005(5)(b). To the greatest extent possible, the housing resources shall follow the supportive housing model. The department of commerce shall administer the housing voucher program and shall:

(a) Identify the current supply of private and public housing including acquisition and rental of existing housing stock;

(b) Develop funding strategies for the development of housing resources; and

(c) Design the voucher program to maximize the ability of the department of social and health services to recover federal funding.

(2) If the department of commerce determines that the housing supply is inadequate to meet the need for those applicants qualifying for housing vouchers under RCW 74.04.005(5)(b), those applicants shall instead receive a cash grant administered by the department of social and health services. Upon the department of commerce's determination that the housing supply is adequate to meet the needs of the applicants in RCW 74.04.005(5)(b), housing vouchers rather than cash grants shall be issued to these applicants who apply on or after the department's determination.

(3) The department of commerce and the department of social and health services shall evaluate the impact of the use of housing vouchers under this section and report to the governor and relevant policy and fiscal committees of the legislature by November 30, 2012, on the following items:

(a) The supply, affordability, appropriateness, and use of stable housing;

(b) The following outcomes for persons receiving disability lifeline housing vouchers:

(i) Participation in and completion of chemical dependency or mental health treatment;

(ii) Contact with law enforcement, including arrest and conviction data;

(iii) Use of emergency room services; and

(iv) Involuntary commitment under chapter 71.05 RCW. [2010 1st sp.s. c 8 § 8.]

Implementation—2010 1st sp.s. c 8 §§ 1-10 and 29: See note following RCW 74.04.225.

Findings—Intent—Short title—Effective date—2010 1st sp.s. c 8: See notes following RCW 74.04.225.

43.330.190 Reimbursement of extraordinary criminal justice costs. Counties may submit a petition for relief to the office of public defense for reimbursement of extraordinary criminal justice costs. Extraordinary criminal justice costs are defined as those associated with investigation, pros-

ecution, indigent defense, jury impanelment, expert witnesses, interpreters, incarceration, and other adjudication costs of aggravated murder cases.

(1) The office of public defense, in consultation with the Washington association of prosecuting attorneys and the Washington association of sheriffs and police chiefs, shall develop procedures for processing the petitions, for auditing the veracity of the petitions, and for prioritizing the petitions. Prioritization of the petitions shall be based on, but not limited to, such factors as disproportionate fiscal impact relative to the county budget, efficient use of resources, and whether the costs are extraordinary and could not be reasonably accommodated and anticipated in the normal budget process.

(2) Before January 1st of each year, the office of public defense, in consultation with the Washington association of prosecuting attorneys and the Washington association of sheriffs and police chiefs, shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a prioritized list of submitted petitions that are recommended for funding by the legislature. [1999 c 303 § 1.]

43.330.250 Economic development strategic reserve account—Authorized expenditures—Transfer of excess funds to the education construction account. (1) The economic development strategic reserve account is created in the state treasury to be used only for the purposes of this section.

(2) Only the governor, with the recommendation of the director of the department of commerce and the economic development commission, may authorize expenditures from the account.

(3) Expenditures from the account shall be made in an amount sufficient to fund a minimum of one staff position for the economic development commission and to cover any other operational costs of the commission.

(4) During the 2009-2011 fiscal biennium, moneys in the account may also be transferred into the state general fund.

(5) Expenditures from the account may be made to prevent closure of a business or facility, to prevent relocation of a business or facility in the state to a location outside the state, or to recruit a business or facility to the state. Expenditures may be authorized for:

- (a) Workforce development;
- (b) Public infrastructure needed to support or sustain the operations of the business or facility; and
- (c) Other lawfully provided assistance, including, but not limited to, technical assistance, environmental analysis, relocation assistance, and planning assistance. Funding may be provided for such assistance only when it is in the public interest and may only be provided under a contractual arrangement ensuring that the state will receive appropriate consideration, such as an assurance of job creation or retention.

(6) The funds shall not be expended from the account unless:

- (a) The circumstances are such that time does not permit the director of the department of commerce or the business or facility to secure funding from other state sources;
- (b) The business or facility produces or will produce significant long-term economic benefits to the state, a region of the state, or a particular community in the state;

(c) The business or facility does not require continuing state support;

(d) The expenditure will result in new jobs, job retention, or higher incomes for citizens of the state;

(e) The expenditure will not supplant private investment; and

(f) The expenditure is accompanied by private investment.

(7) No more than three million dollars per year may be expended from the account for the purpose of assisting an individual business or facility pursuant to the authority specified in this section.

(8) If the account balance in the strategic reserve account exceeds fifteen million dollars at any time, the amount in excess of fifteen million dollars shall be transferred to the education construction account. [2009 c 565 § 13; 2009 c 564 § 943; 2008 c 329 § 914; 2005 c 427 § 1.]

Reviser's note: This section was amended by 2009 c 564 § 943 and by 2009 c 565 § 13, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2009 c 564: See note following RCW 2.68.020.

Severability—Effective date—2008 c 329: See notes following RCW 28B.105.110.

43.330.260 Inventory of economic development grant opportunities—Joint efforts for grant seeking and attracting major events. (1) The department shall make available, within existing resources, an inventory of grant opportunities for state agencies, local governments, and other community organizations engaged in economic development activities.

(2) In developing the inventory of economic development grant opportunities, the department may:

(a) Regularly review the federal register for opportunities to apply for grants, research projects, and demonstration projects;

(b) Maintain an inventory of grant opportunities with private foundations and businesses; and

(c) Consult with federal officials, including but not limited to those in the small business administration, the department of labor, the department of commerce, the department of agriculture, the department of ecology, as well as private foundations and businesses, on the prospects for obtaining federal and private funds for economic development purposes in Washington state.

(3) The department may also facilitate joint efforts between agencies and between local organizations and state agencies that will increase the likelihood of success in grant seeking and the attraction of major events. [2006 c 314 § 2.]

Finding—2006 c 314: "The legislature declares that it is the state's policy to encourage the use of federal and private funds for economic development purposes and to use state resources to leverage federal and private dollars to supplement state economic development efforts." [2006 c 314 § 1.]

43.330.270 Innovation partnership zone program. (1) The department shall design and implement an innovation partnership zone program through which the state will encourage and support research institutions, workforce training organizations, and globally competitive companies to work cooperatively in close geographic proximity to create commercially viable products and jobs.

(2) The director shall designate innovation partnership zones on the basis of the following criteria:

(a) Innovation partnership zones must have three types of institutions operating within their boundaries, or show evidence of planning and local partnerships that will lead to dense concentrations of these institutions:

(i) Research capacity in the form of a university or community college fostering commercially valuable research, nonprofit institutions creating commercially applicable innovations, or a national laboratory;

(ii) Dense proximity of globally competitive firms in a research-based industry or industries or of individual firms with innovation strategies linked to (a)(i) of this subsection. A globally competitive firm may be signified through international organization for standardization 9000 or 1400 certification, or other recognized evidence of international success; and

(iii) Training capacity either within the zone or readily accessible to the zone. The training capacity requirement may be met by the same institution as the research capacity requirement, to the extent both are associated with an educational institution in the proposed zone.

(b) The support of a local jurisdiction, a research institution, an educational institution, an industry or cluster association, a workforce development council, and an associate development organization, port, or chamber of commerce;

(c) Identifiable boundaries for the zone within which the applicant will concentrate efforts to connect innovative researchers, entrepreneurs, investors, industry associations or clusters, and training providers. The geographic area defined should lend itself to a distinct identity and have the capacity to accommodate firm growth;

(d) The innovation partnership zone administrator must be an economic development council, port, workforce development council, city, or county.

(3) With respect solely to the research capacity required in subsection (2)(a)(i) of this section, the director may waive the requirement that the research institution be located within the zone. To be considered for such a waiver, an applicant must provide a specific plan that demonstrates the research institution's unique qualifications and suitability for the zone, and the types of jointly executed activities that will be used to ensure ongoing, face-to-face interaction and research collaboration among the zone's partners.

(4) On October 1st of each odd-numbered year, the director shall designate innovation partnership zones on the basis of applications that meet the legislative criteria, estimated economic impact of the zone, evidence of forward planning for the zone, and other criteria as recommended by the Washington state economic development commission. Estimated economic impact must include evidence of anticipated private investment, job creation, innovation, and commercialization. The director shall require evidence that zone applicants will promote commercialization, innovation, and collaboration among zone residents.

(5) Innovation partnership zones are eligible for funds and other resources as provided by the legislature or at the discretion of the governor.

(6) If the innovation partnership zone meets the other requirements of the fund sources, then the zone is eligible for the following funds relating to:

(a) The local infrastructure financing tools program;

(b) The sales and use tax for public facilities in rural counties; and

(c) Job skills.

(7) An innovation partnership zone shall be designated as a zone for a four-year period. At the end of the four-year period, the zone must reapply for the designation through the department.

(8) If the director finds at any time after the initial year of designation that an innovation partnership zone is failing to meet the performance standards required in its contract with the department, the director may withdraw such designation and cease state funding of the zone.

(9) The department shall convene annual information sharing events for innovation partnership zone administrators and other interested parties.

(10) An innovation partnership zone shall provide performance measures as required by the director, including but not limited to private investment measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation.

(11) The department shall compile a biennial report on the innovation partnership zone program by December 1st of every even-numbered year. The report shall provide information for each zone on its: Objectives; funding, tax incentives, and other support obtained from public sector sources; major activities; partnerships; performance measures; and outcomes achieved since the inception of the zone or since the previous biennial report. The Washington state economic development commission shall review the department's draft report and make recommendations on ways to increase the effectiveness of individual zones and the program overall. The department shall submit the report, including the commission's recommendations, to the governor and legislature beginning December 1, 2010. [2009 c 72 § 1; 2007 c 227 § 1.]

43.330.280 Innovation partnerships—Duties of state economic development commission and workforce training and education coordinating board—Working group.

(1) The Washington state economic development commission shall, with the advice of an innovation partnership advisory group selected by the commission:

(a) Provide information and advice to the department of commerce to assist in the implementation of the innovation partnership zone program, including criteria to be used in the selection of grant applicants for funding;

(b) Document clusters of companies throughout the state that have comparative competitive advantage or the potential for comparative competitive advantage, using the process and criteria for identifying strategic clusters developed by the working group specified in subsection (2) of this section;

(c) Conduct an innovation opportunity analysis to identify (i) the strongest current intellectual assets and research teams in the state focused on emerging technologies and their commercialization, and (ii) faculty and researchers that could increase their focus on commercialization of technology if provided the appropriate technical assistance and resources;

(d) Based on its findings and analysis, and in conjunction with the higher education coordinating board and research institutions:

(i) Develop a plan to build on existing, and develop new, intellectual assets and innovation research teams in the state in research areas where there is a high potential to commercialize technologies. The commission shall present the plan to the governor and legislature by December 31, 2009. The higher education coordinating board shall be responsible for implementing the plan in conjunction with the publicly funded research institutions in the state. The plan shall address the following elements and such other elements as the commission deems important:

(A) Specific mechanisms to support, enhance, or develop innovation research teams and strengthen their research and commercialization capacity in areas identified as useful to strategic clusters and innovative firms in the state;

(B) Identification of the funding necessary for laboratory infrastructure needed to house innovation research teams;

(C) Specification of the most promising research areas meriting enhanced resources and recruitment of significant entrepreneurial researchers to join or lead innovation research teams;

(D) The most productive approaches to take in the recruitment, in the identified promising research areas, of a minimum of ten significant entrepreneurial researchers over the next ten years to join or lead innovation research teams;

(E) Steps to take in solicitation of private sector support for the recruitment of entrepreneurial researchers and the commercialization activity of innovation research teams; and

(F) Mechanisms for ensuring the location of innovation research teams in innovation partnership zones;

(ii) Provide direction for the development of comprehensive entrepreneurial assistance programs at research institutions. The programs may involve multidisciplinary students, faculty, entrepreneurial researchers, entrepreneurs, and investors in building business models and evolving business plans around innovative ideas. The programs may provide technical assistance and the support of an entrepreneur-in-residence to innovation research teams and offer entrepreneurial training to faculty, researchers, undergraduates, and graduate students. Curriculum leading to a certificate in entrepreneurship may also be offered;

(e) Develop performance measures to be used in evaluating the performance of innovation research teams, the implementation of the plan and programs under (d)(i) and (ii) of this subsection, and the performance of innovation partnership zone grant recipients, including but not limited to private investment measures, business initiation measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation. The performance measures developed shall be consistent with the economic development commission's comprehensive plan for economic development and its standards and metrics for program evaluation. The commission shall report to the legislature and the governor by June 30, 2009, on the measures developed; and

(f) Using the performance measures developed, perform a biennial assessment and report, the first of which shall be due December 31, 2012, on:

(i) Commercialization of technologies developed at state universities, found at other research institutions in the state, and facilitated with public assistance at existing companies;

(ii) Outcomes of the funding of innovation research teams and recruitment of significant entrepreneurial researchers;

(iii) Comparison with other states of Washington's outcomes from the innovation research teams and efforts to recruit significant entrepreneurial researchers; and

(iv) Outcomes of the grants for innovation partnership zones.

The report shall include recommendations for modifications of chapter 227, Laws of 2007 and of state commercialization efforts that would enhance the state's economic competitiveness.

(2) The economic development commission and the workforce training and education coordinating board shall jointly convene a working group to:

(a) Specify the process and criteria for identification of substate geographic concentrations of firms or employment in an industry and the industry's customers, suppliers, supporting businesses, and institutions, which process will include the use of labor market information from the employment security department and local labor markets; and

(b) Establish criteria for identifying strategic clusters which are important to economic prosperity in the state, considering cluster size, growth rate, and wage levels among other factors. [2009 c 565 § 14; 2009 c 72 § 2; 2007 c 227 § 2.]

Reviser's note: This section was amended by 2009 c 72 § 2 and by 2009 c 565 § 14, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

43.330.290 Microenterprise development program.

The microenterprise development program is established in the department of commerce. In implementing the program, the department:

(1) Shall provide organizational support to a statewide microenterprise association and shall contract with the association for the delivery of services and distribution of grants;

(a) The association shall serve as the department's agent in carrying out the purpose and service delivery requirements of this section;

(b) The association's contract with the department shall specify that in administering the funds provided for under subsection (3) of this section, the association may use no greater than ten percent of the funds to cover administrative expenses;

(2) Shall provide funds for capacity building for the statewide microenterprise association and microenterprise development organizations throughout the state;

(3) Shall provide grants to microenterprise development organizations for the delivery of training and technical assistance services;

(4) Shall identify and facilitate the availability of state, federal, and private sources of funds which may enhance microenterprise development in the state;

(5) Shall develop with the statewide microenterprise association criteria for the distribution of grants to microen-

terprise development organizations. Such criteria may include:

(a) The geographic representation of all regions of the state, including both urban and rural communities;

(b) The ability of the microenterprise development organization to provide business development services in low-income communities;

(c) The scope of services offered by a microenterprise development organization and their efficiency in delivery of such services;

(d) The ability of the microenterprise development organization to monitor the progress of its customers and identify technical and financial assistance needs;

(e) The ability of the microenterprise development organization to work with other organizations, public entities, and financial institutions to meet the technical and financial assistance needs of its customers;

(f) The sufficiency of operating funds for the microenterprise development organization; and

(g) Such other criteria as agreed by the department and the association;

(6) Shall require the statewide microenterprise association and any microenterprise development organization receiving funds through the microenterprise development program to raise and contribute to the effort funded by the microenterprise development program an amount equal to twenty-five percent of the microenterprise development program funds received. Such matching funds may come from private foundations, federal or local sources, financial institutions, or any other source other than funds appropriated from the legislature;

(7) Shall require under its contract with the statewide microenterprise association an annual accounting of program outcomes, including job creation, access to capital, leveraging of nonstate funds, and other outcome measures specified by the department. By January 1, 2012, the joint legislative audit and review committee shall use these outcome data and other relevant information to evaluate the program's effectiveness; and

(8) May adopt rules as necessary to implement this section. [2009 c 565 § 15; 2007 c 322 § 3.]

Findings—Purpose—Intent—2007 c 322: "(1) The legislature finds that:

(a) Microenterprises are an important portion of Washington's economy, providing approximately twenty percent of the employment in Washington and playing a vital role in job creation.

(b) While community-based microenterprise development organizations have expanded their assistance to their microentrepreneur customers in recent years, there remains a lack of access to capital, training, and technical assistance for low-income microentrepreneurs.

(c) Support for microenterprise development offers a means to expand business and job creation in low-income communities in both rural and urban areas of the state.

(d) Local and state charitable foundation support, federal program funding, and private sector support can be leveraged by a statewide program for development of microenterprises.

(2) It is the purpose of this act to assist microenterprises in job creation by increasing the training, technical assistance, and financial resources available to microenterprises. It is the intention of the legislature to carry out this purpose by enabling the *department of community, trade, and economic development to contract with a statewide microenterprise association with the potential to provide organizational support and administer grants to local microenterprise development organizations, subject to the requirements of this act, and to leverage additional funds from sources other than moneys appropriated from the general fund." [2007 c 322 § 1.]

(2010 Ed.)

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.330.300 Financial fraud and identity theft crimes investigation and prosecution program. (Expires July 1, 2015.) (1) The financial fraud and identity theft crimes investigation and prosecution program is created in the department of commerce. The department shall:

(a) Appoint members of the financial fraud task forces created in subsection (2) of this section;

(b) Administer the account created in subsection (3) of this section; and

(c) By December 31st of each year submit a report to the appropriate committees of the legislature and the governor regarding the progress of the program and task forces. The report must include recommendations on changes to the program, including expansion.

(2)(a) The department shall establish two regional financial fraud and identity theft crime task forces that include a central Puget Sound task force that includes King and Pierce counties, and a Spokane county task force. Each task force must be comprised of local law enforcement, county prosecutors, representatives of the office of the attorney general, financial institutions, and other state and local law enforcement.

(b) The department shall appoint: (i) Representatives of local law enforcement from a list provided by the Washington association of sheriffs and police chiefs; (ii) representatives of county prosecutors from a list provided by the Washington association of prosecuting attorneys; and (iii) representatives of financial institutions.

(c) Each task force shall:

(i) Hold regular meetings to discuss emerging trends and threats of local financial fraud and identity theft crimes;

(ii) Set priorities for the activities for the task force;

(iii) Apply to the department for funding to (A) hire prosecutors and/or law enforcement personnel dedicated to investigating and prosecuting financial fraud and identity theft crimes; and (B) acquire other needed resources to conduct the work of the task force;

(iv) Establish outcome-based performance measures; and

(v) Twice annually report to the department regarding the activities and performance of the task force.

(3) The financial fraud and identity theft crimes investigation and prosecution account is created in the state treasury. Moneys in the account may be spent only after appropriation. Revenue to the account may include appropriations, revenues generated by the surcharge imposed in RCW 62A.9A-525, federal funds, and any other gifts or grants. Expenditures from the account may be used only to support the activities of the financial fraud and identity theft crime investigation and prosecution task forces and the program administrative expenses of the department, which may not exceed ten percent of the amount appropriated.

(4) For purposes of this section, "financial fraud and identity theft crimes" includes those that involve: Check fraud, chronic unlawful issuance of bank checks, embezzlement, credit/debit card fraud, identity theft, forgery, counterfeit instruments such as checks or documents, organized

counterfeit check rings, and organized identification theft rings. [2009 c 565 § 16; 2008 c 290 § 1.]

Expiration dates—2009 c 565 §§ 16 and 41: "(1) Section 16 of this act expires July 1, 2015.

(2) Section 41 of this act expires June 30, 2016." [2009 c 565 § 57.]

Expiration date—2008 c 290: "This act expires July 1, 2015." [2008 c 290 § 4.]

43.330.310 Comprehensive green economy jobs growth initiative—Establishment—Green industries jobs training account—Creation. (1) The legislature establishes a comprehensive green economy jobs growth initiative based on the goal of, by 2020, increasing the number of green economy jobs to twenty-five thousand from the eight thousand four hundred green economy jobs the state had in 2004.

(2) The department, in consultation with the employment security department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the higher education coordinating board, shall develop a defined list of terms, consistent with current workforce and economic development terms, associated with green economy industries and jobs.

(3)(a) The employment security department, in consultation with the department, the state workforce training and education coordinating board, the state board for community and technical colleges, the higher education coordinating board, Washington State University small business development center, and the Washington State University extension energy program, shall conduct labor market research to analyze the current labor market and projected job growth in the green economy, the current and projected recruitment and skill requirement of green economy industry employers, the wage and benefits ranges of jobs within green economy industries, and the education and training requirements of entry-level and incumbent workers in those industries.

(i) The employment security department shall conduct an analysis of occupations in the forest products industry to: (A) Determine key growth factors and employment projections in the industry; and (B) define the education and skill standards required for current and emerging green occupations in the industry.

(ii) The term "forest products industry" must be given a broad interpretation when implementing (a)(i) of this subsection and includes, but is not limited to, businesses that grow, manage, harvest, transport, and process forest, wood, and paper products.

(b) The University of Washington business and economic development center shall: Analyze the current opportunities for and participation in the green economy by minority and women-owned business enterprises in Washington; identify existing barriers to their successful participation in the green economy; and develop strategies with specific policy recommendations to improve their successful participation in the green economy. The research may be informed by the research of the Puget Sound regional council prosperity partnership, as well as other entities. The University of Washington business and economic development center shall report to the appropriate committees of the house of representatives and the senate on their research, analysis, and recommendations by December 1, 2008.

(4) Based on the findings from subsection (3) of this section, the employment security department, in consultation with the department and taking into account the requirements and goals of chapter 14, Laws of 2008 and other state clean energy and energy efficiency policies, shall propose which industries will be considered high-demand green industries, based on current and projected job creation and their strategic importance to the development of the state's green economy. The employment security department and the department shall take into account which jobs within green economy industries will be considered high-wage occupations and occupations that are part of career pathways to the same, based on family-sustaining wage and benefits ranges. These designations, and the results of the employment security department's broader labor market research, shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the higher education coordinating board.

(5) The department shall identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270.

(6) The department, consistent with the priorities established by the state economic development commission, shall:

(a) Develop targeting criteria for existing investments, and make recommendations for new or expanded financial incentives and comprehensive strategies, to recruit, retain, and expand green economy industries and small businesses; and

(b) Make recommendations for new or expanded financial incentives and comprehensive strategies to stimulate research and development of green technology and innovation, including designating innovation partnership zones linked to the green economy.

(7) For the purposes of this section, "target populations" means (a) entry-level or incumbent workers in high-demand green industries who are in, or are preparing for, high-wage occupations; (b) dislocated workers in declining industries who may be retrained for high-wage occupations in high-demand green industries; (c) dislocated agriculture, timber, or energy sector workers who may be retrained for high-wage occupations in high-demand green industries; (d) eligible veterans or national guard members; (e) disadvantaged populations; or (f) anyone eligible to participate in the state opportunity grant program under RCW 28B.50.271.

(8) The legislature directs the state workforce training and education coordinating board to create and pilot green industry skill panels. These panels shall consist of business representatives from: Green industry sectors, including but not limited to forest product companies, companies engaged in energy efficiency and renewable energy production, companies engaged in pollution prevention, reduction, and mitigation, and companies engaged in green building work and green transportation; labor unions representing workers in those industries or labor affiliates administering state-approved, joint apprenticeship programs or labor-management partnership programs that train workers for these industries; state and local veterans agencies; employer associations; educational institutions; and local workforce develop-

ment councils within the region that the panels propose to operate; and other key stakeholders as determined by the applicant. Any of these stakeholder organizations are eligible to receive grants under this section and serve as the intermediary that convenes and leads the panel. Panel applicants must provide labor market and industry analysis that demonstrates high demand, or demand of strategic importance to the development of the state's clean energy economy as identified in this section, for high-wage occupations, or occupations that are part of career pathways to the same, within the relevant industry sector. The panel shall:

(a) Conduct labor market and industry analyses, in consultation with the employment security department, and drawing on the findings of its research when available;

(b) Plan strategies to meet the recruitment and training needs of the industry and small businesses; and

(c) Leverage and align other public and private funding sources.

(9) The green industries jobs training account is created in the state treasury. Moneys from the account must be utilized to supplement the state opportunity grant program established under RCW 28B.50.271. All receipts from appropriations directed to the account must be deposited into the account. Expenditures from the account may be used only for the activities identified in this subsection. The state board for community and technical colleges, in consultation with the state workforce training and education coordinating board, informed by the research of the employment security department and the strategies developed in this section, may authorize expenditures from the account. The state board for community and technical colleges must distribute grants from the account on a competitive basis.

(a)(i) Allowable uses of these grant funds, which should be used when other public or private funds are insufficient or unavailable, may include:

(A) Curriculum development;

(B) Transitional jobs strategies for dislocated workers in declining industries who may be retrained for high-wage occupations in green industries;

(C) Workforce education to target populations; and

(D) Adult basic and remedial education as necessary linked to occupation skills training.

(ii) Allowable uses of these grant funds do not include student assistance and support services available through the state opportunity grant program under RCW 28B.50.271.

(b) Applicants eligible to receive these grants may be any organization or a partnership of organizations that has demonstrated expertise in:

(i) Implementing effective education and training programs that meet industry demand; and

(ii) Recruiting and supporting, to successful completion of those training programs carried out under these grants, the target populations of workers.

(c) In awarding grants from the green industries jobs training account, the state board for community and technical colleges shall give priority to applicants that demonstrate the ability to:

(i) Use labor market and industry analysis developed by the employment security department and green industry skill panels in the design and delivery of the relevant education

and training program, and otherwise utilize strategies developed by green industry skill panels;

(ii) Leverage and align existing public programs and resources and private resources toward the goal of recruiting, supporting, educating, and training target populations of workers;

(iii) Work collaboratively with other relevant stakeholders in the regional economy;

(iv) Link adult basic and remedial education, where necessary, with occupation skills training;

(v) Involve employers and, where applicable, labor unions in the determination of relevant skills and competencies and, where relevant, the validation of career pathways; and

(vi) Ensure that supportive services, where necessary, are integrated with education and training and are delivered by organizations with direct access to and experience with the targeted population of workers. [2010 c 187 § 2; 2008 c 14 § 9.]

Findings—2010 c 187: "(1) The legislature finds that:

(a) Washington's forest products industry plays a critical economic and environmental role in the state. The industry provides a wide range of services and goods both to Washingtonians and people around the world and is vital to the well-being and lifestyle of the people of the state of Washington; and

(b) It is in the best interest of the state to support and enhance the forest products industry.

(2) The legislature further finds that the state's forest practices are sustainably managed according to some of the most stringent riparian growing and harvest rules of any state in the nation or in the world, and that the state of Washington has received fifty-year assurances from the federal government that the state's forest practices satisfy the requirements of the federal endangered species act for aquatic species. As part of their environmental stewardship, forest landowners in Washington have repaired or removed nearly three thousand fish passage barriers, returned nearly twenty-five hundred miles of forest roads to their natural condition, and opened up nearly fifteen hundred miles of riparian salmonid habitat.

(3) The legislature further finds that Washington's forests naturally create habitat for fish and wildlife, clean water, and carbon storage; all environmental benefits that are lost when land is converted out of working forestry into another use. In recognition of forestry's benefits, the international panel on climate change has reported that a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of timber, fiber, wood products, or energy from the forest, will generate the largest sustained carbon mitigation benefit.

(4) The legislature further finds that the forest products industry is a seventeen billion dollar industry, making it Washington's second largest manufacturing industry. The forest products industry alone provides nearly forty-five thousand direct jobs and one hundred sixty-two thousand indirect jobs, many located in rural areas.

(5) The legislature further finds that working forests help generate wealth through recreation and tourism, the retention and creation of green jobs, and through the production of wood products and energy, a finding supported by the United States secretary of agriculture." [2010 c 187 § 1.]

Findings—Intent—Scope of chapter 14, Laws of 2008—Severability—2008 c 14: See RCW 70.235.005, 70.235.900, and 70.235.901.

43.330.320 Obtaining energy efficiency services—Awarding grants to financial institutions—Credit enhancements. (1) The department must: (a) Establish a process to award grants on a competitive basis to provide grants to financial institutions for the purpose of creating credit enhancements, such as loan loss reserve funds as specified in RCW 43.330.330 and 43.330.350, and consumer financial products and services that will be used to obtain energy efficiency services; and (b) develop criteria, in consultation with the department of financial institutions, regard-

ing the extent to which funds will be provided for the purposes of credit enhancements and set forth principles for accountability for financial institutions receiving funding for credit enhancements.

(2) The department must:

(a) Give priority to financial institutions that provide both consumer financial products or services and direct outreach;

(b) Approve any financing mechanisms offered by local municipalities under RCW 43.330.350; and

(c) Require any financial institution or other entity receiving funding for credit enhancements to:

(i) Provide books, accounts, and other records in such a form and manner as the department may require;

(ii) Provide an estimate of projected loan losses; and

(iii) Provide the financial institution's plan to manage loan loss risks, including the rationale for sizing a loan loss reserve and the use of other credit enhancements, as applicable. [2009 c 379 § 205.]

Finding—Intent—Effective date—2009 c 379: See notes following RCW 70.260.010.

43.330.330 Funding energy efficiency improvements--Risk reduction mechanisms--Legislative intent.

(1) The legislature finds that the creation and use of risk reduction mechanisms will promote greater involvement of local financial institutions and other financing mechanisms in funding energy efficiency improvements and will achieve greater leverage of state and federal dollars. Risk reduction mechanisms will allow financial institutions to lend to a broader pool of applicants on more attractive terms, such as potentially lower rates and longer loan terms. Placing a portion of funds in long-term risk reduction mechanisms will support a sustained level of energy efficiency investment by financial institutions while providing funding to projects quickly.

(2) It is the intent of the legislature to leverage new federal funding aimed at promoting energy efficiency projects, improving energy efficiency, and increasing family-wage jobs. To this end, the legislature intends to invest a portion of all federal funding, subject to federal requirements, for energy efficiency projects in financial mechanisms that will provide for maximum leverage of financing. [2009 c 379 § 206.]

Finding—Intent—Effective date—2009 c 379: See notes following RCW 70.260.010.

43.330.340 Appliance efficiency rebate program.

The department may create an appliance efficiency rebate program with available funds from the energy efficient appliances rebate program authorized under the federal energy policy act of 2005 (P.L. 109-58). [2009 c 379 § 207.]

Finding—Intent—Effective date—2009 c 379: See notes following RCW 70.260.010.

43.330.350 Use of moneys by local municipalities to leverage financing for energy efficiency projects.

(1) Local municipalities receiving federal stimulus moneys through the federal energy efficiency and conservation block grant program or state energy program are authorized to use those funds, subject to federal requirements, to establish loan

loss reserves or toward risk reduction mechanisms, such as loan loss reserves, to leverage financing for energy efficiency projects.

(2) Interest rate subsidies, financing transaction cost subsidies, capital grants to energy users, and other forms of grants and incentives that support financing energy efficiency projects are authorized uses of federal energy efficiency funding.

(3) Financing mechanisms offered by local municipalities under this section must conform to all applicable state and federal rules and regulations. [2009 c 379 § 208.]

Finding—Intent—Effective date—2009 c 379: See notes following RCW 70.260.010.

43.330.360 Findings—Involvement of state bond authorities in financing energy efficiency projects.

(1) The legislature finds that the state bond authorities have capacities that can be applied to financing energy efficiency projects for their respective eligible borrowers: Washington economic development finance authority for industry; Washington state housing finance commission for single-family and multifamily housing, commercial properties, agricultural properties, and nonprofit facilities; Washington higher education facilities authority for private, nonprofit higher education; and Washington health care facilities authority for hospitals and all types of health clinics.

(2)(a) Subject to federal requirements, the state bond authorities may accept and administer an allocation of the state's share of the federal energy efficiency funding for designing energy efficiency finance loan products and for developing and operating energy efficiency finance programs. The state bond authorities shall coordinate with the department on the design of the bond authorities' program.

(b) The department may make allocations of the federal funding to the state bond authorities and may direct and administer funding for outreach, marketing, and delivery of energy services to support the programs by the state bond authorities.

(c) The legislature authorizes a portion of the federal energy efficiency funds to be used by the state bond authorities for credit enhancements and reserves for such programs.

(3) The Washington state housing finance commission may:

(a) Issue revenue bonds as the term "bond" is defined in RCW 43.180.020 for the purpose of financing loans for energy efficiency and renewable energy improvement projects in accordance with RCW 43.180.150;

(b) Establish eligibility criteria for financing that will enable it to choose applicants who are likely to repay loans made or acquired by the commission and funded from the proceeds of federal funds or commission bonds; and

(c) Participate fully in federal and other governmental programs and take such actions as are necessary and consistent with chapter 43.180 RCW to secure to itself and the people of the state the benefits of programs to promote energy efficiency and renewable energy technologies. [2009 c 379 § 209.]

Finding—Intent—Effective date—2009 c 379: See notes following RCW 70.260.010.

43.330.370 Evergreen jobs initiative. The Washington state evergreen jobs initiative is established as a comprehensive green economy jobs growth initiative with the goals of:

(1) Creating fifteen thousand new green economy jobs by 2020, with a target of thirty percent of those jobs going to veterans, members of the national guard, and low-income and disadvantaged populations;

(2) Capturing and deploying federal funds in a focused, effective, and coordinated manner;

(3) Preparing the state's workforce to take full advantage of green economy job opportunities and to meet the recruitment and training needs of industry and small businesses;

(4) Attracting private sector investment that will create new and expand existing jobs, with an emphasis on services and products that have a high economic or environmental impact and can be exported domestically and internationally;

(5) Making Washington state a net exporter of green industry products and services, with special attention to renewable energy technology and components;

(6) Empowering local agencies and organizations to recruit green economy businesses and jobs into the state by providing state support and assistance;

(7) Capitalizing on existing partnership agreements in the Washington works plan and the Washington workforce compact; and

(8) Operating in concert with the fourteen guiding principles identified by the department in its Washington state's green economy strategic framework. [2009 c 536 § 2.]

Short title—2009 c 536: "This act may be known and cited as the evergreen jobs act." [2009 c 536 § 15.]

43.330.375 Evergreen jobs efforts—Coordination and support—Identification of technologies, barriers, and strategies—Outreach efforts—Performance reports.

(1) The department and the workforce board must:

(a) Coordinate efforts across the state to ensure that federal training and education funds are captured and deployed in a focused and effective manner in order to support green economy projects and accomplish the goals of the evergreen jobs initiative;

(b) Accelerate and coordinate efforts by state and local organizations to identify, apply for, and secure all sources of funds, particularly those created by the 2009 American recovery and reinvestment act, and to ensure that distributions of funding to local organizations are allocated in a manner that is time-efficient and user-friendly for the local organizations. Local organizations eligible to receive support include but are not limited to:

(i) Associate development organizations;

(ii) Workforce development councils;

(iii) Public utility districts; and

(iv) Community action agencies;

(c) Support green economy projects at both the state and local level by developing a process and a framework to provide, at a minimum:

(i) Administrative and technical assistance;

(ii) Assistance with and expediting of permit processes; and

(iii) Priority consideration of opportunities leading to exportable green economy goods and services, including renewable energy technology;

(d) Coordinate local and state implementation of projects using federal funds to ensure implementation is time-efficient and user-friendly for local organizations;

(e) Emphasize through both support and outreach efforts, projects that:

(i) Have a strong and lasting economic or environmental impact;

(ii) Lead to a domestically or internationally exportable good or service, including renewable energy technology;

(iii) Create training programs leading to a credential, certificate, or degree in a green economy field;

(iv) Strengthen the state's competitiveness in a particular sector or cluster of the green economy;

(v) Create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations;

(vi) Comply with prevailing wage provisions of chapter 39.12 RCW;

(vii) Ensure at least fifteen percent of labor hours are performed by apprentices;

(f) Identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270;

(g) Identify barriers to the growth of green jobs in traditional industries such as the forest products industry;

(h) Identify statewide performance metrics for projects receiving agency assistance. Such metrics may include:

(i) The number of new green jobs created each year, their wage levels, and, to the extent determinable, the percentage of new green jobs filled by veterans, members of the national guard, and low-income and disadvantaged populations;

(ii) The total amount of new federal funding secured, the respective amounts allocated to the state and local levels, and the timeliness of deployment of new funding by state agencies to the local level;

(iii) The timeliness of state deployment of funds and support to local organizations; and

(iv) If available, the completion rates, time to completion, and training-related placement rates for green economy postsecondary training programs;

(i) Identify strategies to allocate existing and new funding streams for green economy workforce training programs and education to emphasize those leading to a credential, certificate, or degree in a green economy field;

(j) Identify and implement strategies to allocate existing and new funding streams for workforce development councils and associate development organizations to increase their effectiveness and efficiency and increase local capacity to respond rapidly and comprehensively to opportunities to attract green jobs to local communities;

(k) Develop targeting criteria for existing investments that are consistent with the economic development commission's economic development strategy and the goals of this section and RCW 28C.18.170, 28B.50.281, and 49.04.200; and

(l) Make and support outreach efforts so that residents of Washington, particularly members of target populations, become aware of educational and employment opportunities identified and funded through the evergreen jobs act.

(2) The department and the workforce board must provide semiannual performance reports to the governor and appropriate committees of the legislature on:

(a) Actual statewide performance based on the performance measures identified in subsection (1)(h) of this section;

(b) How the state is emphasizing and supporting projects that lead to a domestically or internationally exportable good or service, including renewable energy technology;

(c) A list of projects supported, created, or funded in furtherance of the goals of the evergreen jobs initiative and the actions taken by state and local organizations, including the effectiveness of state agency support provided to local organizations as directed in subsection (1)(b) and (c) of this section;

(d) Recommendations for new or expanded financial incentives and comprehensive strategies to:

(i) Recruit, retain, and expand green economy industries and small businesses; and

(ii) Stimulate research and development of green technology and innovation, which may include designating innovation partnership zones linked to the green economy;

(e) Any information that associate development organizations and workforce development councils choose to provide to appropriate legislative committees regarding the effectiveness, timeliness, and coordination of support provided by state agencies under this section and RCW 28C.18.170, 28B.50.281, and 49.04.200; and

(f) Any recommended statutory changes necessary to increase the effectiveness of the evergreen jobs initiative and state responsiveness to local agencies and organizations.

(3) The definitions, designations, and results of the employment security department's broader labor market research under RCW 43.330.010 shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the higher education coordinating board. [2010 c 187 § 3; 2009 c 536 § 4.]

Findings—2010 c 187: See note following RCW 43.330.310.

Short title—2009 c 536: See note following RCW 43.330.370.

43.330.900 References to director and department.

All references to the director or department of community, trade, and economic development in the Revised Code of Washington shall be construed to mean the director of commerce or the department of commerce. [2009 c 565 § 17; 1993 c 280 § 79.]

43.330.901 Captions. Captions used in this chapter do not constitute part of the law. [1993 c 280 § 83.]

43.330.902 Effective date—1993 c 280. Sections 1 through 7, 9 through 79, 82, and 83 of this act shall take effect March 1, 1994. [1994 c 5 § 2; 1993 c 280 § 86.]

43.330.9021 Effective date—1994 c 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect March 1, 1994. [1994 c 5 § 3.]

43.330.903 Severability—1993 c 280. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 280 § 87.]

43.330.904 Transfer of certain state energy office powers, duties, and functions—References to director—Appointment of assistant director. (1) All powers, duties, and functions of the state energy office relating to energy resource policy and planning and energy facility siting are transferred to the *department of community, trade, and economic development. All references to the director or the state energy office in the Revised Code of Washington shall be construed to mean the director or the *department of community, trade, and economic development when referring to the functions transferred in this section.

The director shall appoint an assistant director for energy policy, and energy policy staff shall have no additional responsibilities beyond activities concerning energy policy.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the state energy office pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the *department of community, trade, and economic development. All cabinets, furniture, office equipment, software, database, motor vehicles, and other tangible property employed by the state energy office in carrying out the powers, functions, and duties transferred shall be made available to the *department of community, trade, and economic development.

(b) Any appropriations made to the state energy office for carrying out the powers, functions, and duties transferred shall, on July 1, 1996, be transferred and credited to the *department of community, trade, and economic development.

(c) Whenever any question arises as to the transfer of any funds, books, documents, records, papers, files, software, database, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the state energy office engaged in performing the powers, functions, and duties pertaining to the energy facility site evaluation council are transferred to the jurisdiction of the *department of community, trade, and economic development. All employees engaged in energy facility site evaluation council duties classified under chapter 41.06 RCW, the state civil service law, are assigned to the *department of community, trade, and economic development to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the state energy office pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the *department of community, trade, and economic development. All existing contracts and obligations shall remain in full force and shall be performed by the *department of community, trade, and economic development.

(5) The transfer of the powers, duties, and functions of the state energy office does not affect the validity of any act performed before July 1, 1996.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of the office of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation.

(7) The *department of community, trade, and economic development shall direct the closure of the financial records of the state energy office.

(8) Responsibility for implementing energy education, applied research, and technology transfer programs rests with Washington State University. The *department of community, trade, and economic development shall provide Washington State University available existing and future oil overcharge restitution and federal energy block funding for a minimum period of five years to carry out energy programs under an interagency agreement with the *department of community, trade, and economic development. The interagency agreement shall also outline the working relationship between the *department of community, trade, and economic development and Washington State University as it pertains to the relationship between energy policy development and public outreach. Nothing in chapter 186, Laws of 1996 prohibits Washington State University from seeking grant, contract, or fee-for-service funding for energy or related programs directly from other entities. [1996 c 186 § 101.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Intent—1996 c 186: "The legislature finds responsibilities of state government need to be limited to core services in support of public safety and welfare. Services provided by the Washington state energy office are primarily advisory and can be eliminated. The legislature further finds a need to redefine the state's role in energy-related regulatory functions. The state may be better served by allowing regulatory functions to be performed by other appropriate entities, simplifying state government while maintaining core services. Further, it is the intent of the legislature that the state continue to receive oil overcharge restitution funds for our citizens while every effort is being made to maximize federal funds available for energy conservation purposes." [1996 c 186 § 1.]

Additional notes found at www.leg.wa.gov

43.330.905 Transfer of powers, duties, and functions pertaining to county public health assistance. (1) All powers, duties, and functions of the department of commerce pertaining to county public health assistance are transferred to the department of health. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of health. All funds, credits, or other assets

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held in connection with the powers, functions, and duties transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on July 1, 2010, be transferred and credited to the department of health.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before July 1, 2010.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of health under this section whose positions are within an existing bargaining unit description at the department of health shall become a part of the existing bargaining unit at the department of health and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW. [2010 c 271 § 102.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

43.330.906 Transfer of powers, duties, and functions pertaining to the developmental disabilities endowment.

(1) All powers, duties, and functions of the department of commerce pertaining to the developmental disabilities endowment are transferred to the department of health. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions,

and duties transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on July 1, 2010, be transferred and credited to the department of health.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before July 1, 2010.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of health under this section whose positions are within an existing bargaining unit description at the department of health shall become a part of the existing bargaining unit at the department of health and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW. [2010 c 271 § 204.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

43.330.907 Transfer of powers, duties, and functions pertaining to administrative and support services for the building code council. (1) All powers, duties, and functions of the department of commerce pertaining to administrative and support services for the state building code council are transferred to the department of general administration. All

references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the department of general administration when referring to the functions transferred in this section. Policy and planning assistance functions performed by the department of commerce remain with the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of general administration. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of general administration. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of general administration.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on July 1, 2010, be transferred and credited to the department of general administration.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of general administration. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of general administration to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of general administration. All existing contracts and obligations shall remain in full force and shall be performed by the department of general administration.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before July 1, 2010.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of general administration under this section whose positions are within an existing bargaining unit description at the department of general administration shall become a part of the existing bargaining unit at the department of general administration and shall be consid-

ered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW. [2010 c 271 § 308.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

43.330.908 Transfer of powers, duties, and functions pertaining to the drug prosecution assistance program.

(1) All powers, duties, and functions of the department of commerce pertaining to the drug prosecution assistance program are transferred to the criminal justice training commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the criminal justice training commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the criminal justice training commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the criminal justice training commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the criminal justice training commission.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on July 1, 2010, be transferred and credited to the criminal justice training commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the criminal justice training commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the criminal justice training commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the criminal justice training commission. All existing contracts and obligations shall remain in full force and shall be performed by the criminal justice training commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before July 1, 2010.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to

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the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the criminal justice training commission under this section whose positions are within an existing bargaining unit description at the criminal justice training commission shall become a part of the existing bargaining unit at the criminal justice training commission and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW. [2010 c 271 § 502.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

43.330.909 Transfer of powers, duties, and functions pertaining to the energy facility site evaluation council.

(1) All administrative powers, duties, and functions of the department of commerce pertaining to the energy facility site evaluation council are transferred to the Washington utilities and transportation commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the Washington utilities and transportation commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the Washington utilities and transportation commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the Washington utilities and transportation commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the Washington utilities and transportation commission.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on July 1, 2010, be transferred and credited to the Washington utilities and transportation commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the Washington utilities and transportation commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the Washington utilities and transportation commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the Washington utilities and transportation commission. All existing contracts and obligations shall remain in full force and shall be performed by the Washington utilities and transportation commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before July 1, 2010.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the Washington utilities and transportation commission under this section whose positions are within an existing bargaining unit description at the Washington utilities and transportation commission shall become a part of the existing bargaining unit at the Washington utilities and transportation commission and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW. [2010 c 271 § 602.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Chapter 43.331 RCW

JOB ACT—PUBLIC FACILITIES CAPITAL IMPROVEMENTS—ENERGY, UTILITY, AND OPERATIONAL COST SAVINGS

Sections

43.331.010	General obligation bonds for capital improvements to public facilities.
43.331.020	Retirement of bonds.
43.331.030	Bonds—Pledge and promise—Remedies.
43.331.040	Program administration by department of commerce, in consultation with department of general administration and Washington State University energy program—Definitions.
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43.331.090	Washington works account.
43.331.100	Issuance of taxable bonds—Transfer of proceeds—Notice.
43.331.900	Referral to people—Spending restriction—Ballot title—2010 1st sp.s. c 35 §§ 101 through 203 and 401 through 405.

43.331.010 General obligation bonds for capital improvements to public facilities. (Effective December 2, 2010, if Referendum Bill No. 52 is approved by the voters at the November general election.) (1) For the purpose of creating jobs by constructing needed capital improvements to public facilities for energy, utility, and operational cost savings, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of five hundred five million dollars, or so much thereof as may be required, for this purpose and all costs incidental thereto.

[Title 43 RCW—page 718]

The bonds issued under the authority of this section are known as jobs act bonds.

(2) Bonds authorized in this section must be sold in the manner, at the time or times, in amounts, and at such prices as the state finance committee determines.

(3) The authorization to issue bonds contained in this chapter does not expire until the full authorization has been issued.

(4) No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2010 1st sp.s. c 35 § 201.]

Intent—2010 1st sp.s. c 35: "The legislature intends to create jobs in every corner of Washington state by issuing bonds, which will catalyze energy savings and repair work at public schools and state colleges and universities.

It is the intent of the legislature that these investments will create jobs quickly and directly, at a time when the state's residents need jobs. It is the further intent of the legislature that these investments both accelerate innovation in the energy efficiency sector and create locally developed technologies and companies to provide sustainable jobs. The legislature intends to prioritize the use of innovative technologies and facilitate the development of a sustainable innovation cluster that creates and installs highly efficient building technologies and creates jobs.

The legislature intends that these job-creating projects save taxpayers money, with an estimated one hundred twenty-six million dollars saved each year in public schools through reduced energy and operational costs, and improve the health and safety of those buildings. The energy savings are equivalent to the use of an estimated ninety thousand houses. It is also the intent of the legislature that these job-creating projects lead to reduced pollutants, as the weatherization and energy efficiency projects will reduce pollution emissions by an estimated amount equivalent to removing an estimated one hundred thirty thousand cars from the roads each year." [2010 1st sp.s. c 35 § 102.]

Short title—2010 1st sp.s. c 35: "This act may be known and cited as the jobs act." [2010 1st sp.s. c 35 § 101.]

Contingent effective date—2010 1st sp.s. c 35: "This act takes effect if *Second Engrossed Substitute Senate Bill No. 6143 is enacted by the legislature during the 2010 1st special session." [2010 1st sp.s. c 35 § 601.]

***Reviser's note:** Second Engrossed Substitute Senate Bill No. 6143 became chapter 23, Laws of 2010 1st sp. sess.

Intent—2010 1st sp.s. c 35: See note following RCW 43.331.040.

43.331.020 Retirement of bonds. (Effective December 2, 2010, if Referendum Bill No. 52 is approved by the voters at the November general election.) (1) The nondebt-limit general fund bond retirement account must be used for the payment of the principal of and interest on the bonds authorized in RCW 43.331.010.

(2) The state finance committee must, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.331.010.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.331.010, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2010 1st sp.s. c 35 § 202.]

Intent—Short title—Contingent effective date—2010 1st sp.s. c 35: See notes following RCW 43.331.010.

Intent—2010 1st sp.s. c 35: See note following RCW 43.331.040.

(2010 Ed.)

43.331.030 Bonds—Pledge and promise—Remedies. *(Effective December 2, 2010, if Referendum Bill No. 52 is approved by the voters at the November general election.)*

(1) Bonds issued under this section and RCW 43.331.010 and 43.331.020 must state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2010 1st sp.s. c 35 § 203.]

Intent—Short title—Contingent effective date—2010 1st sp.s. c 35: See notes following RCW 43.331.010.

Intent—2010 1st sp.s. c 35: See note following RCW 43.331.040.

43.331.040 Program administration by department of commerce, in consultation with department of general administration and Washington State University energy program—Definitions. (1) The department of commerce, in consultation with the department of general administration and the Washington State University energy program, shall administer the jobs act.

(2) The department of general administration must develop guidelines that are consistent with national and international energy savings performance standards for the implementation of energy savings performance contracting projects by the energy savings performance contractors by December 31, 2010.

(3) The definitions in this section apply throughout this chapter and RCW 43.331.050 unless the context clearly requires otherwise.

(a) "Cost-effectiveness" means that the present value to higher education institutions and school districts of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(b) "Energy cost savings" means savings realized in expenses for energy use and expenses associated with water, wastewater, or solid waste systems.

(c) "Energy equipment" means energy management systems and any equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including but not limited to design, engineering, financing, installation, project management, guarantees, operations, and maintenance. Reduction in energy use or energy cost may also include reductions in the use or cost of water, wastewater, or solid waste.

(d) "Energy savings performance contracting" means the process authorized by chapter 39.35C RCW by which a company contracts with a public agency to conduct energy audits and guarantee energy savings from energy efficiency.

(2010 Ed.)

(e) "Innovative measures" means advanced or emerging technologies, systems, or approaches that may not yet be in common practice but improve energy efficiency, accelerate deployment, or reduce energy usage, and become widely commercially available in the future if proven successful in demonstration programs without compromising the guaranteed performance or measurable energy and operational cost savings anticipated. Examples of innovative measures include, but are not limited to, advanced energy and systems operations monitoring, diagnostics, and controls systems for buildings; novel heating, cooling, ventilation, and water heating systems; advanced windows and insulation technologies, highly efficient lighting technologies, designs, and controls; and integration of renewable energy sources into buildings, and energy savings verification technologies and solutions.

(f) "Operational cost savings" means savings realized from parts, service fees, capital renewal costs, and other measurable annual expenses to maintain and repair systems. This definition does not mean labor savings related to existing facility staff.

(g) "Public facilities" means buildings, building components, and major equipment or systems owned by public school districts and public higher education institutions. [2010 1st sp.s. c 35 § 301.]

Intent—2010 1st sp.s. c 35: "The legislature intends to increase general state revenues to pay for a portion of the increased debt service costs for voter-approved bonds and for debt-limit bonds authorized by the legislature for projects awarded grants under sections 301 and 302 of this act for energy efficiency projects in public facilities." [2010 1st sp.s. c 35 § 304.]

Intent—Short title—Contingent effective date—2010 1st sp.s. c 35: See notes following RCW 43.331.010.

43.331.050 Competitive grant process—Audit—Administrative fees—Reports to the legislature. (1) Within appropriations specifically provided for the purposes of this chapter, the department of commerce, in consultation with the department of general administration, and the Washington State University energy program shall establish a competitive process to solicit and evaluate applications from public school districts, public higher education institutions, and other state agencies. Final grant awards shall be determined by the department of commerce.

(2) Grants must be awarded in competitive rounds, based on demand and capacity, with at least five percent of each grant round awarded to small public school districts with fewer than one thousand full-time equivalent students, based on demand and capacity.

(3) Within each competitive round, projects must be weighted and prioritized based on the following criteria and in the following order:

(a) Leverage ratio: In each round, the higher the leverage ratio of nonstate funding sources to state jobs act grant, the higher the project ranking.

(b) Energy savings: In each round, the higher the energy savings, the higher the project ranking. Applicants must submit documentation that demonstrates energy and operational cost savings resulting from the installation of the energy equipment and improvements. The energy savings analysis must be performed by a licensed engineer and documentation must include but is not limited to the following:

(i) A description of the energy equipment and improvements;

(ii) A description of the energy and operational cost savings; and

(iii) A description of the extent to which the project employs collaborative and innovative measures and encourages demonstration of new and emerging technologies with high energy savings or energy cost reductions.

(c) Expediency of expenditure: Project readiness to spend funds must be prioritized so that the legislative intent to expend funds quickly is met.

(4) Projects that do not use energy savings performance contracting must: (a) Verify energy and operational cost savings, as defined in RCW 43.331.040, for ten years or until the energy and operational costs savings pay for the project, whichever is shorter; (b) follow the department of general administration's energy savings performance contracting project guidelines developed pursuant to RCW 43.331.040; and (c) employ a licensed engineer for the energy audit and construction. The department of commerce may require third-party verification of savings if a project is not implemented by an energy savings performance contractor selected by the department of general administration through the request of qualifications process. Third-party verification must be conducted either by an energy savings performance contractor selected by the department of general administration through a request for qualifications, a licensed engineer specializing in energy conservation, or by a project resource conservation manager or educational service district resource conservation manager.

(5) To intensify competition, the department of commerce may only award funds to the top eighty-five percent of projects applying in a round until the department of commerce determines a final round is appropriate. Projects that do not receive a grant award in one round may reapply in subsequent rounds.

(6) To match federal grants and programs that require state matching funds and produce significantly higher efficiencies in operations and utilities, the level of innovation criteria may be increased for the purposes of weighted scoring to capture those federal dollars for selected projects that require a higher level of innovation and regional collaboration.

(7) Grant amounts awarded to each project must allow for the maximum number of projects funded with the greatest energy and cost benefit.

(8)(a) The department of commerce must use bond proceeds to pay one-half of the preliminary audit, up to five cents per square foot, if the project does not meet the school district's and higher education institution's predetermined cost-effectiveness criteria. School districts and higher education institutions must pay the other one-half of the cost of the preliminary audit if the project does not meet their predetermined cost-effectiveness criteria.

(b) The energy savings performance contractor may not charge for an investment grade audit if the project does not meet the school district's and higher education institution's predetermined cost-effectiveness criteria. School districts and higher education institutions must pay the full price of an investment grade audit if they do not proceed with a project

that meets the school district's and higher education institution's predetermined cost-effectiveness criteria.

(9) The department of commerce may charge projects administrative fees and may pay the department of general administration and the Washington State University energy program administration fees in an amount determined through a memorandum of understanding.

(10) The department of commerce and the department of general administration must submit a joint report to the appropriate committees of the legislature and the office of financial management on the timing and use of the grant funds, program administrative function, compliance with apprenticeship utilization requirements in RCW 39.04.320, compliance with prevailing wage requirements, and administration fees by the end of each fiscal year, until the funds are fully expended and all savings verification requirements are fulfilled. [2010 1st sp.s. c 35 § 302.]

Intent—Short title—Contingent effective date—2010 1st sp.s. c 35: See notes following RCW 43.331.010.

Intent—2010 1st sp.s. c 35: See note following RCW 43.331.040.

43.331.060 Payment of principal and interest on bonds—Additional means for raising money authorized—Purchase of bonds by state residents. (Effective December 2, 2010, if Referendum Bill No. 52 is approved by the voters at the November general election.) (1) The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.331.010, and RCW 43.331.020 may not be deemed to provide an exclusive method for the payment.

(2) The office of the state treasurer must determine a mechanism to allow individual Washington state residents to purchase jobs act bonds. [2010 1st sp.s. c 35 § 401.]

Intent—Short title—Contingent effective date—2010 1st sp.s. c 35: See notes following RCW 43.331.010.

Intent—2010 1st sp.s. c 35: See note following RCW 43.331.040.

43.331.070 Bonds legal investment. (Effective December 2, 2010, if Referendum Bill No. 52 is approved by the voters at the November general election.) The bonds authorized by this chapter constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [2010 1st sp.s. c 35 § 402.]

Intent—Short title—Contingent effective date—2010 1st sp.s. c 35: See notes following RCW 43.331.010.

Intent—2010 1st sp.s. c 35: See note following RCW 43.331.040.

43.331.080 Form, terms, and conditions of bonds. (Effective December 2, 2010, if Referendum Bill No. 52 is approved by the voters at the November general election.) The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds provided for in chapter 35, Laws of 2010 1st sp. sess., the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. [2010 1st sp.s. c 35 § 403.]

Intent—Short title—Contingent effective date—2010 1st sp.s. c 35: See notes following RCW 43.331.010.

Intent—2010 1st sp.s. c 35: See note following RCW 43.331.040.

43.331.090 Washington works account. (*Effective December 2, 2010, if Referendum Bill No. 52 is approved by the voters at the November general election.*) The Washington works account is created in the state treasury. All receipts from bonds authorized under RCW 43.331.010 must be deposited in the account. Moneys in the account may be spent only after appropriation. The proceeds from the sale of the bonds authorized in RCW 43.331.010 must be deposited in the account. Moneys in the account must be used exclusively for:

(1) The purposes of RCW 43.331.040 and 43.331.050 and section 303, chapter 35, Laws of 2010 1st sp. sess., which includes energy and operational cost savings improvements and related projects that result in energy and operational cost savings for public school districts and public higher education institutions; and

(2) The payment of the expenses incurred in connection with the sale and issuance of the bonds. [2010 1st sp.s. c 35 § 404.]

Intent—Short title—Contingent effective date—2010 1st sp.s. c 35: See notes following RCW 43.331.010.

Intent—2010 1st sp.s. c 35: See note following RCW 43.331.040.

43.331.100 Issuance of taxable bonds—Transfer of proceeds—Notice. (*Effective December 2, 2010, if Referendum Bill No. 52 is approved by the voters at the November general election.*) If the state finance committee deems it necessary to issue any portion of the bonds authorized in this chapter as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds must be transferred to the state taxable building construction account in lieu of any deposits otherwise provided by RCW 43.331.090. The state treasurer must submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. For purposes of this section, "nontaxable bond proceeds" includes proceeds from bonds issued as tax exempt bonds and proceeds from taxable bonds eligible for direct federal subsidy under federal internal revenue service rules. [2010 1st sp.s. c 35 § 405.]

Intent—Short title—Contingent effective date—2010 1st sp.s. c 35: See notes following RCW 43.331.010.

Intent—2010 1st sp.s. c 35: See note following RCW 43.331.040.

43.331.900 Referral to people—Spending restriction—Ballot title—2010 1st sp.s. c 35 §§ 101 through 203 and 401 through 405. (1) The secretary of state shall submit sections 101 through 203 and 401 through 405 of this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 and Article VIII, section 3 of the state Constitution and the laws adopted to facilitate their operation.

(2) If the people ratify this act as specified under subsection (1) of this section, revenues generated shall be spent as detailed in this act.

(3) Pursuant to RCW 29A.72.050(6), the statement of subject and concise description for the ballot title shall read:

(2010 Ed.)

"The legislature has passed Engrossed House Bill No. 2561 (this act), concerning job creation through energy efficiency projects in school buildings. This bill would promote job creation by authorizing bonds to construct energy efficiency savings improvements to schools, including higher education buildings." [2010 1st sp.s. c 35 § 501.]

Intent—Short title—Contingent effective date—2010 1st sp.s. c 35: See notes following RCW 43.331.010.

Intent—2010 1st sp.s. c 35: See note following RCW 43.331.040.

Chapter 43.332 RCW

OFFICE OF THE WASHINGTON STATE TRADE REPRESENTATIVE

Sections

43.332.005	Findings—Purpose.
43.332.010	Office created—Duties.
43.332.020	Gifts, grants—Bank account.

43.332.005 Findings—Purpose. (1) The legislature finds that:

(a) The expansion of international trade is vital to the overall growth of Washington's economy;

(b) On a per capita basis, Washington state is the most international trade dependent state in the nation;

(c) The North American free trade agreement (NAFTA) and the general agreement on tariffs and trade (GATT) highlight the increased importance of international trade opportunities to the United States and the state of Washington;

(d) The passage of NAFTA and GATT will have a major impact on the state's agriculture, aerospace, computer software, and textiles and apparel sectors;

(e) There is a need to strengthen and coordinate the state's activities in promoting and developing its agricultural, manufacturing, and service industries overseas, especially for small and medium-sized businesses, and minority and women-owned business enterprises; and

(f) The importance of having a coherent vision for advancing Washington state's interest in the global economy has rarely been so consequential as it is now.

(2) The legislature declares that the purpose of the office of the Washington state trade representative is to:

(a) Strengthen and expand the state's activities in marketing its goods and services overseas;

(b) Review and analyze proposed international trade agreements to assess their impact on goods and services produced by Washington businesses; and

(c) Inform the legislature about ongoing trade negotiations, trade development, and the possible impacts on Washington's economy. [2003 c 346 § 1; 1995 c 350 § 1.]

43.332.010 Office created—Duties. (1) The office of the Washington state trade representative is created in the office of the governor. The office shall serve as the state's official liaison with foreign governments on trade matters.

(2) The office shall:

(a) Work with the *department of community, trade, and economic development, the department of agriculture, and other appropriate state agencies, and within the agencies' existing resources, review and analyze proposed and enacted international trade agreements and provide an assessment of

the impact of the proposed or enacted agreement on Washington's businesses and firms;

(b) Provide input to the office of the United States trade representative in the development of international trade, commodity, and direct investment policies that reflect the concerns of the state of Washington;

(c) Serve as liaison to the legislature on matters of trade policy oversight including, but not limited to, updates to the legislature regarding the status of trade negotiations, trade litigation, and the impacts of trade policy on Washington state businesses;

(d) Work with the international trade division of the *department of community, trade, and economic development and the international marketing program of the Washington state department of agriculture to develop a statewide strategy designed to increase the export of Washington goods and services, particularly goods and services from small and medium-sized businesses; and

(e) Conduct other activities the governor deems necessary to promote international trade and foreign investment within the state.

(3) The office shall prepare and submit an annual report on its activities under subsection (2) of this section to the governor and appropriate committees of the legislature. [2003 c 346 § 2; 1995 c 350 § 2.]

Reviser's note: *(1) The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

(2) Substitute House Bill No. 1059, Substitute House Bill No. 1173, and Engrossed Substitute House Bill No. 1827 were enacted during the 2003 regular session of the legislature, but were vetoed in part by the governor. A stipulated judgment, No. 03-2-01988-4 filed in the Superior Court of Thurston County, between the governor and the legislature, settled litigation over the governor's use of veto powers and declared the vetoes of SHB 1059, SHB 1173, and ESHB 1827 null and void. Consequently, the text of this section has been returned to the version passed by the legislature prior to the vetoes. For vetoed text and message, see chapter 346, Laws of 2003.

43.332.020 Gifts, grants—Bank account. The office of the Washington state trade representative may accept or request grants or gifts from citizens and other private sources to be used to defray the costs of appropriate hosting of foreign dignitaries, including appropriate gift-giving and reciprocal gift-giving, or other activities of the office. The office shall open and maintain a bank account into which it shall deposit all money received under this section. Such money and the interest accruing thereon shall not constitute public funds, shall be kept segregated and apart from funds of the state, and shall not be subject to appropriation or allotment by the state or subject to chapter 43.88 RCW. [2003 c 346 § 3.]

Chapter 43.334 RCW

DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Sections

43.334.010	Department created—Definitions.
43.334.020	Director—Appointment—Salary.
43.334.030	Director powers and duties.
43.334.040	Departmental divisions.
43.334.050	Deputy director—Department personnel director—Assistant directors.
43.334.060	Director's delegation of powers and duties.
43.334.070	Advisory committees or councils.

43.334.075	State physical anthropologist—Appointment—Responsibilities—Support staff.
43.334.077	Skeletal human remains assistance account.
43.334.080	Federal and state cooperation—Rules—Construction.
43.334.900	Transfer of powers, duties, and functions.

43.334.010 Department created—Definitions. (1)

There is created a department of state government to be known as the department of archaeology and historic preservation. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(a) "Department" means the department of archaeology and historic preservation.

(b) "Director" means the director of the department of archaeology and historic preservation. [2005 c 333 § 1.]

43.334.020 Director—Appointment—Salary. The executive head and appointing authority of the department is the director. The director shall serve as the state historic preservation officer, and shall have a background in program administration, an active involvement in historic preservation, and a knowledge of the national, state, and local preservation programs as they affect the state of Washington. The director shall be appointed by the governor, with the consent of the senate, and serves at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. If a vacancy occurs in the position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate. [2005 c 333 § 2.]

43.334.030 Director powers and duties. It is the intent of the legislature wherever possible to place the internal affairs of the department under the control of the director in order that the director may institute therein the flexible, alert, and intelligent management of its business that changing contemporary circumstances require. Therefore, whenever the director's authority is not specifically limited by law, the director has complete charge and supervisory powers over the department. The director may create such administrative structures as the director considers appropriate, except as otherwise specified by law. The director may employ such assistants and personnel as necessary for the general administration of the department. This employment shall be in accordance with the state civil service law, chapter 41.06 RCW, except as otherwise provided. [2005 c 333 § 3.]

43.334.040 Departmental divisions. If necessary, the department may be subdivided into divisions. Except as otherwise specified or as federal requirements may differently require, divisions shall be established and organized in accordance with plans to be prepared by the director and approved by the governor. In preparing the plans, the director shall endeavor to promote efficient public management and to improve programs. [2005 c 333 § 4.]

43.334.050 Deputy director—Department personnel director—Assistant directors. The director shall appoint a deputy director, a department personnel director, and assis-

tant directors as needed to administer the department. The deputy director is responsible for the general supervision of the department in the absence or disability of the director and, in case of a vacancy in the office of director, shall continue in charge of the department until a successor is appointed and qualified, or until the governor appoints an acting director. [2005 c 333 § 5.]

43.334.060 Director's delegation of powers and duties. Any power or duty vested in or transferred to the director by law or executive order may be delegated by the director to the deputy director or to any other assistant or subordinate; but the director is responsible for the official acts of the officers and employees of the department. [2005 c 333 § 6.]

43.334.070 Advisory committees or councils. The director may appoint advisory committees or councils as required by any federal legislation as a condition to the receipt of federal funds by the department. The director may also appoint statewide committees or councils on those subject matters as are or come within the department's responsibilities. The statewide committees and councils shall have representation from both major political parties and shall have substantial consumer representation. The committees or councils shall be constituted as required by federal law or as the director may determine. The members of the committees or councils shall hold office as follows: One-third to serve one year; one-third to serve two years; and one-third to serve three years. Upon expiration of the original terms, subsequent appointments shall be for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member may serve more than two consecutive terms.

Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2005 c 333 § 7.]

43.334.075 State physical anthropologist—Appointment—Responsibilities—Support staff. (1) The director shall appoint a state physical anthropologist. At a minimum, the state physical anthropologist must have a doctorate in either archaeology or anthropology and have experience in forensic osteology or other relevant aspects of physical anthropology and must have at least one year of experience in laboratory reconstruction and analysis. A medical degree with archaeological experience in addition to the experience required may substitute for a doctorate in archaeology or anthropology.

(2) The state physical anthropologist has the primary responsibility of investigating, preserving, and, when necessary, removing and reintering discoveries of nonforensic skeletal human remains. The state physical anthropologist is available to any local governments or any federally recognized tribal government within the boundaries of Washington to assist in determining whether discovered skeletal human remains are forensic or nonforensic.

(2010 Ed.)

(3) The director shall hire staff as necessary to support the state physical anthropologist to meet the objectives of this section.

(4) For the purposes of this section, "forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010. [2008 c 275 § 4.]

Reporting requirements—2008 c 275: See note following RCW 68.50.645.

43.334.077 Skeletal human remains assistance account. The skeletal human remains assistance account is created in the custody of the state treasurer. All appropriations provided by the legislature for this purpose as well as any reimbursement for services provided pursuant to chapter 275, Laws of 2008 must be deposited in the account. Expenditures from the account may be used only for archaeological determinations and excavations of inadvertently discovered skeletal human remains, and removal and reinterment of such remains when necessary. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2008 c 275 § 7.]

Reporting requirements—2008 c 275: See note following RCW 68.50.645.

43.334.080 Federal and state cooperation—Rules—Construction. In furtherance of the policy of the state to cooperate with the federal government in all of the programs under the jurisdiction of the department, rules as may become necessary to entitle the state to participate in federal funds may be adopted, unless expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements that are a necessary condition to state receipt of federal funds. Any section or provision of law dealing with the department that may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. If any law dealing with the department is ruled to be in conflict with federal requirements that are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, the conflicting part is declared to be inoperative solely to the extent of the conflict. [2005 c 333 § 8.]

43.334.900 Transfer of powers, duties, and functions.

(1) The office of archaeology and historic preservation is hereby abolished and its powers, duties, and functions are hereby transferred to the department of archaeology and historic preservation.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the office of archaeology and historic preservation shall be delivered to the custody of the department of archaeology and historic preservation. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the office of archaeology and historic preservation shall be made available to the department of archaeology and historic preservation. All funds, credits, or other assets held by the office

of archaeology and historic preservation shall be assigned to the department of archaeology and historic preservation.

(b) Any appropriations made to the office of archaeology and historic preservation shall, on July 24, 2005, be transferred and credited to the department of archaeology and historic preservation.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the office of archaeology and historic preservation are transferred to the jurisdiction of the department of archaeology and historic preservation. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of archaeology and historic preservation to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the office of archaeology and historic preservation shall be continued and acted upon by the department of archaeology and historic preservation. All existing contracts and obligations shall remain in full force and shall be performed by the department of archaeology and historic preservation.

(5) The transfer of the powers, duties, functions, and personnel of the office of archaeology and historic preservation shall not affect the validity of any act performed before July 24, 2005.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel resources board as provided by law. [2005 c 333 § 12.]

Chapter 43.336 RCW

WASHINGTON TOURISM COMMISSION

Sections

43.336.010	Definitions.
43.336.020	Commission created—Composition—Terms—Executive director—Rule-making authority.
43.336.030	Tourism industry expansion—Coordinated program—Strategic plan—Tourism marketing plan.
43.336.040	Tourism competitive grant program.
43.336.050	Tourism enterprise account.
43.336.060	Tourism development program—Report to the legislature.
43.336.900	Part headings not law—2007 c 228.

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

(1) "Commission" means the Washington tourism commission.

(2) "Department" means the department of commerce.

(3) "Director" means the director of the department.

(4) "Executive director" means the executive director of the commission. [2009 c 565 § 42; 2007 c 228 § 101.]

43.336.020 Commission created—Composition—Terms—Executive director—Rule-making authority. (1) The Washington tourism commission is created.

(2) The commission shall be cochaired by the director of the department or the director's designee, and by an industry-member representative who is elected by the commission members.

(3) The commission shall have nineteen members. In appointing members, the governor shall endeavor to balance the geographic and demographic composition of the commission to include members with special expertise from tourism organizations, local jurisdictions, and small businesses directly engaged in tourism-related activities. Before making appointments to the Washington tourism commission, the governor shall consider nominations from recognized organizations that represent the entities or interests identified in this section. Commission members shall be appointed by the governor as follows:

(a) Three members to represent the lodging industry, at least two of which shall be chosen from a list of three nominees per position submitted by the state's largest lodging industry trade association. Members should represent all property categories and different regions of the state;

(b) Three representatives from nonprofit destination marketing organizations or visitor and convention bureaus;

(c) Three industry representatives from the arts, entertainment, attractions, or recreation industry;

(d) Four private industry representatives, two from each of the business categories in this subsection:

(i) The food, beverage, and wine industries; and

(ii) The travel and transportation industries;

(e) Four legislative members, one from each major caucus of the senate, designated by the president of the senate, and one from each major caucus of the house of representatives, designated by the speaker of the house of representatives;

(f) The chair of the Washington convention and trade center; and

(g) The director or the director's designee.

(4)(a) Terms of nonlegislative members shall be three years, except that initial terms shall be staggered such that terms of one-third of the initial members shall expire each year.

(b) Terms of legislative members shall be two years.

(c) Vacancies shall be appointed in the same manner as the original appointment.

(d) A member appointed by the governor may not be absent from more than fifty percent of the regularly scheduled meetings in any one calendar year. Any member who exceeds this absence limitation is deemed to have withdrawn from the office and may be replaced by the governor.

(5) Members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(6) The commission shall meet at least four times per year, but may meet more frequently as necessary.

(7) A majority of members currently appointed constitutes a quorum.

(8) Staff support shall be provided by the department, and staff shall report to the executive director.

(9) The director, in consultation with the commission, shall appoint an executive director.

(10) The commission may adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter. [2009 c 549 § 5178; 2007 c 228 § 102.]

43.336.030 Tourism industry expansion—Coordinated program—Strategic plan—Tourism marketing plan. (1) The commission shall pursue a coordinated program to expand the tourism industry throughout the state in cooperation with the public and private tourism development organizations. The commission shall develop and approve, and update as necessary, a six-year strategic plan that includes, but is not limited to:

(a) Promoting Washington as a tourism destination to national and international markets to include nature-based and wildlife viewing tourism;

(b) Providing information to businesses and local communities on tourism opportunities that could expand local revenues;

(c) Assisting local communities to strengthen their tourism partnerships, including their relationships with state and local agencies;

(d) Providing leadership training and assistance to local communities to facilitate the development and implementation of local tourism plans;

(e) Coordinating the development of a statewide tourism marketing plan that must be adopted by March 31, 2008, and every two years thereafter. If the commission does not adopt a marketing plan by March 31st of even-numbered years, the director has the authority to approve a tourism marketing plan for implementation. The plan shall specifically address mechanisms for: (i) Funding national and international marketing and nature-based tourism efforts; (ii) interagency cooperation; and (iii) integrating the state plan with local tourism plans.

(2) The commission may, in carrying out its efforts to expand the tourism industry in the state:

(a) Solicit and receive gifts, grants, funds, fees, and endowments, in trust or otherwise, from tribal, local, or other governmental entities, as well as private sources, and may expend the same or any income therefrom for tourism purposes. All revenue received for tourism purposes shall be deposited into the tourism enterprise account created in RCW 43.336.050;

(b) Host conferences and strategic planning workshops relating to the promotion of nature-based and wildlife viewing tourism;

(c) Conduct or contract for tourism-related studies;

(d) Contract with individuals, businesses, or public entities to carry out its tourism-related activities under this section; and

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(e) Provide tourism-related organizations with marketing and other technical assistance.

(3) Staff shall implement the strategic plan and the tourism marketing plan. [2007 c 228 § 103.]

43.336.040 Tourism competitive grant program. (1)

A tourism competitive grant program is created as an ongoing program to enhance local efforts that support tourism-related activities. The commission shall develop and publicize formal selection criteria for the grant program. Subject to available funding, the commission shall solicit applications and award grants to successful applicants at least once a year.

(2) Eligible applicants include, but are not limited to, local governments, nonprofit organizations, and federally recognized Indian tribes.

(3) Criteria should include the return on investment of state funding, the availability of other financial resources to the applicant, the level of community support, and other criteria deemed necessary by the commission.

(4) Maximum grant amounts shall be determined by the commission. Grant awards must reflect geographic and demographic diversity and a variety of activities. Successful applicants must provide matching funds equal to the amount of the grant. In-kind donations shall not be considered in the match calculation.

(5) No portion of the grant may be used for an applicant's administrative costs. [2007 c 228 § 104.]

43.336.050 Tourism enterprise account. The tourism enterprise account is created in the custody of the state treasurer.

(1) All receipts from RCW 43.336.030(2)(a) must be deposited into the account. Only the executive director or the executive director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Moneys transferred from the state convention and trade [center] account to this account, as provided in RCW 67.40.040, shall be available for expenditure in accordance with the requirements of this section. As provided under subsection (3) of this section, moneys must be matched with private sector cash contributions, the value of an advertising equivalency contribution, or through an in-kind contribution. The commission shall determine criteria for what qualifies as an in-kind contribution. The moneys subject to match may be expended as private match is received or with evidence of qualified expenditure.

(3)(a) Twenty-five percent of the moneys transferred in fiscal year 2009 are subject to a match;

(b) Fifty percent of the moneys transferred in fiscal year 2010 are subject to a match; and

(c) One hundred percent of the moneys transferred in fiscal year 2011, and thereafter, are subject to a match.

(4) Expenditures from the account may be used by the *department of community, trade, and economic development only for the purposes of expanding and promoting the tourism industry in the state of Washington. [2007 c 228 § 105.]

*Reviser’s note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.336.060 Tourism development program—Report to the legislature. On or before June 30th of each even-numbered year, the commission shall submit a report to the appropriate policy and fiscal committees of the house of representatives and senate that describes the tourism development program for the previous fiscal year and quantifies the financial benefits to the state. The report must contain information concerning targeted markets, benefits to different areas of the state, return on the state’s investment, grants disbursed under the tourism competitive grant program, a copy of the most recent strategic plan, and other relevant information related to tourism development. [2009 c 518 § 13; 2007 c 228 § 107; 1998 c 299 § 5. Formerly RCW 43.330.096.]

Intent—1998 c 299: "It is the intent of this act to provide for predictable and stable funding for tourism development activities of the state of Washington by establishing funding levels based on proven performance and return on state funds invested in tourism development and to establish a tourism development advisory committee." [1998 c 299 § 1.]

Additional notes found at www.leg.wa.gov

43.336.900 Part headings not law—2007 c 228. Part headings used in this act are not any part of the law. [2007 c 228 § 204.]

Chapter 43.338 RCW

WASHINGTON MANUFACTURING INNOVATION AND MODERNIZATION EXTENSION SERVICE PROGRAM

Sections

- 43.338.005 Finding—Intent.
- 43.338.010 Definitions.
- 43.338.020 Program created—Application—Funding—Rules—Audit copy.
- 43.338.030 Manufacturing innovation and modernization account.
- 43.338.040 Data collection—Report to the legislature.
- 43.338.900 Construction.
- 43.338.901 Severability—2008 c 315.

Reviser’s note—Sunset Act application: The Washington manufacturing innovation and modernization extension service program is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.409. RCW 43.338.005 through 43.338.040 and 43.338.900 are scheduled for future repeal under RCW 43.131.410.

43.338.005 Finding—Intent. The legislature finds that a viable manufacturing industry is critical to providing the state economy with family-wage jobs and improving the quality of life for workers and communities. To perform in the emerging global marketplace, Washington manufacturers must master new technologies, streamline production processes, improve quality assurance, expand environmental compliance, and enhance methods of work organization. Only through innovation and modernization techniques, reflecting the specific needs and capabilities of the individual firms, can Washington manufacturers both compete successfully in the market of the future and pay good living wages.

Most small and midsize manufacturers do not have the resources that will allow them to easily access innovation and modernization technical assistance and the skills training needed to make them globally competitive. Because of the statewide public benefit to be gained from increasing the

availability of innovation and modernization services, it is the intent of the legislature to create a new mechanism in a manner that reduces the up-front costs of these services for small and midsize manufacturing firms. It is further the intent of the legislature that Washington state increase its support for the federal manufacturing extension partnership program, to expand the delivery of innovation and modernization services to small and midsize Washington manufacturers, and to leverage federal funding and private resources devoted to such efforts.

The successful implementation of innovation and modernization services will enable a manufacturing firm to reduce costs, increase sales, become more profitable, and ultimately expand job opportunities for Washington citizens. Such growth will result in increased revenue from the state business and occupation taxes paid by manufacturers who have engaged in innovation and modernization services. [2008 c 315 § 1.]

Sunset Act application: See note following chapter digest.

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

(1) "Costs of extension services" and "extension service costs" mean the direct costs experienced under a contract with a qualified manufacturing extension partnership affiliate for modernization extension services, including but not limited to amounts in the contract for costs of consulting, instruction, materials, equipment, rental of class space, marketing, and overhead.

(2) "Department" means the department of commerce.

(3) "Director" means the director of the department of commerce.

(4) "Innovation and modernization extension services" and "service" mean a service funded under this chapter and performed by a qualified manufacturing extension partnership affiliate. The services may include but are not limited to strategic planning, continuous improvement, business development, six sigma, quality improvement, environmental health and safety, lean processes, energy management, innovation and product development, human resources and training, supply chain management, and project management.

(5) "Innovation and modernization extension voucher" and "voucher" mean an instrument issued to a successful applicant from the department, verifying that funds from the manufacturing innovation and modernization account will be forwarded to the qualified manufacturing extension partnership affiliate selected by the participant and will cover identified costs of extension services.

(6) "Outreach services" means those activities performed by an affiliate to either assess the technical assistance needs of Washington manufacturers or increase manufacturers’ awareness of the opportunities and benefits of implementing cutting edge technology, techniques, and best practices. "Outreach services" includes but is not limited to salaries of outreach staff, needs assessments, client follow-up, public educational events, manufacturing orientated trade shows, electronic communications, newsletters, advertising, direct mail efforts, and contacting business organizations for names of manufacturers who might need assistance.

(7) "Program" means the Washington manufacturing innovation and modernization extension service program created in RCW 43.338.020.

(8) "Program participant" and "participant" mean an applicant for assistance under the program that has received a voucher or a small manufacturer receiving services through an industry association or cluster association that has received a voucher.

(9) "Qualified manufacturing extension partnership affiliate" and "affiliate" mean a private nonprofit organization established under RCW 24.50.010 or other organization that is eligible or certified to receive federal matching funds from the national institute of standards and technology manufacturing extension partnership program of the United States department of commerce.

(10) "Small manufacturer" means a private employer whose primary business is adding value to a product through a manufacturing process and employs one hundred or fewer employees within Washington state. [2009 c 565 § 43; 2008 c 315 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Sunset Act application: See note following chapter digest.

43.338.020 Program created—Application—Funding—Rules—Audit copy. (1) The Washington manufacturing innovation and modernization extension service program is created to provide assistance to small manufacturers located in the state of Washington. The program shall be administered by the department.

(2)(a) Application to receive assistance under this program must be made to the department in a form and manner specified by the department. Successful applicants will receive an innovation and modernization extension voucher from the department to cover the costs of extension services performed by a qualified manufacturing extension partnership affiliate. An applicant may not receive a voucher or vouchers of over two hundred thousand dollars per calendar year. The department shall only allocate up to sixty percent of available funding during the first year of a biennium.

(b) Applicants must:

(i) Have a valid agreement with a qualified manufacturing extension partnership affiliate to engage in innovation and modernization extension services;

(ii) Agree to: (A) Make a contribution to the manufacturing innovation and modernization account created in RCW 43.338.030, in an amount equal to twenty-five percent of the amount of the innovation and modernization extension voucher, upon completion of the innovation and modernization extension service; and (B) make monthly or quarterly contributions over the subsequent eighteen months, as specified in their agreement with the affiliate, to the manufacturing innovation and modernization account created in RCW 43.338.030 in an amount equal to eighty percent of the amount of the innovation and modernization extension voucher;

(iii) Be a small manufacturer or an industry association or cluster association at the time the applicant entered into an agreement with a qualified manufacturing extension partnership affiliate; and

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(iv) If a small manufacturer, ensure that the number of employees the applicant has in the state during the calendar year following the completion of the program will be equal to or greater than the number of employees the applicant had in the state in the calendar year preceding the start of the program.

(3) The director may solicit and receive gifts, grants, funds, fees, and endowments, in trust or otherwise, from tribal, local, federal, or other governmental entities, as well as private sources, for the purpose of providing funding for the innovation and modernization extension services and outreach services specified in this chapter. All revenue solicited and received by the department pursuant to this subsection must be deposited into the manufacturing innovation and modernization account created in RCW 43.338.030.

(4) The department may adopt rules to implement this section.

(5) Any qualified manufacturing extension partnership affiliate receiving funding under this program is required to submit a copy of its annual independent federal audit to the department within three months of its issuance. [2008 c 315 § 3.]

Sunset Act application: See note following chapter digest.

43.338.030 Manufacturing innovation and modernization account. (1) The manufacturing innovation and modernization account is created in the state treasury. Monies in the account may be spent only after appropriation.

(2) Expenditures from the account may be used only for funding activities of the Washington manufacturing innovation and modernization extension services program created in RCW 43.338.020.

(3) All payments by a program participant in the Washington manufacturing innovation and modernization extension services program created in RCW 43.338.020 shall be deposited into the manufacturing innovation and modernization account. Of the total payments deposited into the account by program participants, the department may use up to three percent for administration of this program. The deposit of payments under this section from a program participant cease when the department specifies that the program participant has met the monetary contribution obligations of the program.

(4) All revenue solicited and received under the provisions of RCW 43.338.020(3) shall be deposited into the manufacturing innovation and modernization account.

(5) The legislature intends that all payments from the manufacturing innovation and modernization account made to qualified manufacturing extension partnership affiliates will be eligible as the state match in an affiliate's application for federal matching funds under the manufacturing extension partnership program of the United States department of commerce's national institute of standards and technology. [2008 c 315 § 5.]

Sunset Act application: See note following chapter digest.

43.338.040 Data collection—Report to the legislature. Any qualified manufacturing extension partnership affiliate receiving funding under the program shall collect and submit to the department annually data on the number of

clients served, the scope of services provided, and outcomes achieved during the previous calendar year. The department must evaluate the data submitted and use it in a biennial report on the program submitted to the appropriate committees of the legislature. [2008 c 315 § 6.]

Sunset Act application: See note following chapter digest.

43.338.900 Construction. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, or parts thereof, the provisions of this chapter shall be controlling. [2008 c 315 § 4.]

Sunset Act application: See note following chapter digest.

43.338.901 Severability—2008 c 315. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2008 c 315 § 9.]

Chapter 43.340 RCW

TOBACCO SETTLEMENT AUTHORITY

Sections

43.340.005	Purpose—Construction.
43.340.010	Definitions.
43.340.020	Tobacco settlement authority—Governing board—Meetings—Staff support.
43.340.030	Tobacco settlement authority—Powers—Rule-making authority.
43.340.040	Financing powers.
43.340.050	Bonds.
43.340.060	Bonds—Obligations of authority—Not obligations of state.
43.340.070	Bonds—Legal investments.
43.340.080	Sale of rights in master settlement agreement.
43.340.090	Limitation of liability.
43.340.100	Bankruptcy—Contractual obligation to contain section.
43.340.110	Dissolution of authority.
43.340.120	Tobacco securitization trust account.
43.340.130	Appeals bonds—Amounts.
43.340.900	Captions not law—2002 c 365.
43.340.901	Severability—2002 c 365.
43.340.902	Effective date—2002 c 365.

43.340.005 Purpose—Construction. The legislature declares it to be the public policy of the state and a recognized governmental function to assist in securitizing the revenue stream from the master settlement agreement between the state and tobacco product manufacturers in order to provide a current and reliable source of revenue for the state. The purpose of this chapter is to establish a tobacco settlement authority having the power to purchase certain rights of the state under the master settlement agreement and to issue non-recourse revenue bonds to pay outstanding obligations of the state in order to make funds available for increased costs of health care, long-term care, and other programs of the state. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof. [2002 c 365 § 1.]

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

(1) "Authority" means the tobacco settlement authority created in this chapter.

(2) "Board" means the governing board of the authority.

(3) "Bonds" means bonds, notes, and other obligations and financing arrangements issued or entered into by the authority under this chapter.

(4) "Master settlement agreement" means the national master settlement agreement and related documents entered into on November 23, 1998, by the state and the four principal United States tobacco product manufacturers, as amended and supplemented, for the settlement of litigation brought by the state against the tobacco product manufacturers.

(5) "Sales agreement" means any agreement authorized under this chapter in which the state provides for the sale to the authority of a portion of the payments required to be made by tobacco product manufacturers to the state and the state's rights to receive such payments, pursuant to the master settlement agreement. [2002 c 365 § 2.]

43.340.020 Tobacco settlement authority—Governing board—Meetings—Staff support. (1) The tobacco settlement authority is created and constitutes a public instrumentality and agency of the state, separate and distinct from the state, exercising public and essential governmental functions. The authority is a public body within the meaning of RCW 39.53.010.

(2) The powers of the authority are vested in and shall be exercised by a board consisting of five directors appointed by the governor, one of whom shall be appointed by the governor as chair of the authority and who shall serve on the authority and as chair of the authority at the pleasure of the governor. The governor shall make the initial appointments no later than thirty days after April 4, 2002. The term of the directors, other than the chair, shall be four years from the date of their appointment, except that the terms of two of the initial appointees, as determined by the governor, shall be for two years from the date of their appointment. A director may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The governor shall fill any vacancy on the board by appointment for the remainder of the unexpired term. The members of the authority shall be compensated in accordance with RCW 43.03.240 and may be reimbursed, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter, subject to RCW 43.03.050 and 43.03.060.

(3) Three members of the board constitute a quorum.

(4) The members shall elect a treasurer and secretary annually, and other officers as the members determine necessary.

(5) Meetings of the board shall be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the chair or when a majority of the members so requests. Meetings of the board may be held at any location within or out of the state, and members of the board may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200.

(6) The staff of the state housing finance commission under chapter 43.180 RCW shall provide administrative and staff support to the authority and shall be compensated for its

services solely from the funds of the authority. [2002 c 365 § 3.]

43.340.030 Tobacco settlement authority—Powers—Rule-making authority. (1) The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers. In addition to other powers specified in this chapter, the authority may:

- (a) Sue and be sued in its own name;
- (b) Make and execute agreements, contracts, and other instruments, with any public or private person, in accordance with this chapter;
- (c) Employ, contract with, or engage independent counsel, bond counsel, other attorneys, financial advisors, investment bankers, auditors, other technical or professional assistants, and such other personnel as are necessary and recommended by the state housing finance commission staff;
- (d) Invest or deposit moneys of the authority in any manner determined by the authority and enter into hedge agreements, swap agreements, or other financial products, including payment agreements defined under RCW 39.96.020(5). The authority is not a governmental entity for purposes of chapter 39.96 RCW;
- (e) Establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;
- (f) Procure insurance, other credit enhancements, and other financing arrangements for its bonds to fulfill its purposes under this chapter, including but not limited to municipal bond insurance and letters of credit;
- (g) Accept appropriations, gifts, grants, loans, or other aid from public or private entities;
- (h) Adopt rules, consistent with this chapter, as the board determines necessary;
- (i) Delegate any of its powers and duties if consistent with the purposes of this chapter; and
- (j) Exercise any other power reasonably required to implement the purposes of this chapter.

(2) The authority does not have the power of eminent domain and does not have the power to levy taxes of any kind. [2002 c 365 § 6.]

43.340.040 Financing powers. In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

- (1) Establish a stable source of revenue to be used for the purposes designated in this chapter;
- (2) Enter into sales agreements with the state for purchase of a portion of the amounts otherwise due to the state under the master settlement agreement, and of the state's rights to receive such amounts;
- (3) Issue bonds, the interest and gain on which may or may not be exempt from general federal income taxation, in one or more series, and to refund or refinance its debt and obligations;
- (4) Sell, pledge, or assign, as security, all or a portion of the revenues derived by the authority under any sales agreement, to provide for and secure the issuance of its bonds;

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(5) Provide for the investment of any funds, including funds held in reserve, not required for immediate disbursement, and provide for the selection of investments;

(6) Manage its funds, obligations, and investments as necessary and as consistent with its purpose; and

(7) Implement the purposes of this chapter. [2002 c 365 § 5.]

43.340.050 Bonds. (1) The authority may issue its bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its purposes, the payment of debt service on its bonds, the establishment of reserves to secure the bonds, the costs of issuance of its bonds and credit enhancements, if any, and all other expenditures of the authority incident to and necessary to carry out its purposes or powers. The authority may also issue refunding bonds, including advance refunding bonds, for the purpose of refunding previously issued bonds, and may issue other types of bonds, debt obligations, and financing arrangements necessary to fulfill its purposes or the purposes of this chapter. The bonds are investment securities and negotiable instruments within the meaning of and for the purposes of the uniform commercial code.

(2) The authority's bonds shall bear such date or dates, mature at such time or times, be in such denominations, be in such form, be registered or registrable in such manner, be made transferable, exchangeable, and interchangeable, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, bear such fixed or variable rate or rates of interest, be taxable or tax exempt, be payable at such time or times, and be sold in such manner and at such price or prices, as the authority determines. The bonds shall be executed by one or more officers of the authority, and by the trustee or paying agent if the authority determines to use a trustee or paying agent for the bonds. Execution of the bonds may be by manual or facsimile signature, provided that at least one signature on the bond is manual.

(3) The bonds of the authority shall be subject to such terms, conditions, covenants, and protective provisions as are found necessary or desirable by the authority, including, but not limited to, pledges of the authority's assets, setting aside of reserves, and other provisions the authority finds are necessary or desirable for the security of bondholders.

(4) Any revenue pledged by the authority to be received under the sales agreement or in special funds created by the authority shall be valid and binding at the time the pledge is made. Receipts so pledged and then or thereafter received by the authority and any securities in which such receipts may be invested shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the authority, whether such parties have notice of the lien. Notwithstanding any other provision to the contrary, the resolution or indenture of the authority or any other instrument by which a pledge is created need not be recorded or filed pursuant to chapter 62A.9A RCW to perfect such pledge. The authority shall constitute a governmental unit within the meaning of RCW 62A.9A-102(a)(45).

(5) When issuing bonds, the authority may provide for the future issuance of additional bonds or parity debt on a parity with outstanding bonds, and the terms and conditions of their issuance. The authority may issue refunding bonds in accordance with chapter 39.53 RCW or issue bonds with a subordinate lien against the fund or funds securing outstanding bonds.

(6) The board and any person executing the bonds are not liable personally on the indebtedness or subject to any personal liability or accountability by reason of the issuance thereof.

(7) The authority may, out of any fund available therefor, purchase its bonds in the open market. [2002 c 365 § 8.]

43.340.060 Bonds—Obligations of authority—Not obligations of state. (1) Bonds issued under this chapter shall be issued in the name of the authority. The bonds shall not be obligations of the state of Washington and shall be obligations only of the authority, payable solely from the special fund or funds created by the authority for their payment.

(2) Bonds issued under this chapter shall contain a recital on their face to the effect that payment of the principal of, interest on, and prepayment premium, if any, on the bonds shall be a valid claim only as against the special fund or funds relating thereto, that neither the faith and credit nor the taxing power of the state or any municipal corporation, subdivision, or agency of the state, other than the authority as set forth in this chapter, is pledged to the payment of the principal of, interest on, and prepayment premium, if any, on the bonds.

(3) Contracts entered into by the authority shall be entered into in the name of the authority and not in the name of the state of Washington. The obligations of the authority under the contracts shall be obligations only of the authority and are not in any way obligations of the state of Washington. [2002 c 365 § 4.]

43.340.070 Bonds—Legal investments. Bonds issued under this chapter are hereby made securities in which all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in obligations of the state may properly and legally invest funds, including capital in their control or belonging to them. [2002 c 365 § 9.]

43.340.080 Sale of rights in master settlement agreement. (1) The governor is authorized to sell and assign to the authority all of the state's right to receive a portion of the state's annual share of the revenue derived from the master settlement agreement for litigation brought by the state against tobacco product manufacturers. The portion of the state's share sold and assigned shall be determined by the governor in an amount necessary to generate net proceeds to the state for deposit to the tobacco securitization trust account under RCW 43.340.120 up to four hundred fifty million dollars. The attorney general shall assist the governor in the review of all necessary documentation to effect the sale. The

governor and the authority are authorized to take any action necessary to facilitate and complete the sale.

(2) The sale made under this section is irrevocable so long as bonds issued under this chapter remain outstanding. The portion of the revenue sold to the authority shall be pledged to the bondholders. The sale and assignment shall constitute and be treated as a true sale and absolute transfer of the revenue so transferred and not as a pledge or other security interest granted by the state for any borrowing. The characterization of such a sale as an absolute transfer shall not be negated or adversely affected by the fact that only a portion of the revenue from the master settlement agreement is being sold and assigned, or by the state's acquisition or retention of an ownership interest in the portion of the revenue from the master settlement agreement not so assigned.

(3) In addition to such other terms, provisions, and conditions as the governor and the authority may determine appropriate for inclusion in the sale agreements, the sale agreements shall contain (a) a covenant of the state that the state will not agree to any amendment of the master settlement agreement that materially and adversely affects the authority's ability to receive the portion of the state's share of master settlement agreement payments that have been sold to the authority; (b) a requirement that the state enforce, at its own expense, the provisions of the master settlement agreement that require the payment of the portion of the state's share of master settlement agreement payments that have been sold to the authority; and (c) a covenant that the state shall take no action that would adversely affect the tax-exempt status of any tax-exempt bonds of the authority.

(4) On or after the effective date of the sale, the state shall not have any right, title, or interest in the portion of the state's share of the master settlement agreement revenue sold and such portion shall be the property of the authority and not the state, and shall be owned, received, held, and disbursed by the authority or its trustee or assignee, and not the state.

(5) The terms of the state's sale to the authority of a portion of the master settlement agreement revenue shall provide that the portion shall be paid directly to the authority or its trustee or assignee. The revenue sold and assigned shall not be received in the treasury of the state and shall not be or deemed to be general state revenues as that term is used in Article VIII, section 1 of the state Constitution. [2002 c 365 § 7.]

43.340.090 Limitation of liability. Members of the board and persons acting in the authority's behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under this chapter. [2002 c 365 § 10.]

43.340.100 Bankruptcy—Contractual obligation to contain section. Prior to the date that is three hundred sixty-six days after which the authority no longer has any bonds outstanding, the authority is prohibited from filing a voluntary petition under chapter 9 of the federal bankruptcy code or such corresponding chapter or section as may, from time to time, be in effect, and a public official or organization, entity, or other person shall not authorize the authority

to be or become a debtor under chapter 9 or any successor or corresponding chapter or sections during such periods. This section shall be part of any contractual obligation owed to the holders of bonds issued under this chapter. Any such contractual obligation shall not subsequently be modified by state law during the period of the contractual obligation. [2002 c 365 § 11.]

43.340.110 Dissolution of authority. The authority shall dissolve no later than two years from the date of final payment of all of its outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with this chapter. Upon dissolution of the authority, all assets of the authority shall be returned to the state and shall be deposited in the state general fund, and the authority shall execute any necessary assignments or instruments, including any assignment of any right, title, or ownership to the state for receipt of payments under the master settlement agreement. [2002 c 365 § 12.]

43.340.120 Tobacco securitization trust account. The state treasurer shall deposit the proceeds of the sale of revenue under this chapter into the tobacco securitization trust account hereby created and held in the custody of the state treasurer. Moneys in the tobacco securitization trust account shall be subject to such appropriations and transfers as may be provided by law and shall be used for capital expenditures, debt service on outstanding bonds of the state, or for other purposes as permitted by law. The sales agreement under this chapter shall provide for the state to allocate the use of proceeds of the bonds issued by the authority to enable interest on all or a portion of the bonds to be excluded from income for federal tax law purposes. [2002 c 365 § 13.]

43.340.130 Appeals bonds—Amounts. (1) Except as provided in subsection (2) of this section, in order to secure and protect the moneys to be received as a result of the master settlement agreement in civil litigation under any legal theory involving a signatory, a successor of a signatory, or any affiliate of a signatory to the master settlement agreement, the supersedeas bond to be furnished in order to stay the execution of the judgment during the entire course of appellate review shall be set in accordance with applicable laws or court rules, except that the total bond that is required of all appellants collectively shall not exceed one hundred million dollars, regardless of the value of the judgment.

(2) If an appellee proves by a preponderance of the evidence that an appellant is dissipating assets outside the ordinary course of business to avoid the payment of a judgment, a court may require the appellant to post a bond in an amount up to the amount of the judgment. [2006 c 246 § 2.]

Findings—Intent—2006 c 246: "(1) The legislature finds that:

(a) Over the past five years, Washington has received more than seven hundred million dollars from the tobacco master settlement agreement;

(b) While the state has securitized a portion of the moneys it was promised under the master settlement agreement, the remainder of the master settlement agreement payments is used to fund important health programs such as the state's basic health plan, children's health insurance, childhood vaccines, and public health;

(c) Litigation now pending in the state or filed in the future could result

in damage awards against master settlement agreement signatories or their successors or affiliates that are so large that the defendants could obtain a stay of the execution of the judgment while they appeal only by declaring bankruptcy, rather than posting an appeal bond under state law;

(d) Should a master settlement agreement signatory declare bankruptcy, issues might be raised about whether that disrupts or jeopardizes the payments that fund important state programs;

(e) The legislature has the substantive obligation to raise revenue and to protect the financial well-being of the state and its citizens. Pursuant to that obligation, it is the legislature's responsibility to ensure the continued receipt of master settlement agreement funds to the maximum extent possible.

(2) Therefore, the legislature intends to place a maximum limit on the appeal bond a master settlement agreement signatory or a successor or affiliate of a master settlement agreement signatory can be required to post in litigation in order to stay execution of the judgment without being forced into bankruptcy while it exercises its right to appeal an adverse judgment." [2006 c 246 § 1.]

Application—2006 c 246: "This act applies to all actions pending on or filed on or after June 7, 2006." [2006 c 246 § 3.]

43.340.900 Captions not law—2002 c 365. Captions used in this act are not any part of the law. [2002 c 365 § 16.]

43.340.901 Severability—2002 c 365. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2002 c 365 § 18.]

43.340.902 Effective date—2002 c 365. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 4, 2002]. [2002 c 365 § 19.]

Chapter 43.350 RCW

LIFE SCIENCES RESEARCH

Sections

43.350.005	Findings—Purpose—Intent.
43.350.010	Definitions.
43.350.020	Life sciences discovery fund authority.
43.350.030	Authority—Trust powers.
43.350.040	Authority—General powers.
43.350.050	Limitation of liability.
43.350.060	Dissolving the authority.
43.350.070	Life sciences discovery fund.
43.350.900	Captions not law—2005 c 424.
43.350.901	Liberal construction—2005 c 424.
43.350.902	Severability—2005 c 424.
43.350.903	Effective dates—2005 c 424.

43.350.005 Findings—Purpose—Intent. The legislature declares that promoting the health of state residents is a fundamental purpose of state government. The legislature declares it to be a clear public purpose and governmental function to promote life sciences research to foster a preventive and predictive vision of the next generation of health-related innovations, to enhance the competitive position of Washington state in this vital sector of the economy, and to improve the quality and delivery of health care for the people of Washington. The legislature finds that public support for and promotion of life sciences research will benefit the state and its residents through improved health status and health outcomes, economic development, and contributions to scientific knowledge, and such research will lead to break-

throughs and improvements that might not otherwise be discovered due to lack of existing market incentives, especially in the area of regenerative medicine. The legislature finds that public support for and promotion of life sciences research has the potential to provide cures or new treatments for many debilitating diseases that cost the state millions of dollars each year. It is appropriate and consistent with the intent of the master settlement agreement between the state and tobacco product manufacturers to invest a portion of the revenues derived therefrom by the state in life sciences research, to leverage the revenues with other funds, and to encourage cooperation and innovation among public and private institutions involved in life sciences research. The purpose of this chapter is to establish a life sciences discovery fund authority, to grant that authority the power to contract with the state to receive revenues under the master settlement agreement, and to contract with other entities to receive other funds, and to disburse those funds consistent with the purpose of this chapter. The life sciences discovery fund is intended to promote the best available research in life sciences disciplines through diverse Washington institutions and to build upon existing strengths in the area of biosciences and biomanufacturing in order to spread the economic benefits across the state. The life sciences discovery fund is also intended to foster improved health care outcomes and improved agricultural production research across this state and the world. The research investments of the life sciences discovery fund are intended to further the goals of the "Bio 21" report and to support future statewide, comprehensive strategies to lead the nation in life sciences-related research and employment. [2005 c 424 § 1.]

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

(1) "Authority" means the life sciences discovery fund authority created in this chapter.

(2) "Board" means the governing board of trustees of the authority.

(3) "Contribution agreement" means any agreement authorized under this chapter in which a private entity or a public entity other than the state agrees to provide to the authority contributions for the purpose of promoting life sciences research.

(4) "Life sciences research" means advanced and applied research and development intended to improve human health, including scientific study of the developing brain and human learning and development, and other areas of scientific research and development vital to the state's economy.

(5) "Master settlement agreement" means the national master settlement agreement and related documents entered into on November 23, 1998, by the state and the four principal United States tobacco product manufacturers, as amended and supplemented, for the settlement of litigation brought by the state against the tobacco product manufacturers.

(6) "Public employee" means any person employed by the state of Washington or any agency or political subdivision thereof.

(7) "Public facilities" means any public institution, public facility, public equipment, or any physical asset owned,

leased, or controlled by the state of Washington or any agency or political subdivision thereof.

(8) "Public funds" means any funds received or controlled by the state of Washington or any agency or political subdivision thereof, including, but not limited to, funds derived from federal, state, or local taxes, gifts or grants from any source, public or private, federal grants or payments, or intergovernmental transfers.

(9) "State agreement" means the agreement authorized under this chapter in which the state provides to the authority the strategic contribution payments required to be made by tobacco product manufacturers to the state and the state's rights to receive such payments, pursuant to the master settlement agreement, for the purpose of promoting life sciences research.

(10) "Strategic contribution payments" means the payments designated as such under the master settlement agreement, which will be made to the state in the years 2008 through 2017. [2005 c 424 § 2.]

43.350.020 Life sciences discovery fund authority.

(1) The life sciences discovery fund authority is created and constitutes a public instrumentality and agency of the state, separate and distinct from the state, exercising public and essential governmental functions.

(2) The powers of the authority are vested in and shall be exercised by a board of trustees consisting of: Two members of either the house appropriations committee or the house committee dealing with technology issues, one from each caucus, to be appointed by the speaker of the house of representatives; two members of either the senate committee on ways and means or the senate committee dealing with technology issues, one from each caucus, to be appointed by the president of the senate; and seven members appointed by the governor with the consent of the senate, one of whom shall be appointed by the governor as chair of the authority and who shall serve on the board and as chair of the authority at the pleasure of the governor. The respective officials shall make the initial appointments no later than thirty days after May 12, 2005. The term of the trustees, other than the chair, is four years from the date of their appointment, except that the terms of three of the initial gubernatorial appointees, as determined by the governor, are for two years from the date of their appointment. A trustee appointed by the governor may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The appropriate official shall fill any vacancy on the board by appointment for the remainder of the unexpired term. The trustees appointed by the governor shall be compensated in accordance with RCW 43.03.240 and may be reimbursed, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter, subject to RCW 43.03.050 and 43.03.060. The trustees who are legislators shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(3) Seven members of the board constitute a quorum.

(4) The trustees shall elect a treasurer and secretary annually, and other officers as the trustees determine necessary, and may adopt bylaws or rules for their own government.

(5) Meetings of the board shall be held in accordance with the open public meetings act, chapter 42.30 RCW, and

at the call of the chair or when a majority of the trustees so requests. Meetings of the board may be held at any location within or out of the state, and trustees may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200.

(6) The authority is subject to audit by the state auditor.

(7) The attorney general must advise the authority and represent it in all legal proceedings. [2005 c 424 § 3.]

43.350.030 Authority—Trust powers. In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

(1) Use public moneys in the life sciences discovery fund, leveraging those moneys with amounts received from other public and private sources in accordance with contribution agreements, to promote life sciences research;

(2) Solicit and receive gifts, grants, and bequests, and enter into contribution agreements with private entities and public entities other than the state to receive moneys in consideration of the authority's promise to leverage those moneys with amounts received through appropriations from the legislature and contributions from other public entities and private entities, in order to use those moneys to promote life sciences research. Nonstate moneys received by the authority for this purpose shall be deposited in the life sciences discovery fund created in RCW 43.350.070;

(3) Hold funds received by the authority in trust for their use pursuant to this chapter to promote life sciences research;

(4) Manage its funds, obligations, and investments as necessary and as consistent with its purpose including the segregation of revenues into separate funds and accounts;

(5) Make grants to entities pursuant to contract for the promotion of life sciences research to be conducted in the state. Grant agreements shall specify deliverables to be provided by the recipient pursuant to the grant. The authority shall solicit requests for funding and evaluate the requests by reference to factors such as: (a) The quality of the proposed research; (b) its potential to improve health outcomes, with particular attention to the likelihood that it will also lower health care costs, substitute for a more costly diagnostic or treatment modality, or offer a breakthrough treatment for a particular disease or condition; (c) its potential for leveraging additional funding; (d) its potential to provide health care benefits or benefit human learning and development; (e) its potential to stimulate the health care delivery, biomedical manufacturing, and life sciences related employment in the state; (f) the geographic diversity of the grantees within Washington; (g) evidence of potential royalty income and contractual means to recapture such income for purposes of this chapter; and (h) evidence of public and private collaboration;

(6) Create one or more advisory boards composed of scientists, industrialists, and others familiar with life sciences research; and

(7) Adopt policies and procedures to facilitate the orderly process of grant application, review, and reward. [2005 c 424 § 4.]

43.350.040 Authority—General powers. The authority has all the general powers necessary to carry out its pur-

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poses and duties and to exercise its specific powers. In addition to other powers specified in this chapter, the authority may: (1) Sue and be sued in its own name; (2) make and execute agreements, contracts, and other instruments, with any public or private person or entity, in accordance with this chapter; (3) employ, contract with, or engage independent counsel, financial advisors, auditors, other technical or professional assistants, and such other personnel as are necessary or desirable to implement this chapter; (4) establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter; (5) enter into contracts with public and private entities for life sciences research to be conducted in the state; (6) adopt rules, consistent with this chapter; (7) delegate any of its powers and duties if consistent with the purposes of this chapter; (8) exercise any other power reasonably required to implement the purposes of this chapter; and (9) hire staff and pay administrative costs. [2005 c 424 § 5.]

43.350.050 Limitation of liability. Members of the board and persons acting on behalf of the authority, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under this chapter. Neither the state nor the authority is liable for any loss, damage, harm, or other consequence resulting directly or indirectly from grants made by the authority or by any life sciences research funded by such grants. [2005 c 424 § 6.]

43.350.060 Dissolving the authority. The authority may petition the legislature to be dissolved upon a showing that it has no reason to exist and that any assets it retains must be distributed to one or more similar entities approved by the legislature. The legislature reserves the right to dissolve the authority after its contractual obligations to its funders and grant recipients have expired. [2005 c 424 § 7.]

43.350.070 Life sciences discovery fund. The life sciences discovery fund is created in the custody of the state treasurer. Only the board or the board's designee may authorize expenditures from the fund. Expenditures from the fund may be made only for purposes of this chapter. Administrative expenses of the authority, including staff support, may be paid only from the fund. Revenues to the fund consist of transfers made by the legislature from strategic contribution payments deposited in the tobacco settlement account under RCW 43.79.480, moneys received pursuant to contribution agreements entered into pursuant to RCW 43.350.030, moneys received from gifts, grants, and bequests, and interest earned on the fund. [2005 c 424 § 8.]

43.350.900 Captions not law—2005 c 424. Captions used in this act are not any part of the law. [2005 c 424 § 19.]

43.350.901 Liberal construction—2005 c 424. This act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed. [2005 c 424 § 20.]

43.350.902 Severability—2005 c 424. If any provision of this act or its application to any person or circumstance is

held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2005 c 424 § 22.]

43.350.903 Effective dates—2005 c 424. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 12, 2005], except for section 16 of this act, which takes effect June 30, 2005. [2005 c 424 § 24.]

Chapter 43.360 RCW

WASHINGTON MAIN STREET PROGRAM

Sections

43.360.005	Findings—Intent.
43.360.010	Definitions.
43.360.020	Program created—Duties.
43.360.030	Designation of specific programs—Criteria.
43.360.050	Washington main street trust fund account.

Tax incentives for Washington main street program: Chapter 82.73 RCW.

43.360.005 Findings—Intent. (1) The legislature finds:

(a) The continued economic vitality of downtown and neighborhood commercial districts in our state's cities is essential to community preservation, social cohesion, and economic growth;

(b) In recent years there has been a deterioration of downtown and neighborhood commercial districts in both rural and urban communities due to a shifting population base, changes in the marketplace, and greater competition from suburban shopping malls, discount centers, and business transacted through the internet;

(c) This decline has eroded the ability of businesses and property owners to renovate and enhance their commercial and residential properties; and

(d) Business owners in these districts need to maintain their local economies in order to provide goods and services to adjacent residents, to provide employment opportunities, to avoid disinvestment and economic dislocations, and to develop and sustain downtown and neighborhood commercial district revitalization programs to address these problems.

(2) It is the intent of the legislature to establish a program to:

(a) Work in partnership with these organizations;

(b) Provide technical assistance and training to local governments, business organizations, downtown and neighborhood commercial district organizations, and business and property owners to accomplish community and economic revitalization and development of business districts; and

(c) Certify a downtown or neighborhood commercial district organization's use of available tax incentives. [2005 c 514 § 901.]

Short title—2005 c 514 §§ 901-912: "Sections 901 through 912 of this act may be known and cited as the Washington main street act." [2005 c 514 § 1310.]

Effective date—2005 c 514: See note following RCW 83.100.230.

Part headings not law—Severability—2005 c 514: See notes following RCW 82.12.808.

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

(1) "Area" means a geographic area within a local government that is described by a closed perimeter boundary.

(2) "Department" means the department of archaeology and historic preservation.

(3) "Director" means the director of the department.

(4) "Local government" means a city, code city, or town.

(5) "Qualified levels of participation" means a local downtown or neighborhood commercial district revitalization program that has been designated by the department. [2010 c 30 § 3; 2009 c 565 § 44; 2005 c 514 § 908.]

Finding—2010 c 30: "Many of Washington's communities use the main street program to address issues facing their older traditional commercial districts. The main street program is a preservation-based economic development program that assists communities in implementing a locally driven downtown revitalization effort. However, the main street program is broader than merely preserving a community's downtown, it is the revitalization of that community's downtown. Downtown revitalization creates jobs and puts people to work. Downtown revitalization attracts new businesses and offers local investment opportunities. New and expanding downtown businesses generate increased sales tax and attract export dollars to the community. Therefore, the legislature finds that the movement of the main street program from the department of commerce to the department of archaeology and historic preservation is designed to provide for both the preservation of a community's downtown and economic development for that community." [2010 c 30 § 1.]

Effective date—2010 c 30: "This act takes effect July 1, 2010." [2010 c 30 § 7.]

Short title—2005 c 514 §§ 901-912: See note following RCW 43.360.005.

Effective date—2005 c 514: See note following RCW 83.100.230.

Part headings not law—Severability—2005 c 514: See notes following RCW 82.12.808.

43.360.020 Program created—Duties. The Washington main street program is created within the department. In order to implement the Washington main street program, the department shall:

(1) Provide technical assistance to businesses, property owners, organizations, and local governments undertaking a comprehensive downtown or neighborhood commercial district revitalization initiative and management strategy. Technical assistance may include, but is not limited to, initial site evaluations and assessments, training for local programs, training for local program staff, site visits and assessments by technical specialists, local program design assistance and evaluation, and continued local program on-site assistance;

(2) To the extent funds are made available, provide financial assistance to local governments or local organizations to assist in initial downtown or neighborhood commercial district revitalization program start-up costs, specialized training, specific project feasibility studies, market studies, and design assistance;

(3) Develop objective criteria for selecting recipients of assistance under subsections (1) and (2) of this section, which shall include priority for downtown or neighborhood commercial district revitalization programs located in a rural county as defined in *RCW 43.160.020(12), and provide for designation of local programs under RCW 43.360.030;

(4) Operate the Washington main street program in accordance with the plan developed by the department, in

consultation with the Washington main street advisory committee created under **RCW 43.360.040; and

(5) Consider other factors the department deems necessary for the implementation of this chapter. [2005 c 514 § 909.]

Reviser's note: *(1) RCW 43.160.020 was amended by 2009 c 565 § 35, changing subsection (12) to subsection (5).

***(2) RCW 43.360.040 was repealed by 2010 1st sp.s. c 7 § 68.

Short title—2005 c 514 §§ 901-912: See note following RCW 43.360.005.

Effective date—2005 c 514: See note following RCW 83.100.230.

Part headings not law—Severability—2005 c 514: See notes following RCW 82.12.808.

43.360.030 Designation of specific programs—Criteria. (1) The department shall adopt criteria for the designation of local downtown or neighborhood commercial district revitalization programs and official local main street programs. In establishing the criteria, the department shall consider:

(a) The degree of interest and commitment to comprehensive downtown or neighborhood commercial district revitalization and, where applicable, historic preservation by both the public and private sectors;

(b) The evidence of potential private sector investment in the downtown or neighborhood commercial district;

(c) Where applicable, a downtown or neighborhood commercial district with sufficient historic fabric to become a foundation for an enhanced community image;

(d) The capacity of the organization to undertake a comprehensive program and the financial commitment to implement a long-term downtown or neighborhood commercial district revitalization program that includes a commitment to employ a professional program manager and maintain a sufficient operating budget;

(e) The department's existing downtown revitalization program's tier system;

(f) The national main street center's criteria for designating official main street cities; and

(g) Other factors the department deems necessary for the designation of a local program.

(2) The department shall designate local downtown or neighborhood commercial district revitalization programs and official local main street programs. The programs shall be limited to three categories of designation, one of which shall be the main street level.

(3) *RCW 82.73.010 does not apply to any local downtown or neighborhood commercial district revitalization program unless the boundaries of the program have been identified and approved by the department. The boundaries of a local downtown or neighborhood commercial district revitalization program are typically defined using the pedestrian core of a traditional commercial district.

(4) The department may not designate a local downtown or neighborhood commercial district revitalization program or official local main street program if the program is undertaken by a local government with a population of one hundred ninety thousand persons or more. [2005 c 514 § 910.]

***Reviser's note:** Reference to RCW 43.360.020 was apparently intended.

(2010 Ed.)

Short title—2005 c 514 §§ 901-912: See note following RCW 43.360.005.

Effective date—2005 c 514: See note following RCW 83.100.230.

Part headings not law—Severability—2005 c 514: See notes following RCW 82.12.808.

43.360.050 Washington main street trust fund account. The Washington main street trust fund account is created in the state treasury. All receipts from private contributions, federal funds, legislative appropriations, and fees for services, if levied, must be deposited into the account. Expenditures from the account may be used only for the operation of the Washington main street program. [2005 c 514 § 912.]

Short title—2005 c 514 §§ 901-912: See note following RCW 43.360.005.

Effective date—2005 c 514: See note following RCW 83.100.230.

Part headings not law—Severability—2005 c 514: See notes following RCW 82.12.808.

Chapter 43.362 RCW

REGIONAL TRANSFER OF DEVELOPMENT RIGHTS PROGRAM

Sections

43.362.005	Findings.
43.362.010	Definitions.
43.362.020	Regional transfer of development rights program.
43.362.030	Program established in central Puget Sound.
43.362.040	Designation of sending and receiving areas—Inclusion of certain lands in programs for agricultural or forest land conservation.
43.362.050	Interlocal agreement for transfers of development rights—Rules.
43.362.060	Participation in regional transfer of development rights program—Requirements—Incentives for developers.
43.362.070	Quantitative and qualitative performance measures—Reporting—Posting on web site.

43.362.005 Findings. (1) The legislature finds that current concern over the rapid and increasing loss of rural, agricultural, and forested land has led to the exploration of creative approaches to preserving these important lands, and that the creation of a regional transfer of development rights marketplace will assist in conserving these lands.

(2) A transfer of development rights is a market-based exchange mechanism that encourages the voluntary transfer of development rights from sending areas with lower population densities to receiving areas with higher population densities. When development rights are transferred through a transfer of development rights exchange, permanent deed restrictions are placed on the sending area properties to ensure that the land will be used only for approved activities, activities that may include farming, forest management, conservation, or passive recreation. Additionally, in a transfer of development rights exchange, the costs of purchasing the recorded development restrictions are borne by the developers who receive the transferred right in the form of a building credit or bonus.

(3) The legislature further finds that a successful transfer of development rights program must consider housing affordable to all economic segments of the population, and economic development programs and policies in designated receiving areas. Counties, cities, and towns that decide to

participate in the regional transfer of development rights program for central Puget Sound are encouraged to adopt comprehensive plan policies and development regulations to implement the program that do not compete or conflict with comprehensive plan policies and development regulations that require or encourage affordable housing. Participating cities and towns are also encouraged to use the development of receiving areas to maximize opportunities for economic development that supports the creation or retention of jobs.

(4) Participation in a regional transfer of development rights program by counties, cities, and towns should be as simple as possible.

(5) Accordingly, the legislature has determined that it is good public policy to build upon existing transfer of development rights programs, pilot projects, and private initiatives that foster effective use of transferred development rights through the creation of a market-based program that focuses on the central Puget Sound region. A regional transfer of development rights program in the central Puget Sound should be voluntary, incentive-driven, and separate, but compatible with existing local transfer of development rights programs. [2009 c 474 § 1; 2007 c 482 § 1.]

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

(1) "By-right permitting" means that project applications for permits that use transferable development rights would be subject to administrative review. Administrative review allows a local planning official to approve a project without noticed public hearings.

(2) "Department" means the department of commerce.

(3) "Nongovernmental entities" includes nonprofit or membership organizations with experience or expertise in transferring development rights.

(4) "Receiving area ratio" means the number or character of development rights that are assigned to a development right for use in a receiving area. Development rights in a receiving area may be used at the discretion of the receiving area jurisdiction, including but not limited to additional residential density, additional building height, additional commercial floor area, or to meet regulatory requirements.

(5) "Receiving areas" are lands within and designated by a city or town in which transferable development rights from the regional program established by this chapter may be used.

(6) "Regional transfer of development rights program" or "regional program" means the regional transfer of development rights program established by RCW 43.362.030 in central Puget Sound, including King, Pierce, Kitsap, and Snohomish counties and the cities and towns within these counties.

(7) "Sending area" includes those lands that meet conservation criteria as described in RCW 43.362.040.

(8) "Sending area ratio" means the number of development rights that a sending area landowner can sell per acre.

(9) "Transfer of development rights" includes methods for protecting land from development by voluntarily removing the development rights from a sending area and transferring them to a receiving area for the purpose of increasing development density or intensity in the receiving area.

(10) "Transferable development right" means a right to develop one or more residential units in a sending area that can be sold and transferred for use consistent with a receiving ratio adopted for development in a designated receiving area consistent with the regional program. [2009 c 565 § 45; 2009 c 474 § 2; 2007 c 482 § 2.]

Reviser's note: (1) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(2) This section was amended by 2009 c 474 § 2 and by 2009 c 565 § 45, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

43.362.020 Regional transfer of development rights program. Subject to the availability of amounts appropriated for this specific purpose, the department shall fund a process to develop a regional transfer of development rights program that comports with chapter 36.70A RCW that:

(1) Encourages King, Kitsap, Pierce, and Snohomish counties, and the cities within these counties, to participate in the development and implementation of regional frameworks and mechanisms that make transfer of development rights programs viable and successful. The department shall encourage and embrace the efforts in any of these counties or cities to develop local transfer of development rights programs. In fulfilling the requirements of this chapter, the department shall work with the Puget Sound regional council and its growth management policy board to develop a process that satisfies the requirements of this chapter. In the development of a process to create a regional transfer of development rights program, the Puget Sound regional council and its growth management policy board shall develop policies to discourage, or prohibit if necessary, the transfer of development rights from a sending area that would negatively impact the future economic viability of the sending area. The department shall also work with an advisory committee to develop a regional transfer of development rights marketplace that includes, but is not limited to, supporting strategies for financing infrastructure and conservation. The department shall establish an advisory committee of nine stakeholders with representatives of the following interests:

(a) Two qualified nongovernmental organizations with expertise in the transfer of development rights. At least one organization must have a statewide expertise in growth management planning and in the transfer of development rights and at least one organization must have a local perspective on market-based conservation strategies and transfer of development rights;

(b) Two representatives from real estate and development;

(c) One representative with a county government perspective;

(d) Two representatives from cities of different sizes and geographic areas within the four-county region; and

(e) Two representatives of the agricultural industry; and

(2) Allows the department to utilize recommendations of the interested local governments, nongovernmental entities, and the Puget Sound regional council to develop recommendations and strategies for a regional transfer of development rights marketplace with supporting strategies for financing infrastructure and conservation that represents the consensus

of the governmental and nongovernmental parties engaged in the process. However, if agreement between the parties cannot be reached, the department shall make recommendations to the legislature that seek to balance the needs and interests of the interested governmental and nongovernmental parties. The department may contract for expertise to accomplish any of the following tasks. Recommendations developed under this subsection must:

(a) Identify opportunities for cities, counties, and the state to achieve significant benefits through using transfer of development rights programs and the value in modifying criteria by which capital budget funds are allocated, including but not limited to, existing state grant programs to provide incentives for local governments to implement transfer of development rights programs;

(b) Address challenges to the creation of an efficient and transparent transfer of development rights market, including the creation of a transfer of development rights bank, brokerage, or direct buyer-seller exchange;

(c) Address issues of certainty to buyers and sellers of development rights that address long-term environmental benefits and perceived inequities in land values and permitting processes;

(d) Address the means for assuring that appropriate values are recognized and updated, as well as specifically addressing the need to maintain the quality of life in receiving neighborhoods and the protection of environmental values over time;

(e) Identify opportunities and challenges that, if resolved, would result in cities throughout the Puget Sound region participating in a transfer of development rights market;

(f) Compare the uses of a regional transfer of development rights program to other existing land conservation strategies to protect rural and resource lands and implement the growth management act; and

(g) Identify appropriate sending areas so as to protect future growth and economic development needs of the sending areas. [2007 c 482 § 3.]

43.362.030 Program established in central Puget Sound. (1) Subject to the availability of funds appropriated for this specific purpose or another source of funding made available for this specific purpose, the department shall establish a regional transfer of development rights program in central Puget Sound, including King, Kitsap, Snohomish, and Pierce counties and the cities and towns within these counties. The program must be guided by the Puget Sound regional council's multicounty planning policies adopted under RCW 36.70A.210(7).

(2) The purpose of the program is to foster voluntary county, city, and town participation in the program so that interjurisdictional transfers occur between the counties, cities, and towns, including transfers from counties to cities and towns in other counties. Private transactions between buyers and sellers of transferable development rights are allowed and encouraged under this program. In fulfilling the requirements of this chapter, the department shall work with the Puget Sound regional council to implement a regional program.

(2010 Ed.)

(3) The department shall encourage participation by the cities, towns, and counties in the regional program. The regional program shall not be implemented in a manner that negatively impacts existing local programs. The department shall encourage and work to enhance the efforts in any of these counties, cities, or towns to develop local transfer of development rights programs or enhance existing programs.

(4) Subject to the availability of funds appropriated for this specific purpose or another source of funding made available for this specific purpose, the department shall do the following to implement a regional transfer of development rights program in central Puget Sound:

(a) Serve as the central coordinator for state government in the implementation of RCW 43.362.030 through 43.362.070.

(b) Offer technical assistance to cities, towns, and counties planning for participation in the regional transfer of development rights program. The department's technical assistance shall:

(i) Include written guidance for local development and implementation of the regional transfer of development rights program;

(ii) Include guidance for and encourage permitting or environmental review incentives for developers to participate. Activities may include, but are not limited to, provision for by-right permitting, substantial environmental review of a subarea plan for the receiving area that includes the use of transferable development rights, adoption of a categorical exemption for infill under RCW 43.21C.229 for a receiving area, or adoption of a planned action under RCW 43.21C.240;

(iii) Provide guidance to counties, cities, and towns to negotiate receiving area ratios and foster private transactions;

(iv) Provide guidance and encourage planning for receiving areas that do not compete or conflict with comprehensive plan policies and development regulations that require or encourage affordable housing; and

(v) Provide guidance and encourage planning for receiving areas that maximizes opportunities for economic development through the creation or retention of jobs.

(c) Work with counties, cities, and towns to inform elected officials, planning commissions, and the public regarding the regional transfer of development rights program. The information provided by the department shall discuss the importance of preserving farmland and farming, and forest land and forestry, to cities and towns and the local economy.

(d) Based on information provided by the counties, cities, and towns, post on a web site information regarding transfer of development rights transactions and a list of interested buyers and sellers of transferable development rights.

(e) Coordinate with and provide resources to state and local agencies and stakeholders to provide public outreach. [2009 c 474 § 3.]

43.362.040 Designation of sending and receiving areas—Inclusion of certain lands in programs for agricultural or forest land conservation. (1) Counties shall use the following criteria to guide the designation of sending areas for participation in the regional transfer of development rights program:

(a) Land designated as agricultural or forest land of long-term commercial significance;

(b) Land designated rural that is being farmed or managed for forestry;

(c) Land whose conservation meets other state and regionally adopted priorities; and

(d) Land that is in current use as a manufactured/mobile home park as defined in chapter 59.20 RCW.

Nothing in these criteria limits a county's authority to designate additional lands as a sending area for conservation under a local county transfer of development rights program.

(2) Upon purchase of a transferable development right from land designated rural that is being farmed or managed for forestry, a county must include the land from which the right was purchased in any programs it administers for conservation of agricultural land or forest land.

(3) The designation of receiving areas is limited to incorporated cities or towns. Prior to designating a receiving area, a city or town should have adequate infrastructure planned and funding identified for development in the receiving area at densities or intensities consistent with what can be achieved under the local transfer of development rights program. Nothing in this subsection limits a city's, town's, or county's authority to designate additional lands for a receiving area under a local intrajurisdictional transfer of development rights program that is not part of the regional program.

(4) Cities and towns participating in the regional transfer of development rights program shall have discretion to determine which sending areas they receive development rights from to be used in their designated receiving areas.

(5) Designation of sending and receiving areas should include a process for public outreach consistent with the public participation requirements in chapter 36.70A RCW. [2009 c 474 § 4.]

43.362.050 Interlocal agreement for transfers of development rights—Rules. (1) To facilitate participation, the department shall develop and adopt by rule terms and conditions of an interlocal agreement for transfers of development rights between counties, cities, and towns. Counties, cities, and towns participating in the regional program have the option of adopting the rule by reference to transfer development rights across jurisdictional boundaries as an alternative to entering into an interlocal agreement under chapter 39.34 RCW.

(2) This section and the rules adopted under this section shall be deemed to provide an alternative method for the implementation of a regional transfer of development rights program, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in municipalities.

(3) Nothing in this section prohibits a county, city, or town from entering into an interlocal agreement under chapter 39.34 RCW to transfer development rights under the regional program. [2009 c 474 § 5.]

43.362.060 Participation in regional transfer of development rights program—Requirements—Incentives for developers. (1) Counties, cities, and towns that

choose to participate in the regional transfer of development rights program must:

(a) Enter into an interlocal agreement or adopt a resolution adopting by reference the provisions in the department rule authorized in RCW 43.362.050; and

(b) Adopt transfer of development rights policies or implement development regulations that:

(i) Comply with chapter 36.70A RCW;

(ii) Designate sending or receiving areas consistent with RCW 43.362.030 through 43.362.070; and

(iii) Adopt a sending or receiving area ratio in cooperation with the sending or receiving jurisdiction.

(2) Cities and towns that choose to participate in the regional transfer of development rights program are encouraged to provide permitting or environmental review incentives for developers to participate. Such incentives may include, but are not limited to, provision for by-right permitting, substantial environmental review of a subarea plan for the receiving area that includes the use of transferable development rights, adoption of a categorical exemption for infill under RCW 43.21C.229 for a receiving area, or adoption of a planned action under RCW 43.21C.240. [2009 c 474 § 6.]

43.362.070 Quantitative and qualitative performance measures—Reporting—Posting on web site. The department will develop quantitative and qualitative performance measures for monitoring the regional transfer of development rights program. The performance measures may address conservation of land and creation of compact communities, as well as other measures identified by the department. The department may require cities, towns, and counties to report on these performance measures biannually. The department shall compile any performance measure information that has been reported by the counties, cities, and towns and post it on a web site. [2009 c 474 § 7.]

Chapter 43.365 RCW

MOTION PICTURE COMPETITIVENESS PROGRAM

Sections

43.365.005	Findings—Intent.
43.365.010	Definitions.
43.365.020	Program criteria—Permissible expenditures—Maximum funding assistance—Funding assistance approval—Rules.
43.365.030	Board of directors—Standards for evaluating funding applications—Awards of financial assistance—Deposit of contributions—Rules.
43.365.040	Annual survey.
43.365.050	Review by joint legislative audit and review committee—Report to the legislature.

43.365.005 Findings—Intent. The legislature recognizes the motion picture industry in Washington as a valuable commodity contributing greatly to the economic vitality of the state and the cultural integrity of our communities. The legislature further recognizes the production of in-state motion pictures, television programs, and television commercials creates a marked increase in tourism, family wage jobs, and the sale of local goods and services generating revenue for the state. Furthermore, with captive national and international audiences, the world is introduced to the state's pristine scenic venues and reminded that the Pacific Northwest is a

great place to live and raise a family. The legislature also recognizes the inherent educational value of promoting arts and culture as well as the benefits of training young motion picture professionals who will build a fruitful industry for years to come.

The legislature finds in recent years that the state has realized a drastic decline in motion picture production that precludes economic expansion and threatens the state's reputation as a production destination. With the emergence of tax incentives in thirty states nationwide, in-state producers are taking their projects to more competitive economic climates, such as Oregon and Vancouver, British Columbia, where compelling tax incentive packages and subsidies are already in effect.

The legislature also finds that in recent years increasingly workers in Washington state are without health insurance coverage and retirement income protections, causing hardships on workers and their families and higher costs to the state.

Therefore, it is the intent of the legislature to recognize both national and international competition in the motion picture production marketplace. The legislature is committed to leveling the competitive playing field and interested in a partnership with the private sector to regain Washington's place as a premier destination to make motion pictures, television, and television commercials. While at the same time the legislature is committed to ensuring that workers in the motion picture and television industry are covered under health insurance and retirement income plans. [2006 c 247 § 1.]

43.365.010 Definitions. The following definitions apply to this chapter, unless the context clearly requires otherwise.

(1) "Approved motion picture competitiveness program" means a nonprofit organization under the internal revenue code, section 501(c)(6), with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and international market of motion picture production by recommending and awarding financial assistance for costs associated with motion pictures in the state of Washington.

(2) "Contribution" means cash contributions.

(3) "Costs" means actual expenses of production and postproduction expended in Washington state for the production of motion pictures, including but not limited to payments made for salaries, wages, and health insurance and retirement benefits, the rental costs of machinery and equipment and the purchase of services, food, property, lodging, and permits for work conducted in Washington state.

(4) "Department" means the department of commerce.

(5) "Funding assistance" means cash expenditures from an approved motion picture competitiveness program.

(6) "Motion picture" means a recorded audio-visual production intended for distribution to theaters, DVD, video, or the internet, or television, or one or more episodes of a single television series, television pilots or presentations, or a commercial. "Motion picture" does not mean production of a television commercial of an amount less than two hundred fifty thousand dollars in actual total investment or one or more segments of a newscast or sporting event.

(7) "Person" has the same meaning as provided in RCW 82.04.030. [2009 c 565 § 46; 2006 c 247 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

43.365.020 Program criteria—Permissible expenditures—Maximum funding assistance—Funding assistance approval—Rules. (1) The department shall adopt criteria for an approved motion picture competitiveness program with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and international market of motion picture production. Rules adopted by the department shall allow the program, within the established criteria, to provide funding assistance only when it captures economic opportunities for Washington's communities and businesses and shall only be provided under a contractual arrangement with a private entity. In establishing the criteria, the department shall consider:

(a) The additional income and tax revenue to be retained in the state for general purposes;

(b) The creation and retention of family wage jobs which provide health insurance and payments into a retirement plan;

(c) The impact of motion picture projects to maximize in-state labor and the use of in-state film production and film postproduction companies;

(d) The impact upon the local economies and the state economy as a whole, including multiplier effects;

(e) The intangible impact on the state and local communities that comes with motion picture projects;

(f) The regional, national, and international competitiveness of the motion picture filming industry;

(g) The revitalization of the state as a premier venue for motion picture production and national television commercial campaigns;

(h) Partnerships with the private sector to bolster film production in the state and serve as an educational and cultural purpose for its citizens;

(i) The vitality of the state's motion picture industry as a necessary and critical factor in promoting the state as a premier tourist and cultural destination;

(j) Giving preference to additional seasons of television series that have previously qualified;

(k) Other factors the department may deem appropriate for the implementation of this chapter.

(2) The board of directors created under RCW 43.365.030 shall create and administer an account for carrying out the purposes of subsection (3) of this section.

(3) Money received by an approved motion picture competitiveness program shall be used only for: (a) Health insurance and payments into a retirement plan, and other costs associated with film production; (b) a tax credit marketer to market the tax credits authorized under RCW 82.04.4489; and (c) staff and related expenses to maintain the program's proper administration and operation.

(4) Maximum funding assistance from an approved motion picture competitiveness program is limited to an amount up to thirty percent of the total actual investment in the state of at least:

(a) Five hundred thousand dollars for a single feature film produced in Washington state;

(b) Three hundred thousand dollars per television episode produced in Washington state; or

(c) One hundred fifty thousand dollars for an infomercial or television commercial associated with a national or regional advertisement campaign produced in Washington state.

(5) Funding assistance approval must be determined by the approved motion picture competitiveness program within a maximum of thirty calendar days from when the application is received, if the application is submitted after August 15, 2006. [2009 c 100 § 1; 2008 c 85 § 1; 2006 c 247 § 3.]

Effective date—2009 c 100: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 15, 2009]." [2009 c 100 § 2.]

43.365.030 Board of directors—Standards for evaluating funding applications—Awards of financial assistance—Deposit of contributions—Rules. (1) A Washington motion picture competitiveness program under this chapter shall be administered by a board of directors appointed by the governor, and the appointments shall be made within sixty days following enactment. The department, after consulting with the board, shall adopt rules for the standards that shall be used to evaluate the applications for funding assistance prior to June 30, 2006.

(2) The board shall evaluate and award financial assistance to motion picture projects under rules set forth under RCW 43.365.020.

(3) The board shall consist of the following members:

(a) One member representing the Washington motion picture production industry;

(b) One member representing the Washington motion picture postproduction industry;

(c) Two members representing labor unions affiliated with Washington motion picture production;

(d) One member representing the Washington visitors and convention bureaus;

(e) One member representing the Washington tourism industry;

(f) One member representing the Washington restaurant, hotel, and airline industry; and

(g) A chairperson, chosen at large, shall serve at the pleasure of the governor.

(4) The term of the board members, other than the chair, is four years, except as provided in subsection (5) of this section.

(5) The governor shall appoint board members in 2010 to two-year or four-year staggered terms. Once the initial two-year or four-year terms expire, all subsequent terms shall be for four years. The terms of the initial board members shall be as follows:

(a) The board positions in subsection (3)(b), (d), and (f) of this section, and one position from subsection (3)(c) of this section shall be appointed to two-year terms; and

(b) The remaining board positions in subsection (3) of this section shall be appointed to four-year terms.

(6) A board member appointed by the governor may be removed by the governor for cause under RCW 43.06.070 and 43.06.080.

(7) Five members of the board constitute a quorum.

(8) The board shall elect a treasurer and secretary annually, and other officers as the board members determine necessary, and may adopt bylaws or rules for its own government.

(9) The board shall make any information available at the request of the department to administer this chapter.

(10) Contributions received by a board shall be deposited into the account described in RCW 43.365.020(2). [2008 c 85 § 2; 2006 c 247 § 4.]

43.365.040 Annual survey. (1) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information on how incentives are used.

(2) Each motion picture production receiving funding assistance under RCW 43.365.020 shall report information to the department by filing a complete annual survey. The survey is due by March 31st of the year following any calendar year in which funding assistance under RCW 43.365.020 is taken. The department may extend the due date for timely filing of annual surveys under this section if failure to file was the result of circumstances beyond the control of the motion picture production receiving the funding assistance.

(3) The survey shall include the amount of funding assistance received. The survey shall also include the following information for employment positions in Washington by the motion picture production receiving funding assistance, including indirect employment by contractors or other affiliates:

(a) The number of total employment positions;

(b) Full-time, part-time, and temporary employment positions as a percent of total employment;

(c) The number of employment positions according to the following wage bands: Less than thirty thousand dollars; thirty thousand dollars or greater, but less than sixty thousand dollars; and sixty thousand dollars or greater. A wage band containing fewer than three individuals may be combined with another wage band; and

(d) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands.

(4) The department may request additional information necessary to measure the results of the funding assistance program, to be submitted at the same time as the survey.

(5) If a person fails to submit an annual survey under subsection (2) of this section by the due date of the report or any extension the department shall declare the amount of funding assistance for the previous calendar year to be immediately due and payable. The department shall assess interest, but not penalties, on the amounts due under this section. The interest shall be assessed at the rate provided for delinquent taxes under chapter 82.32 RCW, retroactively to the date the funding assistance was received, and shall accrue until the funding assistance is repaid.

(6) The department shall use the information from this section to prepare summary descriptive statistics. The department shall report these statistics to the legislature each even-numbered year by September 1st. The department shall provide the complete annual surveys to the joint legislative

audit and review committee. [2009 c 518 § 14; 2006 c 247 § 6.]

43.365.050 Review by joint legislative audit and review committee—Report to the legislature. The provisions of RCW 82.04.4489 are subject to review by the joint legislative audit and review committee. The joint legislative audit and review committee will make a recommendation to the house finance committee and the senate ways and means committee by December 1, 2010, regarding the effectiveness of the motion picture competitiveness program including, but not limited to, the amount of state revenue generated, the amount of family wages [wage] jobs with benefits created, adherence to the criteria in RCW 43.365.020, and any other factors deemed appropriate by the joint legislative audit and review committee. [2006 c 247 § 7.]

Chapter 43.370 RCW

STATEWIDE HEALTH RESOURCES STRATEGY

Sections

43.370.010	Definitions.
43.370.020	Office of financial management—Duties.
43.370.030	Development of strategy—Goals and principles—Required elements—Reports—Public hearings.
43.370.040	Department of health—Certificate of need review program.
43.370.050	Requests for data and other information.
43.370.900	Severability—Subheadings not law—2007 c 259.

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

(1) "Health care provider" means an individual who holds a license issued by a disciplining authority identified in RCW 18.130.040 and who practices his or her profession in a health care facility or provides a health service.

(2) "Health facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers, ambulatory diagnostic, treatment, or surgical facilities, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision, including a public hospital district, or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(3) "Health service" or "service" means that service, including primary care service, offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(4) "Health service area" means a geographic region appropriate for effective health planning that includes a broad range of health services.

(5) "Office" means the office of financial management.

(6) "Strategy" means the statewide health resources strategy. [2007 c 259 § 50.]

(2010 Ed.)

43.370.020 Office of financial management—Duties.

(1) The office shall serve as a coordinating body for public and private efforts to improve quality in health care, promote cost-effectiveness in health care, and plan health facility and health service availability. In addition, the office shall facilitate access to health care data collected by public and private organizations as needed to conduct its planning responsibilities.

(2) The office shall:

(a) Conduct strategic health planning activities related to the preparation of the strategy, as specified in this chapter;

(b) Develop a computerized system for accessing, analyzing, and disseminating data relevant to strategic health planning responsibilities. The office may contract with an organization to create the computerized system capable of meeting the needs of the office;

(c) Have access to the information submitted as part of the health professional licensing application and renewal process, excluding social security number and background check information, whether the license is issued by the secretary of the department of health or a board or commission. The office shall also have access to information submitted to the department of health as part of the medical or health facility licensing process. Access to and use of all data shall be in accordance with state and federal confidentiality laws and ethical guidelines, and the office shall maintain the same degree of confidentiality as the department of health. For professional licensing information provided to the office, the department of health shall replace any social security number with an alternative identifier capable of linking all licensing records of an individual; and

(d) Conduct research and analysis or arrange for research and analysis projects to be conducted by public or private organizations to further the purposes of the strategy. [2010 1st sp.s. c 7 § 113; 2009 c 343 § 1; 2007 c 259 § 51.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

43.370.030 Development of strategy—Goals and principles—Required elements—Reports—Public hearings.

(1) The office shall develop a statewide health resources strategy. The strategy shall establish statewide health planning policies and goals related to the availability of health care facilities and services, quality of care, and cost of care. The strategy shall identify needs according to geographic regions suitable for comprehensive health planning as designated by the office.

(2) The development of the strategy shall consider the following general goals and principles:

(a) That excess capacity of health services and facilities place considerable economic burden on the public who pay for the construction and operation of these facilities as patients, health insurance purchasers, carriers, and taxpayers; and

(b) That the development and ongoing maintenance of current and accurate health care information and statistics related to cost and quality of health care, as well as projections of need for health facilities and services, are essential to effective strategic health planning.

(3) The strategy, with public input by health service areas, shall include:

(a) A health system assessment and objectives component that:

(i) Describes state and regional population demographics, health status indicators, and trends in health status and health care needs; and

(ii) Identifies key policy objectives for the state health system related to access to care, health outcomes, quality, and cost-effectiveness;

(b) A health care facilities and services plan that shall assess the demand for health care facilities and services to inform state health planning efforts and direct certificate of need determinations, for those facilities and services subject to certificate of need as provided in chapter 70.38 RCW. The plan shall include:

(i) An inventory of each geographic region's existing health care facilities and services;

(ii) Projections of need for each category of health care facility and service, including those subject to certificate of need;

(iii) Policies to guide the addition of new or expanded health care facilities and services to promote the use of quality, evidence-based, cost-effective health care delivery options, including any recommendations for criteria, standards, and methods relevant to the certificate of need review process; and

(iv) An assessment of the availability of health care providers, public health resources, transportation infrastructure, and other considerations necessary to support the needed health care facilities and services in each region;

(c) A health care data resource plan that identifies data elements necessary to properly conduct planning activities and to review certificate of need applications, including data related to inpatient and outpatient utilization and outcomes information, and financial and utilization information related to charity care, quality, and cost. The plan shall inventory existing data resources, both public and private, that store and disclose information relevant to the health planning process, including information necessary to conduct certificate of need activities pursuant to chapter 70.38 RCW. The plan shall identify any deficiencies in the inventory of existing data resources and the data necessary to conduct comprehensive health planning activities. The plan may recommend that the office be authorized to access existing data sources and conduct appropriate analyses of such data or that other agencies expand their data collection activities as statutory authority permits. The plan may identify any computing infrastructure deficiencies that impede the proper storage, transmission, and analysis of health planning data. The plan shall provide recommendations for increasing the availability of data related to health planning to provide greater community involvement in the health planning process and consistency in data used for certificate of need applications and determinations;

(d) An assessment of emerging trends in health care delivery and technology as they relate to access to health care facilities and services, quality of care, and costs of care. The assessment shall recommend any changes to the scope of health care facilities and services covered by the certificate of need program that may be warranted by these emerging trends. In addition, the assessment may recommend any

changes to criteria used by the department to review certificate of need applications, as necessary;

(e) A rural health resource plan to assess the availability of health resources in rural areas of the state, assess the unmet needs of these communities, and evaluate how federal and state reimbursement policies can be modified, if necessary, to more efficiently and effectively meet the health care needs of rural communities. The plan shall consider the unique health care needs of rural communities, the adequacy of the rural health workforce, and transportation needs for accessing appropriate care.

(4) The office shall submit the initial strategy to the governor and the appropriate committees of the senate and house of representatives by January 1, 2010. Every two years the office shall submit an updated strategy. The health care facilities and services plan as it pertains to a distinct geographic planning region may be updated by individual categories on a rotating, biannual schedule.

(5) The office shall hold at least one public hearing and allow opportunity to submit written comments prior to the issuance of the initial strategy or an updated strategy. A public hearing shall be held prior to issuing a draft of an updated health care facilities and services plan, and another public hearing shall be held before final adoption of an updated health care facilities and services plan. Any hearing related to updating a health care facilities and services plan for a specific planning region shall be held in that region with sufficient notice to the public and an opportunity to comment. [2010 1st sp.s. c 7 § 114; 2007 c 259 § 52.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

43.370.040 Department of health—Certificate of need review program. The office shall submit the strategy to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. As the health care facilities and services plan is updated for any specific geographic planning region, the office shall submit that plan to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. The office shall not issue determinations of the merits of specific project proposals submitted by applicants for certificates of need. [2007 c 259 § 53.]

43.370.050 Requests for data and other information. (1) The office may respond to requests for data and other information from its computerized system for special studies and analysis consistent with requirements for confidentiality of patient, provider, and facility-specific records. The office may require requestors to pay any or all of the reasonable costs associated with such requests that might be approved.

(2) Data elements related to the identification of individual patient's, provider's, and facility's care outcomes are confidential, are exempt from RCW 42.56.030 through 42.56.570 and *42.17.350 through 42.17.450, and are not subject to discovery by subpoena or admissible as evidence. [2007 c 259 § 54.]

***Reviser's note:** Chapter 42.17 RCW relating to "campaign finance" was recodified pursuant to 2010 c 204 § 1102, effective January 1, 2012. See

Comparative Table for chapter 42.17 RCW in the Table of Disposition of Former RCW Sections, Volume 0.

43.370.900 Severability--Subheadings not law--2007 c 259. See notes following RCW 41.05.033.

**Chapter 43.372 RCW
MARINE WATERS PLANNING
AND MANAGEMENT**

Sections

43.372.005	Findings—Purpose.
43.372.010	Definitions.
43.372.020	Marine interagency team.
43.372.030	Marine spatial data and marine spatial planning elements— Inclusion in planning—Joint plans and planning frame- works—Integration with comprehensive marine manage- ment plan.
43.372.040	Comprehensive marine management plan.
43.372.050	Marine management plans—Compliance—Consistency— Review—Report and recommendations.
43.372.060	Authority limited.
43.372.070	Marine resources stewardship trust account.

43.372.005 Findings—Purpose. (1) The legislature finds that:

(a) Native American tribes have depended on the state’s marine waters and its resources for countless generations and continue to do so for cultural, spiritual, economic, and subsistence purposes.

(b) The state has long demonstrated a strong commitment to protecting the state’s marine waters, which are abundant in natural resources, contain a treasure of biological diversity, and are a source of multiple uses by the public supporting the economies of nearby communities as well as the entire state. These multiple uses include, but are not limited to: Marine-based industries and activities such as cargo, fuel, and passenger transportation; commercial, recreational, and tribal fishing; shellfish aquaculture; telecommunications and energy infrastructure; seafood processing; tourism; scientific research; and many related goods and services. These multiple uses as well as new emerging uses, such as renewable ocean energy, constitute a management challenge for sustaining resources and coordinating state decision making in a proactive, comprehensive and ecosystem-based manner.

(c) Washington’s marine waters are part of a west coast-wide large marine ecosystem known as the California current, and the Puget Sound and Columbia river estuaries constitute two of the three largest estuaries that are part of this large marine ecosystem. Puget Sound and the Columbia river are estuaries of national significance under the national estuary program, and the outer coast includes the Olympic national marine sanctuary.

(d) Washington is working in cooperation with the states of Oregon and California and federal agencies on ocean and ocean health management issues through the west coast governors’ agreement on ocean health, and with the government of British Columbia on shared waters management issues through the British Columbia-Washington coastal and ocean task force.

(e) Washington has initiated comprehensive management programs to protect and promote compatible uses of these waters. These include: The development of a comprehensive ecosystem-based management plan known as the

Puget Sound action agenda; shoreline plans for shorelines around the state; management plans for state-owned aquatic lands and their associated waters statewide; and watershed and salmon recovery management plans in the upland areas of Puget Sound, the coast, and the Columbia river. Data and data management tools have also been developed to support these management and planning activities, such as the coastal atlas managed by the department of ecology and the shore zone database managed by the department of natural resources.

(f) For marine waters specifically, Washington has formed several mechanisms to improve coordination and management. A legislatively authorized task force formed by the governor identified priority recommendations for improving state management of ocean resources through Washington’s ocean action plan in 2006. The governor further formed an ongoing interagency team that assists the department of ecology in implementing these recommendations. There is an extensive network of marine resources committees within Puget Sound and on the outer coast and the Columbia river to promote and support local involvement identifying and conducting local priority marine projects and some have been involved in local planning and management. Through the Olympic coast intergovernmental policy council, the state has also formalized its working relationship with coastal tribes and the federal government in the management of the Olympic coast national marine sanctuary.

(g) Reports by the United States commission on oceans policy, the Pew oceans commission, and the joint oceans commission initiative recommend the adoption of a national ocean policy under which states and coastal communities would have a principal role in developing and implementing ecosystem-based management of marine waters. Acting on these recommendations, the president of the United States recently formed an interagency ocean policy task force charged with developing a national ocean policy and a framework for marine spatial planning that involves all governmental levels, including state, tribal, and local governments. To further develop and implement such a planning framework, it is anticipated that federal cooperation and support will be available to coastal states that are engaged in marine and coastal resource management and planning, including marine spatial planning.

(2) The purpose of this chapter is to build upon existing statewide Puget Sound, coastal, and Columbia river efforts. When resources become available, the state intends to augment the marine spatial component of existing plans and to improve the coordination among state agencies in the development and implementation of marine management plans.

(3) It is also the purpose of this chapter to establish policies to guide state agencies and local governments when exercising jurisdiction over proposed uses and activities in these waters. Specifically, in conducting marine spatial planning, and in augmenting existing marine management plans with marine spatial planning components, the state must:

(a) Continue to recognize the rights of native American tribes regarding marine natural resources;

(b) Base all planning on best available science. This includes identifying gaps in existing information, recommend a strategy for acquiring science needed to strengthen

marine spatial plans, and create a process to adjust plans once additional scientific information is available;

(c) Coordinate with all stakeholders, including marine resources committees and nongovernmental organizations, that are significantly involved in the collection of scientific information, ecosystem protection and restoration, or other activities related to marine spatial planning;

(d) Recognize that marine ecosystems span tribal, state, and international boundaries and that planning has to be coordinated with all entities with jurisdiction or authority in order to be effective;

(e) Establish or further promote an ecosystem-based management approach including linking marine spatial plans to adjacent nearshore and upland spatial or ecosystem-based plans;

(f) Ensure that all marine spatial plans are linked to measurable environmental outcomes;

(g) Establish a performance management system to monitor implementation of any new marine spatial plan;

(h) Establish an ocean stewardship policy that takes into account the existing natural, social, cultural, historic, and economic uses;

(i) Recognize that commercial, tribal, and recreational fisheries, and shellfish aquaculture are an integral part of our state's culture and contribute substantial economic benefits;

(j) Value biodiversity and ecosystem health, and protect special, sensitive, or unique estuarine and marine life and habitats, including important spawning, rearing, and migration areas for finfish, marine mammals, and productive shellfish habitats;

(k) Integrate this planning with existing plans and ongoing planning in the same marine waters and provide additional mechanisms for improving coordination and aligning management;

(l) Promote recovery of listed species under state and federal endangered species acts plans pursuant to those plans; and

(m) Fulfill the state's public trust and tribal treaty trust responsibilities in managing the state's ocean waters in a sustainable manner for current and future generations. [2010 c 145 § 1.]

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

(1) "Aquatic lands" includes all tidelands, shorelands, harbor areas, and the beds of navigable waters, and must be construed to be coextensive with the term "aquatic lands" as defined in RCW 79.105.060.

(2) "Exclusive economic zone waters" means marine waters from the offshore state boundary to the boundary of the exclusive economic zone, over which the United States government has primary jurisdiction.

(3) "Marine counties" includes Clallam, Jefferson, Grays Harbor, Wahkiakum, San Juan, Whatcom, Skagit, Island, Snohomish, King, Pierce, Thurston, Mason, Kitsap, and Pacific counties.

(4) "Marine ecosystem" means the physical, biological, and chemical components and processes and their interactions in marine waters and aquatic lands, including humans.

(5) "Marine interagency team" or "team" means the marine interagency team created under RCW 43.372.020.

(6) "Marine management plan" and "marine waters management plan" means any plan guiding activities on and uses of the state's marine waters, and may include a marine spatial plan or element.

(7) "Marine resources committees" means those committees organized under RCW 36.125.020 or by counties within the Northwest straits marine conservation initiative.

(8) "Marine spatial planning" means a public process of analyzing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives. Often this type of planning is done to reduce conflicts among uses, to reduce environmental impacts, to facilitate compatible uses, to align management decisions, and to meet other objectives determined by the planning process.

(9) "Marine waters" means aquatic lands and waters under tidal influence, including saltwaters and estuaries to the ordinary high water mark lying within the boundaries of the state. This definition also includes the portion of the Columbia river bordering Pacific and Wahkiakum counties, Willapa Bay, Grays Harbor, the Strait of Juan de Fuca, and the entire Puget Sound. [2010 c 145 § 2.]

43.372.020 Marine interagency team. (1) The office of the governor shall chair a marine interagency team that is composed of representatives of each of the agencies in the governor's natural resources cabinet with management responsibilities for marine waters, including the independent agencies. A representative from a federal agency with lead responsibility for marine spatial planning must be invited to serve as a liaison to the team to help ensure consistency with federal actions and policy. The team must conduct the assessment authorized in section 4, chapter 145, Laws of 2010, assist state agencies under RCW 43.372.030 with the review and coordination of such planning with their existing and ongoing planning, and conduct the marine management planning authorized in RCW 43.372.040.

(2) The team may not commence any activities authorized under RCW 43.372.030 and 43.372.040 until federal, private, or other nonstate funding is secured specifically for these activities. [2010 c 145 § 3.]

43.372.030 Marine spatial data and marine spatial planning elements—Inclusion in planning—Joint plans and planning frameworks—Integration with comprehensive marine management plan. (1) Concurrently or prior to the assessment and planning activities provided in section 4, chapter 145, Laws of 2010 and RCW 43.372.040, and subject to available federal, private, or other nonstate funding for this purpose, all state agencies with marine waters planning and management responsibilities are authorized to include marine spatial data and marine spatial planning elements into their existing plans and ongoing planning.

(2) The director of the Puget Sound partnership under the direction of the leadership council created in RCW 90.71.220 must integrate marine spatial information and planning provisions into the action agenda. The information should be used to address gaps or improve the effectiveness of the spatial

planning component of the action agenda, such as in addressing potential new uses such as renewable energy projects.

(3) The governor and the commissioner of public lands, working with appropriate marine management and planning agencies, should work cooperatively with the applicable west coast states, Canadian provinces, and with federal agencies, through existing cooperative entities such as the west coast governor's agreement on ocean health, the coastal and oceans task force, the Pacific coast collaborative, the Puget Sound federal caucus, and the United States and Canada cooperative agreement working group, to explore the benefits of developing joint marine spatial plans or planning frameworks in the shared waters of the Salish Sea, the Columbia river estuary, and in the exclusive economic zone waters. The governor and commissioner may approve the adoption of shared marine spatial plans or planning frameworks where they determine it would further policies of this chapter and chapter 43.143 RCW.

(4) On an ongoing basis, the director of the department of ecology shall work with other state agencies with marine management responsibilities, tribal governments, marine resources committees, local and federal agencies, and marine waters stakeholders to compile marine spatial information and to incorporate this information into ongoing plans. This work may be integrated with the comprehensive marine management plan authorized under RCW 43.372.040 when that planning process is initiated.

(5) All actions taken to implement this section must be consistent with RCW 43.372.060. [2010 c 145 § 5.]

43.372.040 Comprehensive marine management plan. (1) Upon the receipt of federal, private, or other non-state funding for this purpose, together with any required match of state funding that may be specifically provided for this purpose, the marine interagency team shall coordinate the development of a comprehensive marine management plan for the state's marine waters. The marine management plan must include marine spatial planning, as well as recommendations to the appropriate federal agencies regarding the exclusive economic zone waters. The plan may be developed in geographic segments, and may incorporate or be developed as an element of existing marine plans, such as the Puget Sound action agenda. The chair of the team may designate a state agency with marine management responsibilities to take the lead in developing and recommending to the team particular segments or elements of the comprehensive marine management plan.

(2) The marine management plan must be developed and implemented in a manner that:

(a) Recognizes and respects existing uses and tribal treaty rights;

(b) Promotes protection and restoration of ecosystem processes to a level that will enable long-term sustainable production of ecosystem goods and services;

(c) Addresses potential impacts of climate change and sea level rise upon current and projected marine waters uses and shoreline and coastal impacts;

(d) Fosters and encourages sustainable uses that provide economic opportunity without significant adverse environmental impacts;

(e) Preserves and enhances public access;

(f) Protects and encourages working waterfronts and supports the infrastructure necessary to sustain marine industry, commercial shipping, shellfish aquaculture, and other water-dependent uses;

(g) Fosters public participation in decision making and significant involvement of communities adjacent to the state's marine waters; and

(h) Integrates existing management plans and authorities and makes recommendations for aligning plans to the extent practicable.

(3) To ensure the effective stewardship of the state's marine waters held in trust for the benefit of the people, the marine management plan must rely upon existing data and resources, but also identify data gaps and, as possible, procure missing data necessary for planning.

(4) The marine management plan must include but not be limited to:

(a) An ecosystem assessment that analyzes the health and status of Washington marine waters including key social, economic, and ecological characteristics and incorporates the best available scientific information, including relevant marine data. This assessment should seek to identify key threats to plan goals, analyze risk and management scenarios, and develop key ecosystem indicators. In addition, the plan should incorporate existing adaptive management strategies underway by local, state, or federal entities and provide an adaptive management element to incorporate new information and consider revisions to the plan based upon research, monitoring, and evaluation;

(b) Using and relying upon existing plans and processes and additional management measures to guide decisions among uses proposed for specific geographic areas of the state's marine and estuarine waters consistent with applicable state laws and programs that control or address developments in the state's marine waters;

(c) A series of maps that, at a minimum, summarize available data on: The key ecological aspects of the marine ecosystem, including physical and biological characteristics, as well as areas that are environmentally sensitive or contain unique or sensitive species or biological communities that must be conserved and warrant protective measures; human uses of marine waters, particularly areas with high value for fishing, shellfish aquaculture, recreation, and maritime commerce; and appropriate locations with high potential for renewable energy production with minimal potential for conflicts with other existing uses or sensitive environments;

(d) An element that sets forth the state's recommendations to the federal government for use priorities and limitations, siting criteria, and protection of unique and sensitive biota and ocean floor features within the exclusive economic zone waters consistent with the policies and management criteria contained in this chapter and chapter 43.143 RCW;

(e) An implementation strategy describing how the plan's management measures and other provisions will be considered and implemented through existing state and local authorities; and

(f) A framework for coordinating state agency and local government review of proposed renewable energy development uses requiring multiple permits and other approvals that provide for the timely review and action upon renewable energy development proposals while ensuring protection of

sensitive resources and minimizing impacts to other existing or projected uses in the area.

(5) If the director of the department of fish and wildlife determines that a fisheries management element is appropriate for inclusion in the marine management plan, this element may include the incorporation of existing management plans and procedures and standards for consideration in adopting and revising fisheries management plans in cooperation with the appropriate federal agencies and tribal governments.

(6) Any provision of the marine management plan that does not have as its primary purpose the management of commercial or recreational fishing but that has an impact on this fishing must minimize the negative impacts on the fishing. The team must accord substantial weight to recommendations from the director of the department of fish and wildlife for plan revisions to minimize the negative impacts.

(7) The marine management plan must recognize and value existing uses. All actions taken to implement this section must be consistent with RCW 43.372.060.

(8) The marine management plan must identify any provisions of existing management plans that are substantially inconsistent with the plan.

(9)(a) In developing the marine management plan, the team shall implement a strong public participation strategy that seeks input from throughout the state and particularly from communities adjacent to marine waters. Public review and comment must be sought and incorporated with regard to planning the scope of work as well as in regard to significant drafts of the plan and plan elements.

(b) The team must engage tribes and marine resources committees in its activities throughout the planning process. In particular, prior to finalizing the plan, the team must provide each tribe and marine resources committee with a draft of the plan and invite them to review and comment on the plan.

(10) The team must complete the plan within twenty-four months of the initiation of planning under this section.

(11) The director of the department of ecology shall submit the completed marine management plan to the appropriate federal agency for its review and approval for incorporation into the state's federally approved coastal zone management program.

(12) Subsequent to the adoption of the marine management plan, the team may periodically review and adopt revisions to the plan to incorporate new information and to recognize and incorporate provisions in other marine management plans. The team must afford the public an opportunity to review and comment upon significant proposed revisions to the marine management plan. [2010 c 145 § 6.]

43.372.050 Marine management plans—Compliance—Consistency—Review—Report and recommendations. (1) Upon the adoption of the marine management plan under RCW 43.372.040, each state agency and local government must make decisions in a manner that ensures consistency with applicable legal authorities and conformance with the applicable provisions of the marine management plan to the greatest extent possible.

(2) The director of the department of ecology, in coordination with the team, shall periodically review existing management plans maintained by state agencies and local govern-

ments that cover the same marine waters as the marine management plan under RCW 43.372.040, and for any substantial inconsistency with the marine management plan the director shall make recommendations to the agency or to the local government for revisions to eliminate the inconsistency.

(3) Not later than four years following adoption of the marine management plan under RCW 43.372.040, the department of ecology, in coordination with the team, shall report to the appropriate marine waters committees in the senate and house of representatives describing provisions of existing management plans that are substantially inconsistent with the marine management plan under RCW 43.372.040, and making recommendations for eliminating the inconsistency.

(4) All actions taken to implement this section must be consistent with RCW 43.372.060. [2010 c 145 § 7.]

43.372.060 Authority limited. No authority is created under this chapter to affect in any way any project, use, or activity in the state's marine waters existing prior to or during the development and review of the marine management plan. No authority is created under this chapter to supersede the current authority of any state agency or local government. [2010 c 145 § 8.]

43.372.070 Marine resources stewardship trust account. (1) The marine resources stewardship trust account is created in the state treasury. All receipts from income derived from the investment of amounts credited to the account, any grants, gifts, or donations to the state for the purposes of marine management planning, marine spatial planning, data compilation, research, or monitoring, and any appropriations made to the account must be deposited in the account. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may only be used for the purposes of marine management planning, marine spatial planning, research, monitoring, implementation of the marine management plan, and for the restoration or enhancement of marine habitat or resources. [2010 c 145 § 10.]

Chapter 43.374 RCW

WASHINGTON GLOBAL HEALTH TECHNOLOGIES AND PRODUCT DEVELOPMENT COMPETITIVENESS PROGRAM

Sections

43.374.005	Finding—Intent—Purpose.
43.374.010	Washington global health technologies and product development competitiveness program.
43.374.020	Washington global health technologies and product development account.

43.374.005 Finding—Intent—Purpose. The legislature finds that the global health sector develops new technologies and products for the improvement of health delivery locally and worldwide and that Washington is home to the world's richest collection of global health research and education programs creating new and innovative technologies on a daily basis. It is the intent of the legislature to stimulate the state's economy and foster job creation in the emerging field

of global health while improving the health of people in Washington state and the world. The purpose of chapter 13, Laws of 2010 1st sp. sess. is to create a funding mechanism and a grant program to ensure that Washington remains competitive in global health innovation and to guarantee that the development, manufacture, and delivery of global health products will become an even more dynamic part of the state's economy. [2010 1st sp.s. c 13 § 1.]

43.374.010 Washington global health technologies and product development competitiveness program. (1) The Washington global health technologies and product development competitiveness program is created.

(2)(a) The program must be administered by a nonprofit organization exempt from income taxation under 26 U.S.C. Sec. 501(c)(6) of the federal internal revenue code whose board of directors is appointed by the governor. The governor must make the appointments after consultation with a statewide alliance of global health research, nonprofit, and private entities. The board consists of the following members:

(i) Three members representing private companies engaged in the provision of global health products or services;

(ii) Three members representing nonprofit organizations supporting global health research or providing global health products or services;

(iii) Three members representing public research institutions engaged in global health research and education; and

(iv) One member who is a former elected official.

(b) The governor must appoint the chair of the board from among the members. The governor must appoint the members to staggered terms and each appointment may not last more than three years, but an appointee may serve more than one term.

(3) The board must contract with the department of commerce for management services to assist the board in implementing the program.

(4) The board must solicit and receive gifts, grants, bequests, royalty payments, licensing income, and other funds from businesses, foundations, and the federal government to promote the development and delivery of global health technologies and products. All federal funds received must be deposited in the Washington global health technologies and product development account created in RCW 43.374.020. All remaining nonstate funds received must be deposited in an account that the board creates and administers to carry out the purposes of this section. Expenditures from the account created by the board may be used only for funding activities of the program created in this section. Of the total amounts deposited into these accounts, no more than three percent of the total funds may be used for the department of commerce's management services and administrative expenses related to the program created in this section.

(5) The board must establish eligibility criteria for global health technologies and product development grants and adopt policies and procedures to facilitate the orderly process of grant application, review, and reward.

(6) In making grants to entities pursuant to contract for the development, production, promotion, and delivery of glo-

bal health technologies and products, the board must consider the following:

(a) The quality of the proposed research or the proposed technical assistance in product development or production process design. Any grant funds awarded for research activities must be awarded for nonbasic research which will assist in commercialization or manufacture of global health technologies;

(b) The potential for the grant recipient to improve global health outcomes;

(c) The potential for the grant to leverage additional funding for the development of global health technologies and products;

(d) The potential for the grant to stimulate, or promote technical skills training for, employment in the development of global health technologies in the state;

(e) The willingness of the grant recipient, when appropriate, to enter into royalty or licensing income agreements with the board; and

(f) Any other factors, as the board determines.

(7) Grant contracts must specify that award recipients must conduct their research, development, and any subsequent production activities within Washington, with the exception of activities such as clinical trials that must be carried out in developing countries, and that a failure to comply with this requirement will obligate the recipient to return the amount of the award plus interest as determined by the board.

(8) Upon the recommendation of the Washington economic development commission, the board may provide funding for the recruitment and employment by public research institutions and global health nonprofit organizations in the state, of global health researchers with a history of commercialization of global health technologies.

(9) Each project receiving a grant under this section must report information to the board in the format and at the intervals as the board requires to provide accountability and to evaluate the effectiveness of the program. The information reported must include the amount of funding received; the funding, if any, leveraged by the grant; the number and types of jobs created as a result of the grant; and any other information that the board requires. The board must use the information to prepare an annual evaluation of the program for a report to the appropriate committees of the legislature and the governor, beginning December 1, 2012. [2010 1st sp.s. c 13 § 2.]

43.374.020 Washington global health technologies and product development account. The Washington global health technologies and product development account is created in the custody of the state treasurer. Only the board of directors of the Washington global health technologies and product development competitiveness program or the board's designee may authorize expenditures from the account. All federal moneys received from the solicitations required in RCW 43.374.010 and all state funds appropriated for the specific purposes of the Washington global health technologies and product development competitiveness program must be deposited in the account. Expenditures from the account may be used only for funding activities of the Washington global health technologies and product development competitiveness program created in RCW 43.374.010. The account is

subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2010 1st sp.s. c 13 § 3.]

Chapter 43.950 RCW CONSTRUCTION

Sections

- 43.950.010 Continuation of existing law.
- 43.950.020 Title, chapter, section headings not part of law.
- 43.950.030 Invalidity of part of title not to affect remainder.
- 43.950.040 Repeals and saving.

43.950.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. Nothing in this 1965 reenactment of this title shall be construed as authorizing any new bond issues or new or additional appropriations of moneys but the bond issue authorizations herein contained shall be construed only as continuations of bond issues authorized by prior laws herein repealed and reenacted, and the appropriations of moneys herein contained are continued herein for historical purposes only and this act shall not be construed as a reappropriation thereof and no appropriation contained herein shall be deemed to be extended or revived hereby and such appropriation shall lapse or shall have lapsed in accordance with the original enactment. [1965 c 8 § 43.198.010. Formerly RCW 43.198.010.]

43.950.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1965 c 8 § 43.198.020. Formerly RCW 43.198.020.]

43.950.030 Invalidity of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1965 c 8 § 43.198.030. Formerly RCW 43.198.030.]

43.950.040 Repeals and saving. See 1965 c 8 § 43.198.040. Formerly RCW 43.198.040.

Title 44

STATE GOVERNMENT—LEGISLATIVE

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- 44.04** General provisions.
- 44.05** Washington State Redistricting Act.
- 44.07D** Legislative districts and apportionment.
- 44.16** Legislative inquiry.
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- 44.44** Office of state actuary—Select committee on pension policy.
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- 44.55** Joint legislative oversight committee on trade policy.
- 44.68** Joint legislative systems administrative committee.
- 44.73** Legislative gift center.

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Chapter 44.04 RCW GENERAL PROVISIONS

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Studies and adoption of classifications for school district budgets—Publication: RCW 28A.300.060.

44.04.010 Date of regular sessions. Regular sessions of the legislature shall be held annually, commencing on the second Monday of January. [1980 c 87 § 27; 1979 ex.s. c 48 § 1; 1891 c 20 § 1; RRS § 8177.]

Regular and special sessions: State Constitution, Art. 2 § 12.

Additional notes found at www.leg.wa.gov

44.04.015 Term limits. (1) No person is eligible to appear on the ballot or file a declaration of candidacy for the house of representatives of the legislature who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the house of rep-

representatives of the legislature during six of the previous twelve years.

(2) No person is eligible to appear on the ballot or file a declaration of candidacy for the senate of the legislature who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the senate of the legislature during eight of the previous fourteen years.

(3) No person is eligible to appear on the ballot or file a declaration of candidacy for the legislature who has served as a member of the legislature for fourteen of the previous twenty years. [1993 c 1 § 3 (Initiative Measure No. 573, approved November 3, 1992).]

Additional notes found at www.leg.wa.gov

44.04.021 Commencement of terms of office. The regular term of office of each senator and representative shall commence on the second Monday in January following the date of election. [1987 c 13 § 1; 1981 c 288 § 68. Formerly RCW 44.07B.870.]

44.04.040 Vouchers for pay and mileage of members—Warrants. The chief clerk of the house of representatives and the secretary of the senate are hereby directed to prepare vouchers for the state treasurer for the mileage and daily pay of members of the legislature on presentation of certificates showing amounts due for miles traveled and services rendered to dates specified. The certificates shall be signed by the speaker or president, and countersigned by the chief clerk or secretary, respectively, of the body to which the members belong. The state treasurer shall issue warrants which shall be in favor of and payable to the order of the persons named in said certificates. [1973 c 106 § 17; 1890 p 6 § 1; RRS § 8150.]

Annual salary: RCW 43.03.010.

Mileage allowance: State Constitution Art. 2 § 23; RCW 43.03.010.

44.04.041 Warrants for pay and mileage of members—Payment of. Upon presentation of a warrant drawn as provided for in RCW 44.04.040, to the state treasurer, that officer shall pay the same out of any money in the treasury of the state appropriated for the expenses of the legislature of the state of Washington: PROVIDED, That should there be no money in the state treasury covered by such appropriation, the state treasurer shall indorse such fact on the warrant presented, and said warrant shall draw interest from the date of such presentation and indorsement, and shall be payable thereafter in the manner provided by existing law and custom. [1890 p 6 § 2; RRS § 8151. Formerly RCW 44.04.070, part.]

44.04.050 Vouchers for pay of employees—Warrants. The chief clerk of the house of representatives and the secretary of the senate shall prepare vouchers for the state treasurer for sums covering amounts due officers and employees of the legislature on presentation of certificates signed by the speaker or president, and countersigned by the chief clerk or secretary of the body in which the service of the officer or employee is rendered, and showing amounts due to dates specified. The state treasurer shall issue warrants which

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shall be drawn in favor and be made payable to the order of the officer or employee named in each certificate. [1973 c 106 § 18; 1890 p 3 § 1; RRS § 8148.]

44.04.051 Warrants for pay of employees—Payment of. Upon presentation to the state treasurer of a warrant drawn as provided for in RCW 44.04.050, that officer shall pay the same from any money in the state treasury appropriated for the expenses of the legislature of the state of Washington: PROVIDED, That should there be no money in the treasury of the state covered by such appropriation, the state treasurer shall indorse such fact on the warrant presented, and said warrant shall draw interest from date of such indorsement and shall be payable thereafter as is provided by law and custom. [1890 p 3 § 2; RRS § 8149. Formerly RCW 44.04.070, part.]

44.04.060 Vouchers for incidental expenses—Warrants. The chief clerk of the house of representatives and the secretary of the senate are hereby directed to prepare vouchers for the state treasurer for the incidental expenses of the legislature, on presentation of certificates showing amounts due for material furnished and services rendered to dates specified. The certificates shall be signed by the speaker or president, and countersigned by the sergeant-at-arms, respectively, of the body ordering the expenditures. The state treasurer shall issue warrants which shall be in favor of and payable to the order of the persons named in said certificates. [1973 c 106 § 19; 1890 p 10 § 1; RRS § 8152.]

44.04.070 Warrants for incidental expenses—Payment of. Upon presentation of a warrant, drawn as provided for in RCW 44.04.060, to the state treasurer, that officer shall pay the same out of any money in the treasury of the state appropriated for the expenses of the legislature of the state of Washington: PROVIDED, That should there be no money in the state treasury covered by such appropriation, the state treasurer shall indorse such fact on the warrant presented, and said warrant shall draw interest from the date of such presentation and indorsement, and shall be payable thereafter in the manner provided by existing law and custom. [1890 p 10 § 2; RRS § 8153. FORMER PARTS OF SECTION: (i) 1890 p 3 § 2, now codified as RCW 44.04.051. (ii) 1890 p 6 § 2, now codified as RCW 44.04.041.]

44.04.090 Warrants for subsistence and lodging. The state treasurer shall issue warrants for said reimbursement supported by affidavits that the reimbursement is claimed for expenses of subsistence and lodging actually incurred without itemization and without receipts. Such warrants shall be immediately paid from any funds appropriated for the purpose. [1973 c 106 § 20; 1941 c 173 § 2; Rem. Supp. 1941 § 8153-2.]

44.04.100 Contest of election—Depositions. Any person desiring to contest the election of any member of the legislature, may, at any time after the presumptive election of such member and before the convening of the ensuing regular session of the legislature, have the testimony of witnesses, to be used in support of such contest, taken and perpetuated, by

serving not less than three days' written notice upon the member whose election he or she desires to contest, of his or her intention to institute such contest and that he or she desires to take the testimony of certain witnesses named in such notice, at a time and place named therein, before a notary public duly commissioned and qualified and residing in the county where the presumptive member resides, giving the name of such notary public, which deposition shall be taken in the manner provided by law for the taking of depositions in civil actions in the superior court. The presumptive member of the legislature, whose election is to be contested, shall have the right to appear, in person or by counsel, at the time and place named in the notice, and cross examine any witness produced and have such cross examination made a part of such deposition, and to produce witnesses and have their depositions taken for the purpose of sustaining his or her election. The notary public before whom such deposition is taken shall transmit such depositions to the presiding officer of the senate, or house of representatives, as the case may be, in which said contest is to be instituted, in the care of the secretary of state, at the state capitol, by registered mail, and it shall be the duty of the secretary of state upon the convening of the legislature to transmit said depositions, unopened, to the presiding officer of the senate, or the house of representatives, as the case may be, to whom it is addressed, and in case such contest is instituted said depositions may be opened and read in evidence in the manner provided by law for the opening and introduction of depositions in civil actions in the superior court. [2009 c 549 § 6001; 1927 c 205 § 1; RRS § 8162-1. Prior: Code 1881 §§ 3125-3139.]

Contest of elections: Chapter 29A.68 RCW.

Depositions: **Rules of court:** CR 26 through 37.

Legislature to judge election and qualifications of members: State Constitution Art. 2 § 8.

Recall: State Constitution Art. 1 §§ 33, 34, chapter 29A.56 RCW.

44.04.120 Members' allowances when engaged in legislative business. Each member of the senate or house of representatives when serving on official legislative business shall be entitled to receive, in lieu of per diem or any other payment, for each day or major portion thereof in which he or she is actually engaged in legislative business or business of the committee, commission, or council, notwithstanding any laws to the contrary, an allowance in an amount fixed by the secretary of the senate and chief clerk of the house, respectively, in accordance with applicable rules and resolutions of each body. Such allowance shall be reasonably calculated to reimburse expenses, exclusive of mileage, which are ordinary and necessary in the conduct of legislative business, recognizing cost variances which are encountered in different locales. The allowance authorized shall not exceed the greater of forty-four dollars per day or the maximum daily amount determined under RCW 43.03.050, as now or hereafter amended. In addition, a mileage allowance shall be paid at the rate per mile provided for in RCW 43.03.060, as now or hereafter amended, when authorized by the house, committee, commission, or council of which he or she is a member and on the business of which he or she is engaged. [2009 c 549 § 6002; 1985 c 3 § 1; 1979 ex.s. c 255 § 3; 1974 ex.s. c

157 § 2; 1973 1st ex.s. c 197 § 5; 1967 ex.s. c 112 § 4; 1963 ex.s. c 7 § 1; 1959 ex.s. c 10 § 1.]

Additional notes found at www.leg.wa.gov

44.04.125 Allowances of members-elect when attending meetings. Each member-elect of the senate or house of representatives who attends any meeting of the legislature or any of its committees, upon the invitation of the committee on rules of his or her respective house, shall be entitled to receive per diem, mileage, and incidental expense allowances at the rates prescribed in chapter 44.04 RCW, as now or hereafter amended. [1975 1st ex.s. c 185 § 1.]

44.04.130 Members' insurance coverage during aircraft flights. See RCW 43.01.120.

44.04.140 Security and protection of legislature—State patrol. See RCW 43.43.037.

44.04.170 Information from municipal associations. It shall be the duty of each association of municipal corporations or municipal officers, which is recognized by law and utilized as an official agency for the coordination of the policies and/or administrative programs of municipal corporations, to submit biennially, or oftener as necessary, to the governor and to the legislature the joint recommendations of such participating municipalities regarding changes which would affect the efficiency of such municipal corporations. Such associations shall include but shall not be limited to the Washington state association of fire commissioners and the Washington state school directors' association. [2007 c 31 § 7; 1999 c 153 § 59; 1970 ex.s. c 69 § 2.]

Purpose—1970 ex.s. c 69: "It is the purpose of this act to assist the legislature in obtaining adequate information as to the needs of its municipal corporations and other public agencies and their recommendations for improvements." [1970 ex.s. c 69 § 1.]

Intent—Construction—1970 ex.s. c 69: "The intent of this act is to clarify and implement the powers of the public agencies to which it relates and nothing herein shall be construed to impair or limit the existing powers of any municipal corporation or association." [1970 ex.s. c 69 § 3.]

Additional notes found at www.leg.wa.gov

44.04.180 Legislative records—Preservation. See RCW 40.14.100 through 40.14.180.

44.04.190 Fiscal impact of proposed legislation on political subdivisions—Fiscal notes. See chapter 43.132 RCW.

44.04.200 References to regular session of the legislature. After June 12, 1980, all references in the Revised Code of Washington to a regular session of the legislature mean a regular session during an odd- or even-numbered year unless the context clearly requires otherwise. [1980 c 87 § 1.]

44.04.210 Gender-neutral terms. (1) All statutes, memorials, and resolutions enacted, adopted, or amended by the legislature after July 1, 1983, shall be written in gender-neutral terms unless a specification of gender is intended.

(2) No statute, memorial, or resolution is invalid because it does not comply with this section. [1983 c 20 § 3.]

Intent—1983 c 20: See note following RCW 43.01.160.

Number and gender in statutes: RCW 1.12.050.

44.04.220 Legislative children's oversight committee.

(1) There is created the legislative children's oversight committee for the purpose of monitoring and ensuring compliance with administrative acts, relevant statutes, rules, and policies pertaining to family and children services and the placement, supervision, and treatment of children in the state's care or in state-licensed facilities or residences. The committee shall consist of three senators and three representatives from the legislature. The senate members of the committee shall be appointed by the president of the senate. The house members of the committee shall be appointed by the speaker of the house. Not more than two members from each chamber shall be from the same political party. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year.

(2) The committee shall have the following powers:

- (a) Selection of its officers and adopt rules for orderly procedure;
- (b) Request investigations by the ombudsman of administrative acts;
- (c) Receive reports of the ombudsman;
- (d)(i) Obtain access to all relevant records in the possession of the ombudsman, except as prohibited by law; and (ii) make recommendations to all branches of government;
- (e) Request legislation;
- (f) Conduct hearings into such matters as it deems necessary.

(3) Upon receipt of records from the ombudsman, the committee is subject to the same confidentiality restrictions as the ombudsman under RCW 43.06A.050. [1996 c 131 § 1.]

Additional notes found at www.leg.wa.gov

44.04.230 Teachers' insurance benefits—Reimbursement. The chief clerk of the house of representatives and the secretary of the senate shall prepare vouchers for the state treasurer for sums covering amounts due a school district for any teacher who is on a leave of absence as a legislator, and who has chosen to continue insurance benefits provided by the school district, in lieu of insurance benefits provided to that legislator as a state employee. The amount of reimbursement due the school district is for the actual cost of continuing benefits, but may not exceed the cost of the insurance benefits package that would otherwise be provided through the health care authority. [1998 c 62 § 1.]

Additional notes found at www.leg.wa.gov

44.04.240 Teachers' insurance benefits—Payment of warrants. Upon presentation to the state treasurer of a warrant issued by the treasurer and drawn for the purposes under RCW 44.04.230, the treasurer shall pay the amount necessary from appropriated funds. If sufficient funds have not been appropriated, the treasurer shall endorse the warrant and the warrant draws interest from the date of the endorsement until paid. [1998 c 62 § 3.]

Additional notes found at www.leg.wa.gov

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44.04.250 Surplus computer equipment—Donation to schools. The chief clerk of the house of representatives may authorize surplus computers and computer-related equipment owned by the house, the secretary of the senate may authorize surplus computers and computer-related equipment owned by the senate, and the directors of legislative agencies may authorize surplus computers and computer-related equipment owned by his or her respective agency, to be donated to school districts and educational service districts. This section shall not be construed to limit the discretion of the legislature regarding disposal of its surplus property. [1999 c 186 § 2.]

44.04.260 Legislative committees—Oversight. The joint legislative audit and review committee, the joint transportation committee, the select committee on pension policy, the legislative evaluation and accountability program committee, and the joint legislative systems committee are subject to such operational policies, procedures, and oversight as are deemed necessary by the facilities and operations committee of the senate and the executive rules committee of the house of representatives to ensure operational adequacy of the agencies of the legislative branch. As used in this section, "operational policies, procedures, and oversight" includes the development process of biennial budgets, contracting procedures, personnel policies, and compensation plans, selection of a chief administrator, facilities, and expenditures. This section does not grant oversight authority to the facilities and operations committee of the senate over any standing committee of the house of representatives or oversight authority to the executive rules committee of the house of representatives over any standing committee of the senate. [2005 c 319 § 112; 2003 c 295 § 12; 2001 c 259 § 1.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

44.04.280 State laws—Respectful language. (1) The legislature recognizes that language used in reference to individuals with disabilities shapes and reflects society's attitudes towards people with disabilities. Many of the terms currently used diminish the humanity and natural condition of having a disability. Certain terms are demeaning and create an invisible barrier to inclusion as equal community members. The legislature finds it necessary to clarify preferred language for new and revised laws by requiring the use of terminology that puts the person before the disability.

(2)(a) The code reviser is directed to avoid all references to: Disabled, developmentally disabled, mentally disabled, mentally ill, mentally retarded, handicapped, cripple, and crippled, in any new statute, memorial, or resolution, and to change such references in any existing statute, memorial, or resolution as sections including these references are otherwise amended by law.

(b) The code reviser is directed to replace terms referenced in (a) of this subsection as appropriate with the following revised terminology: "Individuals with disabilities," "individuals with developmental disabilities," "individuals with mental illness," and "individuals with intellectual disabilities."

(3) No statute, memorial, or resolution is invalid because it does not comply with this section.

(4) The replacement of outmoded terminology with more appropriate references may not be construed as changing the application of any provision of this code to any person. [2010 c 94 § 2; 2009 c 377 § 1; 2004 c 175 § 1.]

Purpose—2010 c 94: "The purpose of this act is to move toward fulfillment of the goals stated in RCW 44.04.280, to remove demeaning language from the Revised Code of Washington and to use respectful language when referring to individuals with disabilities. It is not the intent of the legislature to expand or contract the scope or application of any provision of this code. Nothing in this act may be construed to change the application of any provision of this code to any person." [2010 c 94 § 1.]

44.04.290 Periodic review of plans for bicycle, pedestrian, and equestrian facilities. The house and senate transportation committees shall periodically review the six-year comprehensive plans submitted by cities and counties for expenditures for bicycle, pedestrian, and equestrian facilities prepared pursuant to RCW 35.77.010 and 36.81.121. [1977 ex.s. c 235 § 12; 1975 1st ex.s. c 268 § 2. Formerly RCW 44.40.120.]

44.04.300 Joint transportation committee—Created—Duties. The joint transportation committee is created. The executive committee of the joint committee consists of the chairs and ranking members of the house and senate transportation committees. The chairs of the house and senate transportation committees shall serve as cochairs of the joint committee. All members of the house and senate standing committees on transportation are eligible for membership of the joint committee and shall serve when appointed by the executive committee.

The joint transportation committee shall review and research transportation programs and issues in order to educate and promote the dissemination of transportation research to state and local government policymakers, including legislators and associated staff. All four members of the executive committee shall approve the annual work plan. Membership of the committee may vary depending on the subject matter of oversight and research projects. The committee may also make recommendations for functional or performance audits to the transportation performance audit board.

The executive committee shall adopt rules and procedures for its operations. [2005 c 319 § 12.]

Transfers—2005 c 319: See note following RCW 47.01.075.

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

44.04.310 Joint transportation committee—Allowances, expenses. The members of the joint transportation committee will receive allowances while attending meetings of the committee or subcommittees and while engaged in other authorized business of the committees as provided in RCW 44.04.120. Subject to RCW 44.04.260, all expenses incurred by the committee must be paid upon voucher forms as provided by the office of financial management and signed by the cochairs of the joint committee, or their authorized designees, and the authority of the chair or vice-chair to sign vouchers continues until their successors are selected. Vouchers may be drawn upon funds appropriated for the expenses of the committee. [2005 c 319 § 13.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

44.04.320 Oral history program. (1) The secretary of the senate and the chief clerk of the house of representatives, at the direction of the legislative oral history committee, shall administer and conduct a program to record and document oral histories of current and former members and staff of the Washington state legislature, and other citizens who have participated in the political history of the Washington state legislature. The secretary of the senate and the chief clerk of the house of representatives may contract with independent oral historians or the history departments of the state universities to interview and record oral histories. The manuscripts and publications shall be made available for research and reference through the state archives. The manuscripts, together with current and historical photographs, may be published for distribution to libraries and the general public, and posted on the legislative oral history web site.

(2) The oral history of a person who occupied positions, or was staff to a person who occupied positions, in more than one branch of government, shall be conducted by the entity authorized to conduct oral histories of persons in the position last held by the person who is the subject of the oral history. However, the person being interviewed may select the entity he or she wishes to prepare his or her oral history. [2008 c 222 § 3; 1991 c 237 § 1. Formerly RCW 43.07.220.]

Purpose—2008 c 222: "Washington has developed an impressive oral history program of recording and documenting the recollections of public officials and citizens who have contributed to the rich political history surrounding the legislature. Schools, museums, historians, state agencies, and interested citizens have benefited from the availability of these educational materials. The purpose of this act is to enhance this resource by reinforcing the decision-making role of the legislature." [2008 c 222 § 1.]

Additional notes found at www.leg.wa.gov

44.04.325 Legislative oral history committee—Members. (1) A legislative oral history committee is created, which shall consist of the following individuals:

(a) Four members of the house of representatives, two from each of the two largest caucuses of the house, appointed by the speaker of the house of representatives;

(b) Four members of the senate, two from each of the two largest caucuses of the senate, appointed by the president of the senate;

(c) The chief clerk of the house of representatives; and

(d) The secretary of the senate.

(2) Ex officio members may be appointed by a majority vote of the committee's members appointed under subsection (1) of this section.

(3) The chair of the committee shall be elected by a majority vote of the committee members appointed under subsection (1) of this section. [2008 c 222 § 4; 1991 c 237 § 2. Formerly RCW 43.07.230.]

Purpose—2008 c 222: See note following RCW 44.04.320.

Additional notes found at www.leg.wa.gov

44.04.330 Legislative oral history committee—Duties. The legislative oral history committee shall have the following responsibilities:

(1) To select appropriate oral history interview candidates and subjects;

(2) To select transcripts or portions of transcripts, and related historical material, for publication;

(3) To advise the secretary of the senate and the chief clerk of the house of representatives on the format and length of individual interview series and on appropriate issues and subjects for related series of interviews;

(4) To advise the secretary of the senate and the chief clerk of the house of representatives on the appropriate subjects, format, and length of interviews and on the process for conducting oral history interviews;

(5) To advise the secretary of the senate and the chief clerk of the house of representatives on joint programs and activities with state universities, colleges, museums, and other groups conducting oral histories; and

(6) To advise the secretary of the senate and the chief clerk of the house of representatives on other aspects of the administration of the oral history program and on the conduct of individual interview projects. [2008 c 222 § 5; 1991 c 237 § 3. Formerly RCW 43.07.240.]

Purpose—2008 c 222: See note following RCW 44.04.320.

Additional notes found at www.leg.wa.gov

44.04.335 Oral history activities--Funding--Joint rules. The secretary of the senate and the chief clerk of the house of representatives may fund oral history activities through donations as provided in RCW 44.04.340 and through funds in the legislative gift center account created in RCW 44.73.020. The activities may include, but not be limited to, conducting interviews, preparing and indexing transcripts, publishing manuscripts and photographs, and presenting displays and programs. Donations that do not meet the criteria of the legislative oral history program may not be accepted. The secretary of the senate and the chief clerk of the house of representatives shall adopt joint rules necessary to implement this section. [2008 c 222 § 6.]

Purpose—2008 c 222: See note following RCW 44.04.320.

44.04.340 Oral history activities--Gifts, grants, conveyances--Expenditures--Joint rules. (1) The secretary of the senate and the chief clerk of the house of representatives may solicit and accept gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms.

(2) Moneys received under this section may be used only for conducting oral histories.

(3) Moneys received under this section must be deposited in the legislative oral history account established in RCW 44.04.345.

(4) The secretary of the senate and the chief clerk of the house of representatives shall adopt joint rules to govern and protect the receipt and expenditure of the proceeds. [2008 c 222 § 7.]

Purpose—2008 c 222: See note following RCW 44.04.320.

44.04.345 Legislative oral history account. The legislative oral history account is created in the custody of the state treasurer. All moneys received under RCW 44.04.340 and from the legislative gift center account created in RCW 44.73.020 must be deposited in the account. Expenditures from the account may be made only for the purposes of the

legislative oral history program under RCW 44.04.320. Only the secretary of the senate or the chief clerk of the house of representatives or their designee may authorize expenditures from the account. An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW. [2008 c 222 § 8.]

Purpose—2008 c 222: See note following RCW 44.04.320.

Chapter 44.05 RCW

WASHINGTON STATE REDISTRICTING ACT

Sections

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44.05.010 Short title. This act may be cited as the Washington State Redistricting Act. [1983 c 16 § 1.]

44.05.020 Definitions. The definitions set forth in this section apply throughout this chapter, unless the context requires otherwise.

(1) "Chief election officer" means the secretary of state.

(2) "Federal census" means the decennial census required by federal law to be prepared by the United States bureau of the census in each year ending in zero.

(3) "Lobbyist" means an individual required to register with the Washington public disclosure commission pursuant to *RCW 42.17.150.

(4) "Plan" means a plan for legislative and congressional redistricting mandated by Article II, section 43 of the state Constitution. [1983 c 16 § 2.]

*Reviser's note: RCW 42.17.150 was recodified as RCW 42.17A.600 pursuant to 2010 c 204 § 1102, effective January 1, 2012.

44.05.030 Redistricting commission—Membership—Chairperson—Vacancies. A redistricting commission shall be established in January of each year ending in one to accomplish state legislative and congressional redistricting. The five-member commission shall be appointed as follows:

(1) Each legislative leader of the two largest political parties in each house of the legislature shall appoint one voting member to the commission by January 15th of each year ending in one.

(2) The four legislators appointing commission members pursuant to this section shall certify their appointments to the chief election officer. If an appointing legislator does not cer-

tify an appointment by January 15th of each year ending in one, within five days the supreme court shall certify an appointment to the chief election officer.

(3) No later than January 31st of the year of their selection, the four appointed members, by an affirmative vote of at least three, shall appoint and certify to the chief election officer the nonvoting fifth member who shall act as the commission's chairperson. If by January 31st of the year of their selection three of the four voting members fail to elect a chairperson, the supreme court shall within five days certify an appointment to the chief election officer. A vacancy on the commission shall be filled by the person who made the initial appointment, or their successor, within fifteen days after the vacancy occurs. [1984 c 13 § 1; 1983 c 16 § 3.]

44.05.040 Oath. Before serving on the commission every person shall take and subscribe an oath to faithfully perform the duties of that office. The oath shall be filed in the office of the secretary of state. [1983 c 16 § 4.]

44.05.050 Members—Persons ineligible to serve. No person may serve on the commission who:

- (1) Is not a registered voter of the state at the time of selection; or
- (2) Is or has within one year prior to selection been a registered lobbyist; or
- (3) Is or has within two years prior to selection been an elected official or elected legislative district, county, or state party officer. The provisions of this subsection do not apply to the office of precinct committeeperson. [1984 c 13 § 2; 1983 c 16 § 5.]

44.05.060 Members—Political activities prohibited. No member of the commission may:

- (1) Campaign for elective office while a member of the commission;
- (2) Actively participate in or contribute to any political campaign of any candidate for state or federal elective office while a member of the commission; or
- (3) Hold or campaign for a seat in the state house of representatives, the state senate, or congress for two years after the effective date of the plan. [1984 c 13 § 3; 1983 c 16 § 6.]

44.05.070 Employment of personnel—Assistance of state officials—Witness expenses—Appropriations—Compensation. (1) The commission may employ the services of experts, consultants, and support staff, including attorneys not employed by the attorney general, as necessary to carry out its duties pursuant to this chapter.

(2) The chief election officer, the treasurer, and the attorney general shall make available to the commission such personnel, facilities, and other assistance as the commission may reasonably request. The chief election officer shall be the official recipient of all provisional and preliminary census data and maps, and shall forward such data and maps, upon request, to the commission.

(3) The commission, upon written request by a witness and subject to rules promulgated by the commission, may reimburse witnesses for their necessary expenses incurred in appearing before the commission.

(4) The legislature shall appropriate funds to enable the commission to carry out its duties. Members shall receive one hundred dollars of compensation for each day spent in the performance of their duties. Compensation of employees shall be determined by the commission. The provisions of RCW 43.03.050 and 43.03.060 shall apply to both the members and the employees of the commission. [1983 c 16 § 7.]

44.05.080 Duties. In addition to other duties prescribed by law, the commission shall:

(1) Adopt rules pursuant to the Administrative Procedure Act, chapter 34.05 RCW, to carry out the provisions of Article II, section 43 of the state Constitution and of this chapter, which rules shall provide that three voting members of the commission constitute a quorum to do business, and that the votes of three of the voting members are required for any official action of the commission;

(2) Act as the legislature's recipient of the final redistricting data and maps from the United States Bureau of the Census;

(3) Comply with requirements to disclose and preserve public records as specified in chapters 40.14 and 42.56 RCW;

(4) Hold open meetings pursuant to the open public meetings act, chapter 42.30 RCW;

(5) Prepare and disclose its minutes pursuant to RCW 42.32.030;

(6) Be subject to the provisions of *RCW 42.17.240;

(7) Prepare and publish a report with the plan; the report will be made available to the public at the time the plan is published. The report will include but will not be limited to: (a) The population and percentage deviation from the average district population for every district; (b) an explanation of the criteria used in developing the plan with a justification of any deviation in a district from the average district population; (c) a map of all the districts; and (d) the estimated cost incurred by the counties for adjusting precinct boundaries. [2005 c 274 § 303; 1983 c 16 § 8.]

***Reviser's note:** RCW 42.17.240 was recodified as RCW 42.17A.700 pursuant to 2010 c 204 § 1102, effective January 1, 2012.

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

44.05.090 Redistricting plan. In the redistricting plan:

(1) Districts shall have a population as nearly equal as is practicable, excluding nonresident military personnel, based on the population reported in the federal decennial census.

(2) To the extent consistent with subsection (1) of this section the commission plan should, insofar as practical, accomplish the following:

(a) District lines should be drawn so as to coincide with the boundaries of local political subdivisions and areas recognized as communities of interest. The number of counties and municipalities divided among more than one district should be as small as possible;

(b) Districts should be composed of convenient, contiguous, and compact territory. Land areas may be deemed contiguous if they share a common land border or are connected by a ferry, highway, bridge, or tunnel. Areas separated by geographical boundaries or artificial barriers that prevent transportation within a district should not be deemed contiguous; and

(c) Whenever practicable, a precinct shall be wholly within a single legislative district.

(3) The commission's plan and any plan adopted by the supreme court under RCW 44.05.100(4) shall provide for forty-nine legislative districts.

(4) The house of representatives shall consist of ninety-eight members, two of whom shall be elected from and run at large within each legislative district. The senate shall consist of forty-nine members, one of whom shall be elected from each legislative district.

(5) The commission shall exercise its powers to provide fair and effective representation and to encourage electoral competition. The commission's plan shall not be drawn purposely to favor or discriminate against any political party or group. [1990 c 126 § 1; 1983 c 16 § 9.]

44.05.100 Submission of plan to legislature—Amendment—Effect—Adoption by supreme court, when. (1) Upon approval of a redistricting plan by three of the voting members of the commission, but not later than January 1st of the year ending in two, the commission shall submit the plan to the legislature.

(2) After submission of the plan by the commission, the legislature shall have the next thirty days during any regular or special session to amend the commission's plan. If the legislature amends the commission's plan the legislature's amendment must be approved by an affirmative vote in each house of two-thirds of the members elected or appointed thereto, and may not include more than two percent of the population of any legislative or congressional district.

(3) The plan approved by the commission, with any amendment approved by the legislature, shall be final upon approval of such amendment or after expiration of the time provided for legislative amendment by subsection (2) of this section whichever occurs first, and shall constitute the districting law applicable to this state for legislative and congressional elections, beginning with the next elections held in the year ending in two. This plan shall be in force until the effective date of the plan based upon the next succeeding federal decennial census or until a modified plan takes effect as provided in RCW 44.05.120(6).

(4) If three of the voting members of the commission fail to approve and submit a plan within the time limitations provided in subsection (1) of this section, the supreme court shall adopt a plan by March 1st of the year ending in two. Any such plan approved by the court is final and constitutes the districting law applicable to this state for legislative and congressional elections, beginning with the next election held in the year ending in two. This plan shall be in force until the effective date of the plan based on the next succeeding federal decennial census or until a modified plan takes effect as provided in RCW 44.05.120(6). [2002 c 4 § 1; 1995 c 88 § 1; 1983 c 16 § 10.]

Retroactive application—2002 c 4: "This act is remedial and curative in nature and applies retroactively to any plan or portion of a plan submitted to the legislature by the redistricting commission established in 2001." [2002 c 4 § 2.]

Effective date—2002 c 4: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [January 22, 2002]." [2002 c 4 § 3.]

(2010 Ed.)

44.05.110 Cessation of operations—Financial statement—Official record. (1) Following the period provided by RCW 44.05.100(1) for the commission's adoption of a plan, the commission shall take all necessary steps to conclude its business and cease operations. The commission shall prepare a financial statement disclosing all expenditures made by the commission. The official record shall contain all relevant information developed by the commission pursuant to carrying out its duties under this chapter, maps, data collected, minutes of meetings, written communications, and other information of a similar nature. Once the commission ceases to exist, the chief election officer shall be the custodian of the official record for purposes of reprecincting and election administration. The chief election officer shall provide for the permanent preservation of this official record pursuant to *chapter 42.17 RCW and Title 40 RCW. Once the commission ceases to exist any budget surplus shall revert to the state general fund.

(2) Except as provided in RCW 44.05.120 for a reconvened commission, the commission shall cease to exist on July 1st of each year ending in two unless the supreme court extends the commission's term. [1983 c 16 § 11.]

***Reviser's note:** Provisions in chapter 42.17 RCW relating to campaign finance were recodified in chapter 42.17A RCW by 2010 c 204, effective January 1, 2012.

44.05.120 Reconvening of commission to modify plan. (1) If a commission has ceased to exist, the legislature may, upon an affirmative vote in each house of two-thirds of the members elected or appointed thereto, adopt legislation reconvening the commission for the purpose of modifying the redistricting plan.

(2) RCW 44.05.050 governs the eligibility of persons to serve on the reconvened commission. A vacancy involving a voting member of the reconvened commission shall be filled by the person who made the initial appointment, or their successor, within fifteen days after the effective date of the legislation reconvening the commission. A vacancy involving the nonvoting member of the commission shall be filled by an affirmative vote of at least [least] three of four voting members, within fifteen days after all other vacancies are filled or, if no other vacancies exist, within fifteen days after the effective date of the legislation reconvening the commission. A subsequent vacancy on a reconvened commission shall be filled by the person or persons who made the initial appointment, or their successor, within fifteen days after the vacancy occurs. If any appointing authority fails to make a required appointment within the time limitations established by this subsection, within five days after that date the supreme court shall make the required appointment.

(3) The provisions of RCW 44.05.070 and 44.05.080 are applicable if a commission is reconvened under this section.

(4) The commission shall complete the modification to the redistricting plan as soon as possible, but no later than sixty days after the effective date of the legislation reconvening the commission. At least three of the voting members shall approve the modification to the redistricting plan.

(5) Following approval of a modification to the redistricting plan by the commission, the legislature has the next thirty days during any regular or special session to amend the commission's modification. Any amendment by the legisla-

ture must be approved by an affirmative vote in each house of two-thirds of the members elected or appointed thereto. No amendment by the legislature may include more than two percent of the population of any legislative or congressional district contained in the commission's modification.

(6) The commission's modification to the redistricting plan, with any amendments approved by the legislature, shall be final upon approval of the amendments or after expiration of the time provided for legislative amendment by subsection (5) of this section, whichever occurs first.

(7) Following the period provided by subsection (4) of this section for the commission's approval of a modification to the redistricting plan, the commission shall take all necessary steps to conclude its business and cease operations in accordance with RCW 44.05.110(1). A reconvened commission shall cease to exist ninety days after the effective date of the legislation reconvening the commission, unless the supreme court extends the commission's term. [1983 c 16 § 12.]

44.05.130 Challenges to plan. After the plan takes effect as provided in RCW 44.05.100, any registered voter may file a petition with the supreme court challenging the plan. After a modification to the redistricting plan takes effect as provided in RCW 44.05.120, any registered voter may file a petition with the supreme court challenging the amended plan. The court may consolidate any or all petitions and shall give all such petitions precedence over all other matters. [1983 c 16 § 13.]

44.05.900 Contingent effective date—1983 c 16. This act shall take effect if the proposed amendment to Article II of the state Constitution establishing a commission for state legislative and congressional redistricting is validly submitted to and is approved and ratified by the voters at a general election held in November, 1983. If the proposed amendment is not so approved and ratified, this act shall be null and void in its entirety. [1983 c 16 § 18.]

Reviser's note: Senate Joint Resolution No. 103, requiring redistricting commissions and plans, was approved by the voters November 8, 1983, and is codified as Article II, section 43 of the state Constitution.

44.05.901 Severability—1983 c 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 c 16 § 17.]

44.05.902 Severability—1984 c 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 13 § 5.]

Chapter 44.07D RCW

LEGISLATIVE DISTRICTS AND APPORTIONMENT

Reviser's note: The following material represents the legislative portion of the redistricting plan filed with the legislature by the Washington State Redistricting Commission on December 17, 2001, and as amended by Senate Concurrent Resolution 8429 and Senate Concurrent Resolution 8430

under RCW 44.05.100. For United States congressional districts, see chapter 29.69C RCW.

WASHINGTON STATE REDISTRICTING COMMISSION REDISTRICTING PLAN

A PLAN Relating to the redistricting of state legislative districts.

BE IT APPROVED BY THE REDISTRICTING COMMISSION OF THE STATE OF WASHINGTON:

Sec. 1. It is the intent of the commission to redistrict the congressional and legislative districts of the state of Washington in accordance with the Constitution and laws of the United States and the state of Washington.

Sec. 2. The definitions set forth in RCW 44.05.020 apply throughout this plan, unless the context requires otherwise.

Sec. 3. In every case the population of the legislative districts described by this plan has been ascertained on the basis of the total number of persons found inhabiting such areas as of April 1, 2000, in accordance with the 2000 federal decennial census data submitted pursuant to P.L. 94-171.

Sec. 4. (a) Any area not specifically included within the boundaries of any of the districts as described in this plan and that is completely surrounded by a particular district, shall be a part of that district. Any such area not completely surrounded by a particular district shall be a part of the district having the smallest number of inhabitants and having territory contiguous to such area.

(b) Any area described in this plan as specifically embraced in two or more noninclusive districts shall be a part of the adjacent district having the smallest number of inhabitants and shall not be a part of the other district or districts.

(c) Any area specifically mentioned as embraced within a district but separated from such district by one or more other districts, shall be assigned as though it had not been included in any district specifically described.

(d) The 2000 United States federal decennial census data submitted pursuant to P.L. 94-171 shall be used for determining the number of inhabitants under this plan.

Sec. 5. For purposes of this plan, districts shall be described in terms of:

(1) Official United States census bureau tracts, block groups, or blocks, established by the United States bureau of the census in the 2000 federal decennial census;

(2) Counties, municipalities, or other political subdivisions as they existed on January 1, 2000;

(3) Any natural or artificial boundaries or monuments including but not limited to rivers, streams, or lakes as they existed on January 1, 2000;

(4) Roads, streets, or highways as they existed on January 1, 2000.

Sec. 6. Pursuant to RCW 44.05.090(4) and Article II, section 43 of the state Constitution, the territory of the state shall be divided into forty-nine legislative districts. Two members of the house of representatives shall be elected from and run at large within each legislative district. One member of the senate shall be elected from each legislative district.

Sec. 7. The legislative districts described by this plan shall be those recorded electronically as "JOINTSUB-L-03", maintained in computer files and designated as FINAL-LEG-2001, which are public records of the commission. As soon as practicable after approval and submission of this plan to the legislature, the commission shall publish "FINAL-LEG-2001".

Sec. 8. The commission intends that existing law shall continue to govern such matters as the terms and dates of election for members of the senate to be elected from each district, the status of "hold-over" senators, and the elections to fill vacancies, when required, provided that districts referred to in existing law and designated by number shall refer to districts of the same number described in this plan, beginning with the next elections in 2002.

Sec. 9. This commission intends that this plan supersede the district boundaries established by chapter 44.07C RCW.

Sec. 10. If any provision of this plan or its application to any person or circumstance is held invalid, the remainder of the plan or its application to other persons or circumstances is not affected.

District 1: King County (Part) - Tracts: 218.03, 218.04, 220.01, King County (Part) - Block Groups Tract 218.02; Block Group 1, King County

(Part) - Blocks: Tract 217.00; Block 2000, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2011, Block 2012, Block 2013, Block 2014, Block 4000, Block 4001, Block 4002, Block 4022, Tract 218.02; Block 2000, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 3013, Tract 219.05; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1011, Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2006, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3008, Block 3009, Block 3010, Block 3014, Block 3015, Block 3016, Tract 219.06; Block 1010, Tract 221.02; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 4005, Tract 222.02; Block 1001, Snohomish County (Part) - Tracts: 511.00, 512.00, 513.00, 519.11, 519.12, 519.13, 519.14, 519.15, 519.16, 519.17, 519.18, 519.19, 521.07, Snohomish County (Part) - Block Groups Tract 417.02; Block Group 2, Tract 417.02; Block Group 3, Tract 418.04; Block Group 1, Tract 518.01; Block Group 2, Tract 518.01; Block Group 3, Tract 518.02; Block Group 2, Tract 519.05; Block Group 3, Tract 519.05; Block Group 7, Tract 519.09; Block Group 1, Tract 519.09; Block Group 2, Tract 519.09; Block Group 3, Tract 519.09; Block Group 4, Tract 519.20; Block Group 2, Tract 519.20; Block Group 3, Tract 519.20; Block Group 4, Tract 519.20; Block Group 5, Tract 521.08; Block Group 2, Tract 521.12; Block Group 5, Tract 521.12; Block Group 6, Tract 521.13; Block Group 3, Snohomish County (Part) - Blocks: Tract 417.02; Block 1002, Block 1003, Block 1004, Block 1005, Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 5015, Block 5016, Block 5019, Block 5020, Block 5021, Tract 418.04; Block 3000, Block 3001, Block 3002, Block 3003, Block 4003, Block 4004, Tract 509.00; Block 1006, Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2009, Block 2998, Block 2999, Tract 510.00; Block 2000, Block 2010, Block 2011, Block 2998, Block 2999, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3999, Tract 518.01; Block 1000, Tract 519.05; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1008, Block 1009, Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2006, Block 2007, Block 2008, Block 2009, Block 4017, Block 4018, Block 4019, Block 4020, Block 4022, Block 4023, Block 4024, Tract 519.09; Block 5000, Block 5001, Block 5002, Block 5003, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Tract 519.20; Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Tract 521.08; Block 1002, Block 1003, Block 1004, Block 1005, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Tract 521.11; Block 1001, Block 1002, Block 1003, Tract 521.12; Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Tract 521.13; Block 2010.

District 2: Pierce County (Part) - Tracts: 704.02, 714.03, 714.07, 714.09, 714.10, 714.11, 730.01, 730.05, 730.06, 731.09, 731.13, 731.14, 731.15, 731.16, 731.17, 731.18, 731.19, 732.00, Pierce County (Part) - Block Groups Tract 701.00; Block Group 3, Tract 714.06; Block Group 1, Tract 714.06; Block Group 2, Tract 714.08; Block Group 2, Tract 714.08; Block Group 3, Tract 714.08; Block Group 4, Tract 729.04; Block Group 2, Tract 731.08; Block Group 2, Pierce County (Part) - Blocks: Tract 701.00; Block 1074, Block 1075, Block 1076, Block 1077, Block 1088, Block 1090, Block 1103, Block 1104, Block 1105, Block 1106, Block 1107, Block 1108, Block 1109, Block 1110, Block 1111, Block 1112, Block 1113, Block 1114, Block 1115, Block 1116, Block 1117, Block 1118, Block 1119, Block 1120, Block 1121, Block 1122, Block 1123, Block 1124, Block 1125, Block 1126, Block 1129, Block 1130, Block 1131, Block 1132, Block 1133, Block 1399, Block 1400, Block 1401, Block 1402, Block 1403, Block 1404, Block 1405, Block 1407, Block 1408, Block 1409, Block 1410, Block 1411, Block 1412, Block 1413, Block 1414, Block 1415, Block 1994, Block 1995, Block 2001, Block 2004, Block 2005, Block 2006, Block 2009, Block 2010, Block 2011, Block 2012, Block 2999, Tract 702.03; Block 1001, Block 1002, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1999, Tract 702.06; Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1029, Block 1030, Block 1031, Block 1032,

Block 1033, Block 1034, Block 1035, Block 1038, Block 1039, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Tract 704.01; Block 2009, Block 2010, Tract 713.08; Block 2012, Block 2013, Block 2014, Block 2017, Block 2018, Tract 714.06; Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Tract 714.08; Block 1001, Block 1002, Block 1003, Tract 729.01; Block 1007, Tract 729.04; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1028, Block 1029, Block 1030, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1999, Tract 731.08; Block 1000, Block 1001, Block 1002, Block 1012, Block 1013, Block 1014, Block 1015, Tract 731.10; Block 1001, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1016, Block 1017, Block 2000, Block 2001, Block 2002, Tract 731.12; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Thurston County (Part) - Tracts: 123.20, 124.10, Thurston County (Part) - Block Groups Tract 123.10; Block Group 1, Tract 125.00; Block Group 2, Tract 125.00; Block Group 3, Tract 125.00; Block Group 5, Tract 125.00; Block Group 6, Thurston County (Part) - Blocks: Tract 123.10; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2012, Block 2013, Block 2015, Block 2016, Tract 123.30; Block 1008, Tract 124.20; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2027, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Tract 125.00; Block 1000, Block 1001, Block 1002, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1022, Block 1023, Block 1024, Block 1050, Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4011, Block 4015, Block 4016, Block 4018, Block 4019, Block 4020, Block 4076, Block 4077, Block 4078, Block 4079, Block 4080, Block 4081, Block 4122, Block 4123, Block 4124, Block 4125, Block 4126, Block 4127, Block 4129, Block 4130, Block 4131, Block 4132, Block 4133, Block 4134, Block 4135, Block 4136, Block 4137, Block 4138, Block 4139, Block 4140, Block 4141, Block 4142, Block 4143, Block 4144, Block 4145, Block 4146, Block 4147, Block 4148, Block 4149, Block 4150, Block 4151, Block 4152, Block 4153, Block 4154, Block 4155, Block 4156, Block 4157, Block 4178, Block 4179, Block 4180, Block 4181, Block 4185, Block 4186, Block 4187.

District 3: Spokane County (Part) - Tracts: 1.00, 2.00, 3.00, 4.00, 5.00, 6.00, 12.00, 13.00, 14.00, 15.00, 16.00, 18.00, 19.00, 20.00, 21.00, 23.00, 24.00, 25.00, 26.00, 28.00, 29.00, 30.00, 31.00, 32.00, 33.00, 35.00, 41.00, Spokane County (Part) - Block Groups Tract 10.00; Block Group 3, Tract 10.00; Block Group 4, Tract 10.00; Block Group 5, Tract 17.00; Block Group 2, Tract 17.00; Block Group 3, Tract 36.00; Block Group 1, Tract 36.00; Block Group 3, Tract 36.00; Block Group 4, Tract 40.00; Block Group 1, Tract 40.00; Block Group 2, Tract 40.00; Block Group 5, Tract 46.01; Block Group 1, Tract 46.02; Block Group 2, Tract 46.02; Block Group 3, Spokane County (Part) - Blocks: Tract 10.00; Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 6031, Block 6039, Block 6040, Block 6041, Block 6042, Block 6043, Block 6044, Tract 11.00; Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block

3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Tract 17.00; Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Tract 36.00; Block 2999, Tract 40.00; Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4011, Block 4012, Block 4013, Block 4014, Block 4017, Block 4018, Block 4019, Tract 42.00; Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Tract 45.00; Block 1002, Block 1003, Block 1004, Block 3000, Block 3001, Block 3002, Block 3007, Block 3015, Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4011, Block 4012, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Tract 46.01; Block 2000, Block 2001, Block 2002, Block 2004, Block 2008, Block 2009, Block 2010, Tract 46.02; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Tract 47.00; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2026, Block 2027, Block 2031, Block 2032, Block 2033, Block 2034, Tract 106.01; Block 1017, Tract 112.01; Block 2022, Tract 112.02; Block 4022, Block 4033, Tract 134.01; Block 1002, Block 1007.

District 4: Spokane County (Part) - Tracts: 101.00, 102.01, 113.00, 114.00, 115.00, 116.00, 117.00, 118.00, 119.00, 120.00, 121.00, 122.00, 124.01, 125.00, 126.00, 127.01, 127.02, 128.01, 128.02, 129.01, 129.02, 130.00, 132.01, Spokane County (Part) - Block Groups Tract 102.02; Block Group 3, Tract 123.00; Block Group 1, Tract 123.00; Block Group 2, Tract 123.00; Block Group 4, Tract 124.02; Block Group 3, Tract 131.00; Block Group 1, Tract 131.00; Block Group 2, Tract 131.00; Block Group 3, Tract 131.00; Block Group 4, Tract 132.02; Block Group 3, Spokane County (Part) - Blocks: Tract 17.00; Block 1000, Block 1008, Block 1009, Block 1010, Tract 102.02; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1009, Block 1010, Block 1016, Block 1017, Block 1018, Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2025, Block 2026, Tract 103.04; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1009, Block 1010, Block 1011, Block 1012, Block 1062, Block 1063, Block 2000, Block 2001, Block 2002, Block 2003, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Tract 103.05; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2041, Block 2042, Block 2043, Block 2046, Tract 112.01; Block 2000, Block 2024, Block 2025, Block 2026, Tract 112.02; Block 3000, Block 3018, Block 3019, Block 3020, Block 3021, Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Tract 123.00; Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3025, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Tract 124.02; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030,

Block 1031, Block 1032, Block 1033, Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Tract 131.00; Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Tract 132.02; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1999, Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2999.

District 5: King County (Part) - Tracts: 319.04, 319.06, 320.02, 320.03, 320.08, 320.09, 321.02, 322.03, 322.07, 322.08, 322.09, 322.10, 322.11, 322.12, 326.02, 327.03, 327.04, King County (Part) - Block Groups Tract 316.02; Block Group 1, Tract 316.02; Block Group 3, Tract 316.02; Block Group 4, Tract 316.02; Block Group 5, Tract 319.07; Block Group 3, Tract 319.07; Block Group 5, Tract 320.07; Block Group 1, Tract 320.07; Block Group 3, Tract 321.03; Block Group 2, Tract 321.03; Block Group 3, Tract 321.03; Block Group 4, Tract 321.04; Block Group 2, Tract 321.04; Block Group 4, Tract 323.16; Block Group 3, Tract 323.17; Block Group 1, Tract 323.17; Block Group 2, Tract 323.17; Block Group 3, Tract 323.17; Block Group 4, Tract 323.17; Block Group 5, Tract 323.18; Block Group 2, Tract 323.18; Block Group 3, Tract 323.18; Block Group 4, Tract 326.01; Block Group 1, Tract 327.02; Block Group 1, Tract 327.02; Block Group 2, Tract 327.02; Block Group 3, Tract 327.02; Block Group 4, Tract 327.02; Block Group 6, King County (Part) - Blocks: Tract 234.02; Block 1007, Block 1008, Block 1010, Block 1011, Block 1998, Tract 257.02; Block 2000, Block 2001, Block 2007, Block 2008, Block 2009, Block 2010, Tract 315.01; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1031, Block 1032, Block 1033, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2073, Block 2074, Tract 315.02; Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1096, Block 1106, Block 1107, Block 1108, Block 1109, Block 1110, Block 1111, Block 1112, Block 1113, Block 1114, Block 1115, Block 1119, Block 1120, Block 1121, Block 1533, Block 1534, Block 1535, Block 1998, Block 1999, Tract 316.03; Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1008, Block 1009, Block 1010, Block 1011, Tract 317.02; Block 1000, Block 1001, Block 1002, Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5011, Block 5012, Tract 317.03; Block 2000, Block 2001, Block 2002, Tract 318.00; Block 1000, Block 1011, Block 1012, Block 1013, Block 2000, Block 2001, Block 2002, Block 2005, Block 2006, Block 2007, Block 3000, Block 3001, Block 3002, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Tract 319.03; Block 3004, Tract 319.07; Block 1000, Block 1001, Block 1003, Block 4000, Tract 320.05; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1013, Tract 320.06; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2031, Block 2032, Block 2033, Tract 320.07; Block 2000, Block 2001, Block 2002, Block 2018, Block 2998, Tract 321.03; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Tract 321.04; Block 1000, Block 1001, Block 1002, Block 1003, Block 1012, Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Tract 323.15;

6147, Block 6148, Block 6149, Block 6150, Block 6151, Block 6152, Block 6153, Block 6154, Block 6155, Block 6156, Block 6157, Block 6158, Block 6159, Block 6160, Block 6161, Block 6162, Block 6163, Block 6164, Block 6165, Block 6166, Tract 27.02; Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3068, Block 3069, Block 3070, Block 3071, Block 3072, Block 3075, Block 3076, Block 3077, Block 3078, Block 3079, Block 3080, Block 3081, Block 3082, Block 3083, Block 3084, Block 3085, Block 3086.

District 16: Benton County (Part) - Tracts: 114.02, 115.01, 116.00, Benton County (Part) - Block Groups Tract 113.00; Block Group 3, Tract 113.00; Block Group 4, Tract 113.00; Block Group 5, Tract 114.01; Block Group 2, Tract 114.01; Block Group 3, Tract 115.02; Block Group 6, Tract 115.02; Block Group 7, Benton County (Part) - Blocks: Tract 108.01; Block 4013, Block 4014, Block 4015, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 5008, Block 5031, Block 5032, Block 5033, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050, Block 5052, Block 5053, Block 5054, Block 5055, Block 5056, Block 5057, Block 5058, Block 5059, Block 5060, Block 5061, Block 5062, Block 5063, Block 5064, Block 5065, Block 5066, Block 5067, Block 5068, Block 5069, Block 5070, Block 5071, Block 5072, Block 5073, Block 5074, Block 5075, Block 5076, Block 5078, Block 5079, Block 5080, Block 5081, Block 5082, Block 5083, Block 5084, Block 5085, Block 5086, Block 5087, Block 5088, Block 5089, Block 5090, Block 5091, Block 5092, Block 5093, Block 5094, Block 5095, Block 5096, Block 5097, Block 5098, Block 5099, Block 5100, Block 5101, Block 5102, Block 5103, Block 5104, Block 5105, Block 5106, Block 5107, Block 5108, Block 5109, Block 5110, Block 5111, Block 5112, Block 5113, Block 5114, Block 5115, Block 5116, Block 5117, Block 5118, Block 5119, Block 5120, Block 5121, Block 5122, Block 5123, Block 5124, Block 5125, Block 5126, Block 5127, Block 5128, Block 5129, Block 5151, Block 5152, Block 5153, Block 5154, Block 5155, Block 5156, Block 5157, Block 5158, Block 5159, Block 5160, Block 5161, Block 5162, Tract 112.00; Block 6000, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Tract 113.00; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1999, Block 2000, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2042, Block 2043, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Tract 115.02; Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Tract 118.00; Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4013, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4022, Block 4023, Block 4034, Block 4035, Block 4036, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4052, Block 4068, Block 4069, Block 4070, Block 4071, Block 4072, Block 4073, Block 4074, Block 4075, Block 4076, Block 4077, Block 4078, Block 4079, Block 4080, Block 4081, Columbia County, Franklin County (Part) -Tracts: 201.00, 202.00, 203.00, 204.00, 205.01, 205.02, 206.02, Franklin County (Part) - Block Groups Tract 206.01; Block Group 3, Franklin County (Part) - Blocks: Tract 206.01; Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1995, Block 2093, Block 2094, Block 2095, Block 2120, Block 2121, Block 2122, Block 2123, Block 2124, Block 2997, Tract 207.00; Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2048, Block 2049, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085, Block 2086, Block 2087, Block 2088, Block 2089, Block 2090, Block 2091, Block 2092, Block 2093, Block 2094, Block 2095, Block 2096, Block 2097, Block 2098, Block 2099, Block 2100, Block 2101, Block 2102, Block 2103, Block 2104, Block 2105, Block 2106, Block 2107, Block 2108, Block 2109, Block 2110, Block 2111, Block 2112, Block 2113, Block 2114, Block 2115, Block 2116, Block 2117, Block 2118, Block 2119, Block 2120, Block 2121, Block 2122, Block 2123, Block 2124, Block 2125, Block 2126, Block 2127, Block 2128, Block 2129, Block 2130, Block 2131, Block 2132, Block 2133, Block 2134, Block 2135, Block 2136, Block 2137, Block 2138, Block 2139, Block 2140, Block 2141, Block 2142, Block 2143, Block 2144, Block 2145, Block 2146, Block 2147, Block 2148, Block 2149, Block 2150, Block 2151, Block 2152, Block 2153, Block 2154, Block 2155, Block 2156, Block 2157, Block

2114, Block 2115, Block 2116, Block 2117, Block 2118, Block 2119, Block 2120, Block 2121, Block 2122, Block 2123, Block 2993, Block 2994, Block 2995, Block 2997, Walla Walla County.

District 17: Clark County (Part) - Tracts: 407.02, 407.03, 407.05, 407.06, 408.05, 408.06, 411.04, 413.09, 413.10, 413.12, 413.13, 413.14, 413.15, 413.16, 413.17, 413.18, 413.19, 413.20, 413.22, 413.23, Clark County (Part) - Block Groups Tract 404.04; Block Group 1, Tract 404.04; Block Group 2, Tract 404.04; Block Group 3, Tract 404.08; Block Group 1, Tract 413.21; Block Group 1, Tract 413.24; Block Group 1, Tract 413.24; Block Group 2, Tract 413.24; Block Group 4, Tract 413.25; Block Group 1, Clark County (Part) - Blocks: Tract 404.03; Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Tract 404.04; Block 4000, Block 4001, Block 4006, Tract 404.08; Block 2000, Block 2001, Block 2002, Block 2003, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Tract 405.05; Block 2025, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3028, Block 3029, Tract 406.03; Block 1007, Block 1008, Block 1009, Block 1010, Block 2007, Block 2008, Block 2009, Block 2010, Tract 406.04; Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 2007, Block 2008, Tract 406.06; Block 1007, Block 1008, Block 1009, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Tract 409.05; Block 1008, Block 1009, Block 1011, Tract 409.06; Block 1013, Tract 413.21; Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Tract 413.24; Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Tract 413.25; Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2030, Block 2031, Block 2997.

District 18: Clark County (Part) - Tracts: 401.02, 402.01, 402.02, 402.03, 404.05, 404.06, 404.07, 405.09, 409.07, 409.08, 414.00, 415.00, Clark County (Part) - Block Groups Tract 401.01; Block Group 1, Tract 403.00; Block Group 1, Tract 403.00; Block Group 2, Tract 403.00; Block Group 4, Tract 404.03; Block Group 1, Tract 405.04; Block Group 2, Tract 405.04; Block Group 3, Tract 405.05; Block Group 1, Tract 405.08; Block Group 1, Tract 406.05; Block Group 2, Tract 406.06; Block Group 3, Tract 406.06; Block Group 4, Tract 409.04; Block Group 4, Tract 409.05; Block Group 2, Clark County (Part) - Blocks: Tract 401.01; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085, Block 2086, Block 2087, Block 2088, Block 2089, Block 2090, Block 2091, Block 2092, Block 2093, Block 2094, Block 2095, Block 2096, Block 2097, Block 2098, Block 2099, Block 2100, Block 2101, Block 2102, Block 2103, Block 2104, Block 2105, Block 2106, Block 2107, Block 2108, Block 2109, Block 2110, Block 2111, Block 2112, Block 2113, Block 2114, Block 2115, Block 2116, Block 2117, Block 2118, Block 2119, Block 2120, Block 2121, Block 2122, Block 2123, Block 2124, Block 2125, Block 2126, Block 2127, Block 2128, Block 2129, Block 2130, Block 2131, Block 2132, Block 2133, Block 2134, Block 2135, Block 2136, Block 2137, Block 2138, Block 2139, Block 2140, Block 2141, Block 2142, Block 2143, Block 2144, Block 2145, Block 2146, Block 2147, Block 2148, Block 2149, Block 2150, Block 2151, Block 2152, Block 2153, Block 2154, Block 2155, Block 2156, Block 2157, Block

4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4068, Block 4069, Block 4070, Block 4071, Block 4072, Block 4073, Block 4074, Block 4075, Block 4082, Block 4083, Block 4084, Block 4085, Block 4086, Block 4087, Block 4088, Block 4089, Block 4090, Block 4091, Block 4092, Block 4093, Block 4094, Block 4095, Block 4096, Block 4097, Block 4098, Block 4099, Block 4100, Block 4101, Block 4102, Block 4103, Block 4104, Block 4105, Block 4106, Block 4107, Block 4108, Block 4109, Block 4110, Block 4111, Block 4112, Block 4113, Block 4114, Block 4115, Block 4116, Block 4117, Block 4118, Block 4119, Block 4120, Block 4121, Block 4128, Block 4158, Block 4159, Block 4160, Block 4161, Block 4162, Block 4163, Block 4164, Block 4165, Block 4166, Block 4167, Block 4168, Block 4169, Block 4170, Block 4171, Block 4172, Block 4173, Block 4174, Block 4175, Block 4176, Block 4177, Block 4182, Block 4183, Block 4184, Block 4996, Block 4997, Block 4998, Block 4999.

District 21: Snohomish County (Part) - Tracts: 418.07, 420.01, 420.03, 420.04, 420.05, 420.06, 501.01, 501.02, 502.00, 503.00, 504.01, 514.00, 515.00, 516.01, 516.02, 517.01, 517.02, Snohomish County (Part) - Block Groups Tract 413.01; Block Group 1, Tract 413.01; Block Group 2, Tract 413.01; Block Group 5, Tract 418.04; Block Group 2, Tract 418.04; Block Group 5, Tract 419.01; Block Group 3, Tract 504.02; Block Group 1, Tract 505.00; Block Group 1, Tract 505.00; Block Group 5, Tract 510.00; Block Group 1, Tract 510.00; Block Group 4, Tract 518.01; Block Group 4, Tract 518.02; Block Group 1, Tract 518.02; Block Group 3, Tract 519.05; Block Group 5, Tract 519.05; Block Group 6, Snohomish County (Part) - Blocks: Tract 413.01; Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3997, Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4999, Tract 418.04; Block 3004, Block 4000, Block 4001, Block 4002, Block 4005, Block 4006, Block 4007, Block 4008, Tract 418.06; Block 1004, Block 1006, Block 1007, Block 1008, Block 1009, Block 2007, Block 3000, Block 3001, Tract 418.08; Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Tract 419.01; Block 1001, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1016, Block 1017, Block 1018, Block 1019, Block 2000, Block 2001, Block 2002, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Tract 419.05; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 4002, Block 4003, Block 4004, Block 4005, Tract 504.02; Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Tract 505.00; Block 3005, Block 3006, Block 3007, Block 3008, Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4025, Block 4026, Block 4029, Block 4030, Block 4998, Block 4999, Tract 506.00; Block 1003, Tract 509.00; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Tract 510.00; Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Tract 518.01; Block 1001, Block 1002, Tract 519.05; Block 1007, Block 2005, Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4021.

District 22: Thurston County (Part) - Tracts: 101.00, 102.00, 103.00, 104.00, 105.00, 106.00, 107.00, 111.00, 112.00, 113.00, 114.10, 114.20, 120.00, 121.00, 122.10, 122.20, Thurston County (Part) - Block Groups Tract 108.00; Block Group 1, Tract 108.00; Block Group 2, Tract 108.00; Block Group 3, Tract 108.00; Block Group 4, Tract 109.00; Block Group 1, Tract 109.00; Block Group 4, Tract 109.00; Block Group 5, Tract 109.00; Block Group 6, Tract 115.00; Block Group 1, Tract 115.00; Block Group 2, Tract 116.10; Block Group 2, Tract 116.20; Block Group 1, Tract 116.20; Block Group 2, Tract 117.00; Block Group 1, Tract 117.00; Block Group 2, Tract 123.30; Block Group 2, Thurston County (Part) - Blocks: Tract 108.00;

Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050, Block 5051, Block 5053, Block 5054, Tract 109.00; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2029, Block 2030, Block 2031, Block 2996, Block 2997, Block 2998, Block 2999, Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3999, Tract 110.00; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1015, Block 1020, Block 1021, Block 1022, Block 1025, Block 1999, Tract 115.00; Block 3000, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3017, Block 3018, Block 4000, Tract 116.10; Block 1012, Block 1013, Block 1014, Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3998, Block 3999, Tract 116.20; Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3998, Block 3999, Tract 116.20; Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Tract 117.00; Block 3010, Block 3011, Block 3012, Tract 118.20; Block 1000, Tract 123.30; Block 1001.

District 23: Kitsap County (Part) - Tracts: 804.00, 901.01, 901.02, 902.00, 903.00, 904.00, 905.00, 906.01, 906.02, 907.00, 908.00, 909.00, 910.00, 911.00, 912.01, 912.03, 912.04, 915.00, 916.00, 917.00, 918.00, 919.00, Kitsap County (Part) - Block Groups Tract 801.01; Block Group 2, Tract 801.02; Block Group 1, Tract 802.00; Block Group 2, Tract 803.00; Block Group 3, Tract 913.02; Block Group 2, Kitsap County (Part) - Blocks: Tract 802.00; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1024, Tract 803.00; Block 1002, Block 1005, Block 2000, Block 2008, Tract 913.02; Block 1000, Block 1001, Block 1002, Block 1008, Block 1009, Block 1010, Block 1999, Block 3005, Block 3006.

District 24: Clallam County, Grays Harbor County (Part) - Tract 1.00, 2.00, 3.00, 14.00, 15.00, Grays Harbor County (Part) - Block Groups Tract 4.00; Block Group 1, Tract 4.00; Block Group 2, Tract 4.00; Block Group 3, Tract 4.00; Block Group 5, Tract 8.00; Block Group 1, Tract 13.00; Block Group 3, Tract 13.00; Block Group 4, Grays Harbor County (Part) - Blocks: Tract 4.00; Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4068, Block 4069, Block 4070, Tract 5.00; Block 4067, Block 4068, Block 4073, Block 4074, Block 4075, Block 4076, Block 4077, Block 4078, Block 4079, Block 4080, Block 4081, Block 4082, Block 4083, Tract 8.00; Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2059, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2069, Block 2070, Block 2074, Block 2075, Block 2076, Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3029, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3054, Block 3999,

Tract 9.00; Block 1015, Block 1997, Tract 10.00; Block 2000, Block 2003, Block 2004, Block 2009, Block 2994, Tract 11.00; Block 5000, Block 5015, Block 5016, Block 5017, Block 5999, Tract 13.00; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1025, Block 1031, Block 1032, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1997, Block 1998, Block 1999, Block 2000, Block 2001, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2997, Block 2998, Block 2999, Jefferson County.

District 25: Pierce County (Part) - Tracts: 705.00, 711.00, 712.05, 712.06, 712.07, 712.08, 712.09, 713.04, 713.05, 713.06, 713.07, 731.07, 731.11, 734.01, 734.03, 734.04, Pierce County (Part) - Block Groups Tract 707.03; Block Group 2, Tract 707.03; Block Group 3, Tract 707.03; Block Group 4, Tract 707.03; Block Group 5, Tract 709.00; Block Group 2, Tract 710.00; Block Group 1, Tract 710.00; Block Group 4, Tract 710.00; Block Group 5, Tract 710.00; Block Group 6, Tract 712.10; Block Group 2, Tract 713.08; Block Group 1, Tract 713.08; Block Group 3, Tract 715.05; Block Group 3, Tract 715.06; Block Group 1, Tract 716.02; Block Group 2, Tract 731.12; Block Group 2, Pierce County (Part) - Blocks: Tract 633.00; Block 1032, Block 2000, Block 2028, Block 2029, Tract 704.01; Block 2002, Tract 707.01; Block 6019, Tract 707.03; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Tract 707.04; Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 2000, Block 2001, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Tract 709.00; Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4998, Block 4999, Tract 710.00; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2007, Block 2008, Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Tract 712.10; Block 1013, Block 1014, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Tract 713.08; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2015, Block 2016, Tract 714.06; Block 3000, Tract 715.05; Block 4000, Tract 715.06; Block 2000, Block 2001, Block 2007, Block 2008, Block 2009, Block 2010, Tract 716.01; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1008, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Tract 716.02; Block 1000, Block 1001, Block 1002, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Tract 731.08; Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Tract 731.10; Block 1000, Block 1002, Block 1012, Block 1013, Block 1014, Block 1015, Block 1018, Block 2003, Block 2004, Block 2005, Tract 731.12; Block 1021, Block 1027, Block 1028, Block 1029, Tract 733.02; Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1043, Block 1997, Block 1998, Block 1999.

District 26: Kitsap County (Part) - Tracts: 805.00, 811.00, 812.00, 814.00, 922.00, 923.00, 924.00, 925.00, 926.00, 927.00, 928.01, 928.02, 928.03, Kitsap County (Part) - Block Groups Tract 810.00; Block Group 1, Tract 929.02; Block Group 2, Tract 929.02; Block Group 3, Kitsap County (Part) - Blocks: Tract 806.00; Block 3000, Block 3001, Block 3002, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Tract 809.00; Block 1041, Block 1042, Tract 810.00; Block 2000, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 3000, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3999, Tract 921.00; Block 1000, Block 1001, Block 1002, Block 1003, Block 1998, Block 1999, Block 3000, Block 3001, Block 3002, Block 3003, Block 3011, Block 3012, Block 3013, Block 3030, Block 3031, Block 3032, Block 3033, Block 3998, Block 3999, Tract 929.02; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1999, Block 4000, Block 4001, Block 4002, Block 4006, Block 4007, Block 4999, Pierce County (Part) - Tracts: 724.05, 724.06, 724.07, 724.08, 724.09, 724.10, 725.03, 725.04, 725.05, 725.06, 725.07, 726.01, 726.02, Pierce County (Part) - Block Groups Tract 726.03; Block Group 1, Tract 726.03; Block Group 2.

District 27: Pierce County (Part) - Tracts: 601.02, 601.03, 601.04, 602.00, 603.00, 604.00, 605.00, 606.00, 607.00, 608.00, 609.03, 609.04, 609.06, 611.00, 612.00, 613.00, 614.00, 615.00, 616.01, 616.02, 620.00, 621.00, 622.00, 623.00, 708.00, Pierce County (Part) - Block Groups Tract 609.05; Block Group 3, Tract 617.00; Block Group 1, Tract 617.00; Block Group 2, Tract 617.00; Block Group 3, Tract 617.00; Block Group 4, Tract 619.00; Block Group 1, Tract 624.00; Block Group 1, Tract 633.00; Block Group 3, Tract 633.00; Block Group 4, Tract 633.00; Block Group 5, Tract 709.00; Block Group 1, Tract 709.00; Block Group 3, Pierce County (Part) - Blocks: Tract 609.05; Block 4000, Block 4001, Tract 610.02; Block 1000, Block 1004, Block 1005, Block 2000, Block 2001, Block 2002, Block 2003, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Tract 617.00; Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5021, Tract 618.00; Block 1000, Tract 619.00; Block 3007, Tract 624.00; Block 2000, Block 2001, Block 2002, Block 2007, Tract 626.00; Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3019, Tract 628.01; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1999, Block 4000, Block 4001, Block 4002, Tract 633.00; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Tract 634.00; Block 1000, Tract 707.03; Block 1012, Block 1013, Tract 709.00; Block 4013, Tract 710.00; Block 2005, Block 2006, Block 3007, Block 3018, Tract 716.01; Block 1007, Block 1009.

District 28: Pierce County (Part) - Tracts: 610.01, 719.02, 720.00, 721.05, 721.07, 721.08, 721.09, 721.11, 721.12, 723.05, 723.07, 723.08, 723.09, 723.10, 723.11, 727.00, 728.00, 729.03, Pierce County (Part) - Block Groups Tract 609.05; Block Group 1, Tract 609.05; Block Group 2, Tract 609.05; Block Group 5, Tract 610.02; Block Group 3, Tract 610.02; Block Group 4, Tract 719.01; Block Group 4, Tract 721.06; Block Group 2, Tract 721.06; Block Group 3, Tract 721.06; Block Group 4, Tract 721.06; Block Group 5, Tract 723.06; Block Group 1, Tract 723.06; Block Group 3, Tract 723.06; Block Group 4, Tract 726.03; Block Group 3, Pierce County (Part) - Blocks: Tract 609.05; Block 4002, Block 4003, Block 4004, Block

4005, Block 4006, Block 4007, Tract 610.02; Block 1001, Block 1002, Block 1003, Block 1006, Block 1007, Block 1008, Block 2004, Tract 717.06; Block 1010, Tract 718.03; Block 2003, Block 4002, Tract 718.06; Block 1000, Block 1001, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1022, Block 1023, Tract 719.01; Block 1022, Block 1023, Block 1031, Block 1039, Block 1040, Block 1041, Block 2003, Block 2004, Block 2005, Block 2006, Block 3002, Block 3003, Block 3008, Block 3010, Block 3011, Tract 721.06; Block 1007, Block 1008, Block 1009, Block 1010, Tract 729.01; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1999, Tract 729.04; Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1031, Block 1047, Block 1048, Block 1049, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064.

District 29: Pierce County (Part) - Tracts: 625.00, 628.02, 629.00, 630.00, 631.00, 632.00, 635.01, 635.02, 715.03, 715.04, 717.03, 717.04, 717.05, 717.07, 718.04, 718.05, Pierce County (Part) - Block Groups Tract 618.00; Block Group 2, Tract 618.00; Block Group 3, Tract 619.00; Block Group 2, Tract 624.00; Block Group 3, Tract 624.00; Block Group 4, Tract 624.00; Block Group 5, Tract 626.00; Block Group 1, Tract 626.00; Block Group 2, Tract 628.01; Block Group 2, Tract 628.01; Block Group 3, Tract 634.00; Block Group 2, Tract 634.00; Block Group 3, Tract 634.00; Block Group 4, Tract 634.00; Block Group 5, Tract 634.00; Block Group 6, Tract 715.05; Block Group 1, Tract 715.05; Block Group 2, Tract 718.03; Block Group 1, Tract 718.03; Block Group 3, Tract 718.06; Block Group 2, Tract 723.06; Block Group 2, Pierce County (Part) - Blocks: Tract 617.00; Block 5019, Block 5020, Tract 618.00; Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Tract 619.00; Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Tract 624.00; Block 2003, Block 2004, Block 2005, Block 2006, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Tract 626.00; Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068, Block 3069, Block 3070, Block 3071, Block 3072, Block 3073, Block 3074, Block 3075, Block 3076, Block 3077, Block 3078, Block 3079, Block 3080, Block 3081, Block 3082, Block 3083, Block 3084, Block 3085, Block 3086, Block 3087, Block 3088, Block 3089, Block 3090, Tract 628.01; Block 1009, Block 1010, Block 1011, Block 1012, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Tract 634.00; Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Tract 714.08; Block 1000, Block 1004, Block 1005, Tract 715.05; Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Tract 715.06; Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Tract 716.01; Block 2005, Tract 716.02; Block 1003, Block 1004, Block 1005, Block 1006, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Tract 717.06; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Tract 718.03; Block 2000, Block 2001, Block 2002, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039,

Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 4000, Block 4001, Block 4003, Block 4004, Block 4005, Tract 718.06; Block 1002, Block 1003, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Tract 719.01; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 2000, Block 2001, Block 2002, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2999, Block 3000, Block 3001, Block 3004, Block 3005, Block 3006, Block 3007, Block 3009, Tract 721.06; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1011, Block 1012.

District 30: King County (Part) - Tracts: 299.01, 300.02, 300.04, 301.00, 302.01, 302.02, 303.03, 303.04, 303.05, 303.06, 303.08, 303.09, 303.10, 303.11, 303.12, 304.03, 304.04, 309.01, 309.02, King County (Part) - Block Groups Tract 298.02; Block Group 1, Tract 298.02; Block Group 2, Tract 298.02; Block Group 3, Tract 298.02; Block Group 4, Tract 298.02; Block Group 5, Tract 299.02; Block Group 1, Tract 300.03; Block Group 5, Tract 304.01; Block Group 1, Tract 304.01; Block Group 3, Tract 304.01; Block Group 4, Tract 304.01; Block Group 5, King County (Part) - Blocks: Tract 298.01; Block 6020, Block 6021, Tract 298.02; Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Tract 299.02; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 3002, Block 3005, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3023, Block 3024, Block 3025, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3035, Block 3036, Tract 300.03; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 3006, Tract 304.01; Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Tract 305.01; Block 1006, Block 1007, Block 1010, Tract 308.01; Block 1003, Block 1004, Block 1005, Block 1006, Tract 310.00; Block 1018, Block 1019, Block 1021, Block 1039.

District 31: King County (Part) - Tracts: 307.00, 308.02, 311.00, 312.02, 313.01, 313.02, 314.00, King County (Part) - Block Groups Tract 308.01; Block Group 3, Tract 308.01; Block Group 4, Tract 312.04; Block Group 6, Tract 315.02; Block Group 2, Tract 315.02; Block Group 3, Tract 315.02; Block Group 4, King County (Part) - Blocks: Tract 305.01; Block 1074, Block 1075, Block 1076, Block 1077, Tract 306.00; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Tract 308.01; Block 1000, Block 1001, Block 1002, Block 1007, Block 2000, Block 2001, Block 2002, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Tract 310.00; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1020, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Tract 312.04; Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Tract 315.01; Block 1030, Block 1034, Block 1035, Block 1036, Block 1037, Block 2006, Block 2007, Block 2008, Block 2014, Block 2019, Block 2020, Block 2021, Block 2022,

Block 1281, Block 1282, Block 1283, Block 1284, Block 1285, Block 1286, Block 1287, Block 1288, Block 1289, Block 1290, Block 1291, Block 1292, Block 1293, Block 1294, Block 1295, Block 1296, Block 1297, Block 1298, Block 1299, Block 1300, Block 1301, Block 1302, Block 1303, Block 1304, Block 1305, Block 1306, Block 1307, Block 1308, Block 1309, Block 1310, Block 1311, Block 1312, Block 1313, Block 1314, Block 1315, Block 1316, Block 1317, Block 1318, Block 1319, Block 1320, Block 1321, Block 1322, Block 1323, Block 1324, Block 1325, Block 1326, Block 1327, Block 1328, Block 1329, Block 1330, Block 1331, Block 1332, Block 1333, Block 1334, Block 1335, Block 1336, Block 1337, Block 1338, Block 1339, Block 1340, Block 1341, Block 1342, Block 1343, Block 1344, Block 1345, Block 1346, Block 1347, Block 1348, Block 1349, Block 1350, Block 1351, Block 1352, Block 1353, Block 1354, Block 1355, Block 1356, Block 1357, Block 1358, Block 1359, Block 1360, Block 1361, Block 1362, Block 1363, Block 1364, Block 1365, Block 1366, Block 1367, Block 1368, Block 1369, Block 1370, Block 1371, Block 1372, Block 1373, Block 1374, Block 1375, Block 1376, Block 1377, Block 1378, Block 1379, Block 1380, Block 1381, Block 1382, Block 1383, Block 1384, Block 1385, Block 1386, Block 1387, Block 1388, Block 1389, Block 1390, Block 1391, Block 1392, Block 1393, Block 1394, Block 1395, Block 1396, Block 1397, Block 1398, Block 1406, Block 1996, Block 1997, Block 1998, Block 1999, Block 2000, Block 2002, Block 2003, Block 2007, Block 2008, Tract 702.03; Block 1000, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Tract 702.06; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1028, Block 1036, Block 1037, Block 1040, Block 1041, Block 1042, Tract 704.01; Block 2000, Block 2001, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Tract 707.01; Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016, Block 6017, Block 6018, Tract 707.04; Block 1000, Block 2002, Block 2003, Tract 712.10; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 3000, Block 3001, Block 3002, Tract 733.02; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1042.

District 32: King County (Part) - Tracts: 201.00, 202.00, 203.00, 204.01, 204.02, 205.00, 206.00, 207.00, 208.00, 209.00, 210.00, 211.00, 213.00, 214.00, 215.00, 216.00, 221.01, 222.01, 223.00, King County (Part) - Block Groups Tract 217.00; Block Group 1, Tract 217.00; Block Group 3, Tract 221.02; Block Group 2, Tract 221.02; Block Group 3, Tract 222.02; Block Group 3, Tract 222.02; Block Group 4, Tract 222.02; Block Group 6, Tract 222.03; Block Group 2, Tract 222.03; King County 3, King County (Part) - Blocks: Tract 217.00; Block 2001, Block 2002, Block 2008, Block 2009, Block 2010, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Tract 221.02; Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Tract 222.02; Block 1000, Block 1002, Block 1003, Block 1004, Block 1005, Tract 222.03; Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4998, Snohomish County (Part) - Tracts: 507.00, 508.00, Snohomish County (Part) - Block Groups Tract 504.02; Block Group 2, Tract 504.02; Block Group 3, Tract 505.00; Block Group 2, Tract 509.00; Block Group 3, Snohomish County (Part) - Blocks: Tract 504.02; Block 4005, Tract 505.00; Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 4024, Block 4027, Block 4028, Tract 506.00; Block 1000, Block 1001, Block 1002, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1998, Block 1999, Tract 509.00; Block 1007, Block 1008, Block 2008.

District 33: King County (Part) - Tracts: 280.00, 284.02, 284.03, 285.00, 287.00, 288.01, 289.01, 289.02, 290.01, 290.03, 290.04, 291.00, 292.03, 292.04, 294.07, King County (Part) - Block Groups Tract 286.00; Block Group 1, Tract 286.00; Block Group 2, Tract 286.00; Block Group 3, Tract 286.00; Block Group 4, Tract 286.00; Block Group 6, Tract 288.02; Block Group 1, Tract 288.02; Block Group 2, Tract 288.02; Block Group 3, Tract 288.02; Block Group 5, Tract 292.01; Block Group 1, Tract 292.01; Block Group 2, Tract 292.01; Block Group 3, Tract 292.01; Block Group 5, Tract 293.05; Block Group 2, Tract 294.03; Block Group 1, Tract 294.08; Block Group 1, Tract 295.03; Block Group 1, Tract 295.03; Block Group 2, Tract 295.03; Block Group 3, Tract 297.00; Block Group 1, Tract 297.00; Block Group 3, Tract 297.00; Block Group 4, Tract 297.00; Block Group 5, Tract 298.01; Block Group 1, Tract 298.01; Block Group 2, Tract 298.01; Block Group 3, Tract 298.01; Block Group 4, Tract 298.01; Block Group 5, Tract 300.03; Block Group 1, Tract 300.03; Block Group 4, Tract 300.03; Block Group 6, King County (Part) - Blocks: Tract 262.00; Block 1086, Tract 278.00; Block 2000, Block 3008, Block 3009, Block 4008, Block 4009, Tract 279.00; Block 1000, Block 1014, Block 1015, Block 1033, Block 1034, Block 2000, Block 2001, Block 2006, Block 2007, Block 2008, Block 2009, Block 3000, Block 3001, Block 3016, Block 3017, Block 3018, Tract 281.00; Block 1001, Block 1002, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Tract 283.00; Block 1002, Block 1006, Block 1008, Block 1009, Block 1010, Block 1011, Block 2001, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 3006, Block 3007, Block 3009, Block 3010, Block 3011, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Tract 286.00; Block 5000, Block 5004, Block 5006, Block 5007, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5020, Block 5021, Block 5022, Block 5999, Tract 288.02; Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4999, Tract 292.01; Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4068, Block 4069, Block 4070, Block 4071, Block 4072, Block 4073, Block 4074, Block 4075, Block 4076, Block 4077, Block 4078, Block 4079, Block 4080, Block 4081, Block 4082, Block 4083, Block 4084, Block 4085, Block 4086, Block 4087, Block 4088, Block 4089, Block 4090, Block 4091, Block 4092, Block 4093, Block 4094, Block 4095, Block 4096, Block 4097, Block 4098, Block 4099, Tract 293.03; Block 3020, Block 3022, Tract 293.05; Block 1001, Block 1003, Block 1004, Block 1005, Block 1006, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Tract 294.03; Block 2003, Block 2004, Block 2005, Block 3006, Block 3007, Tract 294.08; Block 2000, Block 2001, Block 2002, Block 2003, Block 3001, Tract 297.00; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2018, Block 2027, Block 2028, Tract 298.01; Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016, Block 6017, Block 6018, Block 6019, Block 6022, Block 6023, Block 6024, Block 6025, Block 6026, Block 6998, Block 6999, Tract 300.03; Block 2013, Block 2014, Block 2015, Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Tract 305.03; Block 3000, Block 3001.

District 34: King County (Part) - Tracts: 96.00, 97.01, 97.02, 98.00, 99.00, 105.00, 106.00, 107.00, 108.00, 113.00, 114.00, 115.00, 116.00, 120.00, 121.00, 265.00, 266.00, 267.00, 276.00, 277.01, 277.02, King County (Part) - Block Groups Tract 268.01; Block Group 3, Tract 268.01; Block Group 4, Tract 268.01; Block Group 5, Tract 268.02; Block Group 1, Tract 268.02; Block Group 5, Tract 278.00; Block Group 1, Tract 279.00; Block Group 4, Tract 279.00; Block Group 5, Tract 279.00; Block Group 6,

Block 2001, Block 2002, Block 2003, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Tract 38.00; Block 2004, Block 2005, Block 3003, Block 3004, Block 3009, Block 3010, Tract 43.00; Block 1003, Block 1010, Tract 48.00; Block 1011, Block 1012, Block 1013, Block 1014, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 2014, Tract 63.00; Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4006, Block 4007, Tract 77.00; Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Tract 78.00; Block 1000, Block 1003, Block 1999, Tract 79.00; Block 2002, Block 2003, Block 2006, Tract 80.01; Block 3023, Block 3999, Tract 80.02; Block 1005, Block 1006, Block 1007, Block 1008, Tract 81.00; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1052, Block 1999, Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Tract 85.00; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Tract 86.00; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 2000, Block 2001, Tract 87.00; Block 3001, Block 3002, Block 3003, Tract 92.00; Block 2010.

District 44: Snohomish County (Part) - Tracts: 416.05, 416.06, 416.07, 416.08, 417.01, 520.03, 520.04, 520.05, 520.06, 520.07, 521.10, 524.01, 524.02, 525.02, 525.03, 525.04, 526.03, 526.04, 526.05, 526.07, 527.03, 527.05, Snohomish County (Part) - Block Groups Tract 416.01; Block Group 1, Tract 416.01; Block Group 3, Tract 416.01; Block Group 4, Tract 521.11; Block Group 2, Tract 521.11; Block Group 3, Tract 523.01; Block Group 1, Tract 523.01; Block Group 3, Tract 523.02; Block Group 1, Tract 526.06; Block Group 1, Tract 526.06; Block Group 2, Tract 526.06; Block Group 3, Tract 527.04; Block Group 3, Tract 527.04; Block Group 4, Tract 529.04; Block Group 3, Snohomish County (Part) - Blocks: Tract 414.00; Block 3021, Tract 415.00; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2019, Block 2020, Block 2021, Block 2022, Block 2998, Block 2999, Tract 416.01; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Tract 417.02; Block 1000, Block 1001, Block 4007, Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5017, Block 5018, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Tract 418.05; Block 2000, Tract 519.09; Block 5004, Tract 519.20; Block 1000, Block 1001, Block 1002, Tract 521.04; Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1987, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2974, Block 2975, Block 2976, Block 2977, Block 2978, Block 2979, Block 2980, Block 2981, Block 2982, Block 2983, Block 2984, Block 2985, Block 2986, Block 2987, Tract 521.05; Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1037, Block 1038, Block 1039, Block 1993, Block 1994, Block 1995, Block 1996, Block 1997, Block 1999, Tract 521.08; Block 1000, Block 1001, Block 1006, Block 1007, Block 1014, Tract 521.11;

Block 1000, Block 1004, Block 1005, Block 1006, Block 1007, Tract 523.01; Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Tract 523.02; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 3001, Block 3002, Block 3003, Block 3016, Block 3017, Block 3018, Tract 526.06; Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Tract 527.04; Block 1000, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Tract 529.04; Block 1000, Block 1004, Block 2007, Block 4000, Block 4001, Tract 536.01; Block 6008, Block 6009, Block 6011, Block 7027, Block 7028.

District 45: King County (Part) - Tracts: 219.03, 219.04, 220.03, 220.05, 220.06, 224.00, 226.03, 323.07, 323.11, 323.12, 323.14, 323.19, 323.20, 323.21, 323.22, 323.23, 324.01, 324.02, King County (Part) - Block Groups Tract 219.06; Block Group 2, Tract 219.06; Block Group 3, Tract 222.02; Block Group 2, Tract 222.02; Block Group 5, Tract 225.00; Block Group 2, Tract 323.15; Block Group 1, Tract 323.15; Block Group 3, Tract 323.15; Block Group 4, Tract 323.16; Block Group 2, Tract 323.17; Block Group 6, Tract 323.24; Block Group 5, Tract 325.00; Block Group 1, Tract 325.00; Block Group 3, Tract 325.00; Block Group 4, King County (Part) - Blocks: Tract 218.02; Block 2001, Block 2009, Block 2010, Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3014, Block 3015, Block 3016, Tract 219.05; Block 1009, Block 1010, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 2005, Block 2007, Block 2008, Block 2009, Block 2010, Block 3000, Block 3007, Block 3011, Block 3012, Block 3013, Block 3017, Tract 219.06; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Tract 222.03; Block 1000, Block 1001, Block 1013, Block 1014, Block 4000, Block 4997, Block 4999, Tract 225.00; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 4013, Block 4998, Block 5000, Tract 226.04; Block 1002, Block 1003, Block 1004, Tract 226.05; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Tract 323.09; Block 1000, Block 1001, Block 2000, Block 2001, Block 2002, Block 2003, Tract 323.13; Block 1000, Block 1001, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 2000, Block 2001, Block 2002, Block 3000, Tract 323.15; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2016, Block 2017, Block 2018, Block 2999, Tract 323.16; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Tract 323.18; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1014, Block 1017, Block 1018, Tract 323.24; Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Tract 325.00; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Tract 326.01; Block 2001, Block 2010, Block 2011, Tract 328.00; Block 1000, Block 1001, Block 1008, Block 1009, Block 1013, Block 1014, Block 1015, Block 1020, Block 1021, Block 3115, Block 3116, Block 3117, Block 3119, Block 3120, Block 3121, Block 3122, Block 3125, Block 3126, Block 3127, Block 3128, Block 3129, Block 3130, Block 3131, Block 3132, Block 3133, Block 3134, Block 3135, Block 3136, Block 3137, Block 3138, Block 3139, Block 3140, Block 3141, Block 3142, Block 3143, Block 3144, Block 3145, Block 3146, Block 3147, Block 3148, Block 3149, Block 3150, Block 3151, Block 3152, Block 3153, Block 3161, Block 3162, Block 3163, Block 3164, Block 3165, Block 3166, Block 3167, Block 3168, Block 3169, Block 3170, Block 3171, Block 3172, Block 3173, Block 3174, Block 3175, Block 3176, Block 3177, Block 3178, Block 3179, Block 3180, Block 3181, Block 3182, Block 3183, Block 3184, Block 3185, Block 3186, Block 3187, Block

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District 46: King County (Part) - Tracts: 1.00, 2.00, 3.00, 4.01, 4.02, 6.00, 7.00, 8.00, 9.00, 10.00, 11.00, 12.00, 13.00, 18.00, 19.00, 20.00, 21.00, 22.00, 24.00, 28.00, 39.00, 40.00, 41.00, 42.00, King County (Part) - Block Groups Tract 5.00; Block Group 2, Tract 5.00; Block Group 3, Tract 14.00; Block Group 1, Tract 17.00; Block Group 1, Tract 17.00; Block Group 2, Tract 25.00; Block Group 1, Tract 25.00; Block Group 2, Tract 26.00; Block Group 1, Tract 27.00; Block Group 1, Tract 27.00; Block Group 2, Tract 27.00; Block Group 4, Tract 27.00; Block Group 5, Tract 27.00; Block Group 6, Tract 38.00; Block Group 1, King County (Part) - Blocks: Tract 5.00; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Tract 14.00; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2008, Block 2009, Block 2010, Block 2011, Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Tract 17.00; Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Tract 26.00; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 4000, Block 4001, Block 4002, Block 4003, Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Tract 27.00; Block 3000, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Tract 36.00; Block 1001, Block 1002, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Tract 38.00; Block 2000, Block 2001, Block 2002, Block 2003, Block 2006, Block 2007, Block 2008, Block 3000, Block 3001, Block 3002, Block 3005, Block 3006, Block 3007, Block 3008, Tract 43.00; Block 1000, Block 1001, Block 1002, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009.

District 47: King County (Part) - Tracts: 293.06, 293.07, 294.05, 294.06, 295.02, 295.04, 296.01, 296.02, 305.04, 312.05, 312.06, 316.01, 317.04, 319.09, King County (Part) - Block Groups Tract 293.03; Block Group 4, Tract 293.04; Block Group 2, Tract 293.04; Block Group 3, Tract 293.04; Block Group 4, Tract 293.03; Block Group 4, Tract 293.03; Block Group 5, Tract 305.01; Block Group 2, Tract 305.03; Block Group 1, Tract 305.03; Block Group 2, Tract 306.00; Block Group 1, Tract 306.00; Block Group 4, Tract 312.04; Block Group 1, Tract 312.04; Block Group 2, Tract 312.04; Block Group 4, Tract 312.04; Block Group 5, Tract 316.03; Block Group 2, Tract 317.02; Block Group 2, Tract 317.02; Block Group 3, Tract 317.02; Block Group 4, Tract 317.03; Block Group 1, Tract 317.03; Block Group 3, Tract 317.03; Block Group 4, Tract 317.03; Block Group 5, Tract 318.00; Block Group 4, Tract 319.07; Block Group 6, Tract 319.08; Block Group 2, Tract 320.05; Block Group 2, Tract 320.05; Block Group 3, Tract 320.05; Block Group 4, Tract 320.05; Block Group 5, Tract 320.05; Block Group 6, Tract 320.05; Block Group 7, Tract 320.06; Block Group 1, Tract 320.06; Block Group 3, King County (Part) - Blocks: Tract 293.04; Block 1000, Block 1001, Block 1002, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Tract 294.03; Block 2000, Block 2001, Block 2002, Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Tract 294.08; Block 2004, Block 2005, Block 2006, Block 3000, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Tract 297.00; Block 2016, Block 2017, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Tract 298.02; Block 6009, Block 6010, Tract 299.02; Block 2020, Block 2021, Block 3000, Block 3001, Block 3003, Block 3004, Block 3006, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3026, Block 3027, Block 3033, Block 3034, Tract 304.01; Block 2000, Block 2016, Tract 305.01; Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1008, Block 1009, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1078, Block 1079, Block 1080, Tract 305.03; Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block

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District 49: Clark County (Part) - Tracts: 408.03, 408.04, 410.02, 410.03, 410.07, 410.08, 410.09, 411.05, 411.07, 411.08, 411.09, 411.10, 412.01, 412.03, 412.05, 412.06, 416.00, 417.00, 418.00, 419.00, 420.00, 421.00, 423.00, 424.00, 425.00, 426.00, 427.00, 428.00, 429.00, 430.00, 431.00, Clark County (Part) - Block Groups Tract 409.04; Block Group 2, Tract 409.04; Block Group 3, Tract 410.05; Block Group 1, Tract 410.08; Block Group 3, Clark County (Part) - Blocks: Tract 403.00; Block 3022, Block 3023, Block 3024, Block 3998, Tract 404.04; Block 4002, Block 4003, Block 4004, Block 4005, Block 4007, Block 4008, Tract 409.04; Block 1000, Block 1001, Tract 409.06; Block 1011, Block 1012, Block 2000, Block 2030, Block 2031, Block 2032, Tract 410.05; Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2968, Block 2969, Block 2970, Block 2971, Block 2972, Block 2973, Block 2974, Block 2975, Block 2976, Block 2977, Block 2978, Block 2979, Block 2980, Block 2981, Block 2982, Block 2983, Block 2984, Block 2985, Block 2986, Block 2987, Block 2990, Block 2991, Block 2992, Block 2993, Block 2994, Block 2995, Block 2996, Block 2997, Block 2998.

Chapter 44.16 RCW

LEGISLATIVE INQUIRY

Sections

44.16.010	Examination of witnesses—Compulsory process.
44.16.020	Service of process.
44.16.030	Chair to administer oaths.
44.16.040	Commission to examine absent witness.
44.16.050	Commission executed during recess.
44.16.060	To whom directed—Interrogatories.
44.16.070	Oath and powers of commissioner.
44.16.080	Examination to be private.
44.16.090	Testimony reduced to writing.
44.16.100	Return of depositions.
44.16.110	Fees of commissioner and witnesses.
44.16.120	Punishment of recalcitrant witness.
44.16.130	Failure to attend—Contempt.
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44.16.150	Punishment for contempt.
44.16.160	Warrant of imprisonment.
44.16.170	Record of proceedings.

Reviser's note: "Act" has been translated to "chapter" throughout chapter 44.16 RCW as the entire chapter is composed of 1895 c 6 with the exception of 1897 c 33 § 1, which is supplementary thereto.

Joint administrative rules review committee, subpoena powers: RCW 34.05.675 and 34.05.681.

44.16.010 Examination of witnesses—Compulsory process. Every chair or presiding member of any committee of either the senate or house of representatives, or any joint

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committee of the senate or house of representatives, which, by the terms of its appointment, shall be authorized to send for persons and papers, shall have power, under the direction of such committee, to issue compulsory process for the attendance of any witness within the state whom the committee may wish to examine. [2009 c 549 § 6003; 1895 c 6 § 1; RRS § 8178.]

44.16.020 Service of process. All process provided for in this chapter may be served in the same manner as is provided by law for the service of process in the superior court; and it shall be the duty of any officer to whom any process may be delivered or issued, to serve the same as directed: PROVIDED, That in the service of process a copy thereof shall be delivered to the witness. [1895 c 6 § 15; RRS § 8192.]

Service of summons: RCW 4.28.080.

44.16.030 Chair to administer oaths. The chair or presiding member of any committee of either the senate, house of representatives, or any joint committee thereof, shall be authorized to administer oaths to all witnesses coming before such committee for examination; and all witnesses who shall testify in any proceeding provided for in this chapter, shall be under oath or affirmation. [2009 c 549 § 6004; 1895 c 6 § 2; RRS § 8179.]

44.16.040 Commission to examine absent witness. Every such chair or presiding member shall also have power, under the direction of the committee, to issue a commission for the examination of any witness who shall be without the jurisdiction of the state, or if within the state, shall be unable to attend, or who shall, for any reasons, be excused by the committee from attendance. [2009 c 549 § 6005; 1895 c 6 § 3; RRS § 8180.]

44.16.050 Commission executed during recess. Whenever such committee shall obtain authority for that purpose, from the senate or house, or legislature, by which it may be appointed, it may issue such commission to be executed during the recess of the legislature. [1895 c 6 § 4; RRS § 8181.]

44.16.060 To whom directed—Interrogatories. Every such commission shall be directed to such magistrate or other person, as the committee may designate, and interrogatories framed by the committee shall be annexed thereto. [1895 c 6 § 5; RRS § 8182.]

44.16.070 Oath and powers of commissioner. The person to whom such commission shall be directed, if he or she reside within the state and accept the trust, shall, before entering upon the execution of his or her duties, take the oath of office prescribed in the Constitution. Such commissioner shall have power to issue process to compel the attendance of witnesses, whom he or she shall be required to examine, and shall have power to administer oaths to such witnesses. [2009 c 549 § 6006; 1895 c 6 § 6; RRS § 8183.]

44.16.080 Examination to be private. Unless otherwise directed by the committee, it shall in all cases be the duty of the commissioner to examine, in private, every witness attending before him or her, and not to make public the particulars of such examination, when so made in private, until the same shall be made public by order of the house or legislature appointing the committee. [2009 c 549 § 6007; 1895 c 6 § 7; RRS § 8184.]

44.16.090 Testimony reduced to writing. Every witness so attending shall be examined on oath or affirmation, and his or her testimony shall be reduced to writing by the commissioner, or by some disinterested person in his or her presence and under the direction of said commissioner, and signed by the witness. [2009 c 549 § 6008; 1895 c 6 § 8; RRS § 8185.]

44.16.100 Return of depositions. When a commission shall have been duly executed, the commissioner shall annex thereto the depositions of the witnesses, duly certified by him or her, and shall, without delay, transmit the same by mail, inclosed and under seal, or deliver the same, to the chair of the committee by which the commission shall have been issued, or to such person as by the committee directed. [2009 c 549 § 6009; 1895 c 6 § 9; RRS § 8186.]

44.16.110 Fees of commissioner and witnesses. A person executing any such commission shall be paid, out of the state treasury, the same fees that are allowed by law for the taking of depositions on commissions issued out of the superior courts of this state; and any witness attending before either house of the legislature, or any committee or joint committee thereof, or before any such commissioner, shall be so paid two dollars per day for each day in attendance, and five cents a mile for the distance necessarily traveled in attending as such witness. [1895 c 6 § 10; RRS § 8187.]

44.16.120 Punishment of recalcitrant witness. Any person who shall fail to attend as a witness upon any committee appointed by either the house or senate of the state of Washington, or both, after having been duly subpoenaed as provided in this chapter, or who, being in attendance as a witness before such committee, shall refuse to answer any question or produce any paper or document or book which he or she is required to answer or to produce by such committee, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars, or by imprisonment in the county jail for a term not longer than six months, or by both such fine and imprisonment. [2009 c 549 § 6010; 1897 c 33 § 1; RRS § 8194.]

Witness refusing to attend legislature or committee or to testify: RCW 9.55.020.

44.16.130 Failure to attend—Contempt. A person who, being duly summoned to attend as a witness before either house of the legislature, or any committee or joint committee thereof, or commissioner authorized to summon witnesses, refuses or neglects, without lawful excuse, to attend pursuant to such summons, shall be punished as for contempt, as hereinafter provided. [1895 c 6 § 11; RRS § 8188.]

44.16.140 Refusal to testify—Contempt. A person who, being present before either house of the legislature, or any committee or joint committee thereof, or commissioner authorized to summon witnesses, wilfully refuses to be sworn or affirmed, or to answer any material and proper question, or to produce, upon reasonable notice, any material and proper books, papers or documents in his or her possession or under his or her control, shall be punished as for contempt, as hereinafter provided. [2009 c 549 § 6011; 1895 c 6 § 12; RRS § 8189.]

44.16.150 Punishment for contempt. Any person being in contempt, as hereinbefore provided, shall be punished by fine in any sum not less than fifty dollars and not exceeding one thousand dollars, or by imprisonment in the county jail in the county where such examination is being had, for any period of time not extending beyond the legislative session then being held, or by both such fine and imprisonment, as the legislative body which authorized such examination may order. And in case the contempt arises in a joint proceeding of both houses, or before a joint committee thereof, the senate shall prescribe the penalty. [1895 c 6 § 13; RRS § 8190.]

Contempt: Chapter 7.21 RCW.

Witness refusing to attend legislature or committee or to testify: RCW 9.55.020.

44.16.160 Warrant of imprisonment. If any fine is imposed against any person for contempt, as hereinbefore provided, he or she shall stand committed to the county jail of the county in which the offense was committed until such fine is paid. The presiding officer of the house, fixing the fine, shall issue a warrant to the sheriff of the county where the offense was committed, commanding him or her to imprison such person in the county jail until such fine is paid, or until he or she has been imprisoned in such jail one day for every three dollars of such fine. [2009 c 549 § 6012; 1895 c 6 § 14; RRS § 8191.]

44.16.170 Record of proceedings. Every such committee shall keep a record of its proceedings under the provisions of this chapter, which record shall be signed by the chair or presiding officer of the committee, and the same returned to the legislative body by which the committee was appointed, as a part of the report of such committee. [2009 c 549 § 6013; 1895 c 6 § 16; RRS § 8193.]

Chapter 44.20 RCW

SESSION LAWS

Sections

44.20.010	Engrossed bills filed with secretary of state.
44.20.020	Chapter numbers—Bill copies certified, delivered—Citation by number and year.
44.20.030	Session laws—Separate copies to be available.
44.20.050	Publication of session laws—Headings, index.
44.20.060	Duty of code reviser in arranging laws.
44.20.080	Private publication restricted.
44.20.090	Legislative records—Preservation.

Distribution of session laws: RCW 40.04.031.

Public printer to print and bind session laws: RCW 43.78.030.

Revised Code of Washington: Chapter 1.04 RCW.

44.20.010 Engrossed bills filed with secretary of state. Whenever any bill shall have passed both houses, the house transmitting the enrolled bill to the governor shall also file with the secretary of state the engrossed bill, together with the history of such bill up to the time of transmission to the governor. [1907 c 136 § 1; RRS § 8196.]

Secretary of state to keep record of acts of the legislature: State Constitution Art. 3 § 17; RCW 43.07.040.

44.20.020 Chapter numbers—Bill copies certified, delivered—Citation by number and year. Whenever any bill shall become a law the secretary of state shall number such bill in the order in which it became a law, commencing with each session of the legislature, and shall forthwith certify and deliver three copies of such bill to the statute law committee. Such number shall be in Arabic numerals, and shall be the chapter number of the act when published. A citation to the chapter number and year of the session laws heretofore or hereafter published shall be a sufficient reference to the act so designated. [1969 c 6 § 1; 1907 c 136 § 2; RRS § 8197.]

44.20.030 Session laws—Separate copies to be available. The statute law committee, after every legislative session, whether regular or special, shall have available, on demand, for temporary use separate copies of each act filed in the office of secretary of state within ten days after the filing thereof. [2006 c 46 § 1; 1982 1st ex.s. c 32 § 3; 1969 c 6 § 2; 1961 c 21 § 1; 1933 ex.s. c 31 § 1; 1933 c 27 § 1; 1925 ex.s. c 35 § 1; 1907 c 136 § 3; RRS § 8198.]

Statute law committee: Chapter 1.08 RCW.

44.20.050 Publication of session laws—Headings, index. When all of the acts of any session of the legislature and initiative measures enacted by the people since the next preceding session have been certified to the statute law committee, the code reviser employed by the statute law committee shall make the proper headings and index of such acts or laws and, after such work has been completed, the statute law committee shall have published and bound within seventy-five days after final adjournment of the legislature for that year as many copies as necessary of such acts and laws, with such headings and indexes, and such other matter as may be deemed essential, including a title page showing the session at which such acts were passed, the date of convening and adjournment of the session, and any other matter deemed proper, including a certificate by the secretary of state of such referendum measures as may have been enacted by the people since the next preceding session. [2006 c 46 § 2; 1982 1st ex.s. c 32 § 4; 1969 c 6 § 4; 1951 c 157 § 18; 1915 c 27 § 1; 1907 c 136 § 5; RRS § 8200.]

44.20.060 Duty of code reviser in arranging laws. In arranging the laws, memorials and resolutions for publication, the code reviser is hereby authorized to make such corrections in the orthography, clerical errors and punctuation of the same as in his or her judgment shall be deemed essential: PROVIDED, That when any words or clauses shall be inserted, the same shall be inclosed in brackets; and no correction shall be made which changes the intent or meaning of

any sentence, section or act of the legislature. [2009 c 549 § 6014; 1969 c 6 § 5; 1890 p 632 § 8; RRS § 8203.]

44.20.080 Private publication restricted. It shall be unlawful for any person to print and publish for sale the session laws of any session in book form within one year after the adjournment of such session, other than those ordered printed by the statute law committee, or to deliver to anyone other than such committee or upon their order any of the session laws so ordered printed by them: PROVIDED, This section shall not apply to any general compilation of the laws of this state or to a compilation of any special laws or laws on any special subject. [1969 c 6 § 6; 1907 c 136 § 6; RRS § 8201.]

44.20.090 Legislative records—Preservation. See RCW 40.14.100 through 40.14.180.

Chapter 44.28 RCW

JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

(Formerly: Legislative budget committee)

Sections

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Review of motion picture competitiveness program: RCW 43.365.050.

State budgeting, accounting, and reporting: Chapter 43.88 RCW.

Study of funds related to state transportation programs: RCW 43.88.125.

Sunset review process: Chapter 43.131 RCW.

Termination of tax preferences: Chapter 43.136 RCW.

44.28.005 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Legislative auditor" means the executive officer of the joint legislative audit and review committee.

(2) "Economy and efficiency audits" means performance audits that establish: (a) Whether a state agency or unit of local government receiving state funds is acquiring, protecting, and using its resources such as personnel, property, and space economically and efficiently; (b) the causes of inefficiencies or uneconomical practices; and (c) whether the state agency or local government has complied with significant laws and rules in acquiring, protecting, and using its resources.

(3) "Final compliance report" means a written document, as approved by the joint committee, that states the specific actions a state agency or unit of local government receiving state funds has taken to implement recommendations contained in the final performance audit report and the preliminary compliance report. Any recommendations, including proposed legislation and changes in the agency's rules and practices or the local government's practices, based on testimony received, must be included in the final compliance report.

(4) "Final performance audit report" means a written document adopted by the joint legislative audit and review committee that contains the findings and proposed recommendations made in the preliminary performance audit report, the final recommendations adopted by the joint committee, any comments to the preliminary performance audit report by the joint committee, and any comments to the preliminary performance audit report by the state agency or local government that was audited.

(5) "Joint committee" means the joint legislative audit and review committee.

(6) "Local government" means a city, town, county, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including a public corporation created by such an entity.

(7) "Performance audit" means an objective and systematic assessment of a state agency or any of its programs, functions, or activities, or a unit of local government receiving state funds, by an independent evaluator in order to help public officials improve efficiency, effectiveness, and accountability. Performance audits include economy and efficiency audits and program audits. A performance audit of a local government may only be made to determine whether the local government is using state funds for their intended purpose in an efficient and effective manner.

(8) "Performance measures" are a composite of key indicators of a program's or activity's inputs, outputs, outcomes, productivity, timeliness, and/or quality. They are means of evaluating policies and programs by measuring results against agreed upon program goals or standards.

(9) "Preliminary compliance report" means a written document that states the specific actions a state agency or unit of local government receiving state funds has taken to implement any recommendations contained in the final performance audit report.

(10) "Preliminary performance audit report" means a written document prepared for review and comment by the

joint legislative audit and review committee after the completion of a performance audit. The preliminary performance audit report must contain the audit findings and any proposed recommendations to improve the efficiency, effectiveness, or accountability of the state agency or local government audited.

(11) "Program audits" means performance audits that determine: (a) The extent to which desired outcomes or results are being achieved; (b) the causes for not achieving intended outcomes or results; and (c) compliance with significant laws and rules applicable to the program.

(12) "State agency" or "agency" means a state agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education. "State agency" includes all elective offices in the executive branch of state government. [1996 c 288 § 2.]

Findings and intent—1996 c 288: "The public expects the legislature to address citizens' increasing demand for the basic services of state government, while limiting the growth in spending. The public demands that public officials and state employees be accountable to provide maximum value for every dollar entrusted to state government. The public believes that it is possible to improve the responsiveness of state government and to save the taxpayers' money, and that efficiency and effectiveness should result in savings.

The legislature, public officials, state employees, and citizens need to know the extent to which state agencies, programs, and activities are achieving the purposes for which they were created. It is essential to compare the conditions, problems, and priorities that led to the creation of government programs with current conditions, problems, and priorities, and to examine the need for and performance of those programs in the current environment.

Along with examining the performance of state agencies and programs, the legislature, public officials, state employees, and citizens must also consider the effect that state government programs can reasonably expect to have on citizens' lives, how the level of programs and services of Washington state government compares with that of other states, and alternatives for service delivery, including other levels of government and the private sector including not-for-profit organizations. It is essential that the legislature, public officials, state employees, and citizens share a common understanding of the role of state government. The performance and relative priority of state agency programs and activities must be the basis for managing and allocating resources within Washington state government.

It is the intent of the legislature to strengthen the role of the current legislative budget committee so that it may more effectively examine how efficiently state agencies perform their responsibilities and whether the agencies are achieving their goals, and whether units of local government are using state funds for their intended purpose in an efficient and effective manner. It is also the intent of the legislature to enact a clear set of definitions for different types of audits in order to eliminate confusion with regard to government reviews." [1996 c 288 § 1.]

44.28.010 Committee created—Members. The joint legislative audit and review committee is created, which shall consist of eight senators and eight representatives from the legislature. The senate members of the joint committee shall be appointed by the president of the senate, and the house members of the joint committee shall be appointed by the speaker of the house. Not more than four members from each house shall be from the same political party. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year. [2010 c 26 § 1; 1996 c 288 § 3; 1983 c 52 § 1; 1980 c 87 § 30; 1969 c 10 § 4; 1967 ex.s. c 114 § 1; 1963 ex.s. c 20 § 1; 1955 c 206 § 4; 1951 c 43 § 1.]

44.28.020 Terms of members—Vacancies. The term of office of the members of the joint committee shall be two years, ending two years from the date of appointment or

when a member is no longer a member of the house from which he or she was appointed, except that members shall continue to serve until a successor is appointed. Vacancies on the joint committee shall be filled from the same political party and from the same house as the member whose seat was vacated. Senate vacancies shall be filled through appointment by the president of the senate, and house vacancies shall be filled through appointment by the speaker of the house. [2010 c 26 § 2; 1996 c 288 § 4; 1980 c 87 § 31; 1969 c 10 § 5; 1955 c 206 § 5; 1951 c 43 § 12.]

44.28.040 Travel expenses. The members of the joint committee shall serve without additional compensation, but shall be reimbursed for their travel expenses in accordance with RCW 44.04.120 for attending meetings of the joint committee or a subcommittee of the joint committee, or while engaged on other business authorized by the joint committee. [1996 c 288 § 6; 1975-'76 2nd ex.s. c 34 § 134; 1951 c 43 § 14.]

Additional notes found at www.leg.wa.gov

44.28.050 Expenses of committee—Vouchers. All expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the auditor. The legislative auditor may be authorized by the *legislative budget committee's executive committee to sign vouchers. Such authorization shall specify a dollar limitation and be set out in writing. A monthly report of such vouchers shall be submitted to the executive committee. If authorization is not given to the legislative auditor then the chair, or the vice-chair in the chair's absence, is authorized to sign vouchers. This authority shall continue until the chair's or vice-chair's successors are selected after each ensuing session of the legislature. Vouchers may be drawn on funds appropriated generally by the legislature for legislative expenses or upon any special appropriation which may be provided by the legislature for the expenses of the committee or both. [1989 c 137 § 1; 1955 c 206 § 7; 1951 c 43 § 15.]

*Reviser's note: The "legislative budget committee" was redesignated the "joint legislative audit and review committee" by 1996 c 288 § 3.

Vouchers on public funds: Chapter 42.24 RCW.

44.28.055 Administration. The administration of the joint legislative audit and review committee is subject to RCW 44.04.260. [2001 c 259 § 2.]

44.28.060 Executive committee—Legislative auditor—Rules, subcommittees. The members of the joint committee shall form an executive committee consisting of one member from each of the four major political caucuses, which shall include a chair and a vice-chair. The chair and vice-chair shall serve for a period not to exceed two years. The chair and the vice-chair may not be members of the same political party. The chair shall alternate between the members of the majority parties in the senate and the house of representatives.

Subject to RCW 44.04.260, the executive committee is responsible for performing all general administrative and personnel duties assigned to it in the rules and procedures adopted by the joint committee, as well as other duties dele-

gated to it by the joint committee. The executive committee shall recommend applicants for the position of the legislative auditor to the membership of the joint committee. The legislative auditor shall be hired with the approval of a majority of the membership of the joint committee. Subject to RCW 44.04.260, the executive committee shall set the salary of the legislative auditor.

The joint committee shall adopt rules and procedures for its orderly operation. The joint committee may create subcommittees to perform duties under this chapter. [2001 c 259 § 3; 1996 c 288 § 7; 1975 1st ex.s. c 293 § 13; 1951 c 43 § 2.]

Additional notes found at www.leg.wa.gov

44.28.065 Legislative auditor—Duties. The legislative auditor shall:

(1) Establish and manage the office of the joint legislative audit and review committee to carry out the functions of this chapter;

(2) Direct the audit and review functions described in this chapter and ensure that performance audits are performed in accordance with the "Government Auditing Standards" published by the comptroller general of the United States as applicable to the scope of the audit;

(3) Make findings and recommendations to the joint committee and under its direction to the committees of the state legislature concerning the organization and operation of state agencies and the expenditure of state funds by units of local government;

(4) Subject to RCW 44.04.260, in consultation with and with the approval of the executive committee, hire staff necessary to carry out the purposes of this chapter. Subject to RCW 44.04.260, employee salaries, other than the legislative auditor, shall be set by the legislative auditor with the approval of the executive committee;

(5) Assist the several standing committees of the house and senate in consideration of legislation affecting state departments and their efficiency; appear before other legislative committees; and assist any other legislative committee upon instruction by the joint legislative audit and review committee;

(6) Provide the legislature with information obtained under the direction of the joint legislative audit and review committee;

(7) Maintain a record of all work performed by the legislative auditor under the direction of the joint legislative audit and review committee and keep and make available all documents, data, and reports submitted to the legislative auditor by any legislative committee. [2001 c 259 § 4; 1996 c 288 § 8; 1975 1st ex.s. c 293 § 17; 1955 c 206 § 9; 1951 c 43 § 11. Formerly RCW 44.28.140.]

Additional notes found at www.leg.wa.gov

44.28.071 Conduct of performance audits. (1) In conducting performance audits and other reviews, the legislative auditor shall work closely with the chairs and staff of standing committees of the senate and house of representatives, and may work in consultation with the state auditor and the director of financial management.

(2) The legislative auditor may contract with and consult with public and private independent professional and techni-

cal experts as necessary in conducting the performance audits. The legislative auditor should also involve front-line employees and internal auditors in the performance audit process to the highest possible degree.

(3) The legislative auditor shall work with the legislative evaluation and accountability program committee and the office of financial management to develop information system capabilities necessary for the performance audit requirements of this chapter.

(4) The legislative auditor shall work with the legislative office of performance review and the office of financial management to facilitate the implementation of effective performance measures throughout state government. In agencies and programs where effective systems for performance measurement exist, the measurements incorporated into those systems should be a basis for performance audits conducted under this chapter. [1996 c 288 § 9.]

44.28.075 Performance audits—Scope. (1) Subject to the requirements of the performance audit work plan approved by the joint committee under RCW 44.28.083, performance audits may, in addition to the determinations that may be made in such an audit as specified in RCW 44.28.005, include the following:

(a) An examination of the costs and benefits of agency programs, functions, and activities;

(b) Identification of viable alternatives for reducing costs or improving service delivery;

(c) Identification of gaps and overlaps in service delivery, along with corrective action; and

(d) Comparison with other states whose agencies perform similar functions, as well as their relative funding levels and performance.

(2) As part of a performance audit, the legislative auditor may review the costs of programs recently implemented by the legislature to compare actual agency costs with the appropriations provided and the cost estimates that were included in the fiscal note for the program at the time the program was enacted. [1996 c 288 § 10.]

44.28.080 Powers—Appropriations, expenses, revenues. The joint committee has the following powers:

(1) To make examinations and reports concerning whether or not appropriations are being expended for the purposes and within the statutory restrictions provided by the legislature; and concerning the organization and operation of procedures necessary or desirable to promote economy, efficiency, and effectiveness in state government, its officers, boards, committees, commissions, institutions, and other state agencies, and to make recommendations and reports to the legislature.

(2) To make such other studies and examinations of economy, efficiency, and effectiveness of state government and its state agencies as it may find advisable, and to hear complaints, hold hearings, gather information, and make findings of fact with respect thereto.

(3) To conduct program and fiscal reviews of any state agency or program scheduled for termination under the process provided under chapter 43.131 RCW.

(4) To perform other legislative staff studies of state government or the use of state funds.

(5) To conduct performance audits in accordance with the work plan adopted by the joint committee under *RCW 44.28.180.

(6) To receive a copy of each report of examination or audit issued by the state auditor for examinations or audits that were conducted at the request of the joint committee and to make recommendations as it deems appropriate as a separate addendum to the report or audit.

(7) To develop internal tracking procedures that will allow the legislature to measure the effectiveness of performance audits conducted by the joint committee including, where appropriate, measurements of cost-savings and increases in efficiency and effectiveness in how state agencies deliver their services.

(8) To receive messages and reports in person or in writing from the governor or any other state officials and to study generally any and all business relating to economy, efficiency, and effectiveness in state government and state agencies. [1996 c 288 § 11; 1975 1st ex.s. c 293 § 14; 1955 c 206 § 10; 1951 c 43 § 4.]

***Reviser's note:** RCW 44.28.180 was recodified as RCW 44.28.083 pursuant to 1996 c 288 § 55.

Additional notes found at www.leg.wa.gov

44.28.083 Performance audit work plans. (1) At the conclusion of the regular legislative session of each odd-numbered year, the joint legislative audit and review committee shall develop and approve a performance audit work plan for the ensuing biennium. The biennial work plan may be modified, as necessary, at the conclusion of other legislative sessions to reflect actions taken by the legislature and the joint committee. The work plan shall include a description of each performance audit, and the cost of completing the audits on the work plan shall be limited to the funds appropriated to the joint committee. Approved performance audit work plans shall be transmitted to the entire legislature by July 1st following the conclusion of each regular session of an odd-numbered year and as soon as practical following other legislative sessions.

(2) Among the factors to be considered in preparing the work plans are:

(a) Whether a program newly created or significantly altered by the legislature warrants continued oversight because (i) the fiscal impact of the program is significant, or (ii) the program represents a relatively high degree of risk in terms of reaching the stated goals and objectives for that program;

(b) Whether implementation of an existing program has failed to meet its goals and objectives by any significant degree;

(c) Whether a follow-up audit would help ensure that previously identified recommendations for improvements were being implemented; and

(d) Whether an assignment for the joint committee to conduct a performance audit has been mandated in legislation.

(3) The legislative auditor may consult with the chairs and staff of appropriate legislative committees, the state auditor, and the director of financial management in developing

the performance audit work plan. [2010 c 26 § 3; 1996 c 288 § 12; 1993 c 406 § 5. Formerly RCW 44.28.180.]

Additional notes found at www.leg.wa.gov

44.28.088 Performance audit reports—Preliminary, final. (1) When the legislative auditor has completed a performance audit authorized in the performance audit work plan, the legislative auditor shall transmit the preliminary performance audit report to the affected state agency or local government and the office of financial management for comment. The agency or local government and the office of financial management shall provide any response to the legislative auditor within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the joint committee. The legislative auditor shall incorporate the response of the agency or local government and the office of financial management into the final performance audit report.

(2) Before releasing the results of a performance audit to the legislature or the public, the legislative auditor shall submit the preliminary performance audit report to the joint committee for its review, comments, and final recommendations. Any comments by the joint committee must be included as a separate addendum to the final performance audit report. Upon consideration and incorporation of the review, comments, and recommendations of the joint committee, the legislative auditor shall transmit the final performance audit report to the affected agency or local government, the director of financial management, the leadership of the senate and the house of representatives, and the appropriate standing committees of the house of representatives and the senate and shall publish the results and make the report available to the public. For purposes of this section, "leadership of the senate and the house of representatives" means the speaker of the house, the majority leaders of the senate and the house of representatives, the minority leaders of the senate and the house of representatives, the caucus chairs of both major political parties of the senate and the house of representatives, and the floor leaders of both major political parties of the senate and the house of representatives. [2010 c 26 § 4; 2005 c 319 § 113; 2003 c 362 § 14; 1996 c 288 § 13.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

44.28.091 Compliance reports—Preliminary and final. (1) No later than nine months after the final performance audit has been transmitted by the joint committee to the appropriate standing committees of the house of representatives and the senate, the joint committee in consultation with the standing committees may produce a preliminary compliance report on the agency's or local government's compliance with the final performance audit recommendations. The agency or local government may attach its comments to the joint committee's preliminary compliance report as a separate addendum.

(2) Within three months after the issuance of the preliminary compliance report, the joint committee may hold at least one public hearing and receive public testimony regarding the findings and recommendations contained in the preliminary compliance report. The joint committee may waive the public hearing requirement if the preliminary compliance

report demonstrates that the agency or local government is in compliance with the audit recommendations. The joint committee shall issue any final compliance report within four weeks after the public hearing or hearings. The legislative auditor shall transmit the final compliance report in the same manner as a final performance audit is transmitted under RCW 44.28.088. [1996 c 288 § 14.]

44.28.094 Quality control review of joint committee. Subject to the joint committee's approval, the office of the joint committee shall undergo an external quality control review within three years of June 6, 1996, and at regular intervals thereafter. The review must be conducted by an independent organization that has experience in conducting performance audits. The quality control review must include, at a minimum, an evaluation of the quality of the audits conducted by the joint committee, an assessment of the audit procedures used by the joint committee, and an assessment of the qualifications of the joint committee staff to conduct performance audits. [1996 c 288 § 15.]

44.28.097 Agency and local government reports furnished to joint committee. All agency and local government reports concerning program performance, including administrative review, quality control, and other internal audit or performance reports, as requested by the joint committee, shall be furnished by the agency or local government requested to provide such report. [2010 c 26 § 5; 1996 c 288 § 18; 1973 1st ex.s. c 197 § 2. Formerly RCW 44.28.087.]

44.28.100 Reports, minutes. The joint committee may make reports from time to time to the members of the legislature and to the public with respect to any of its findings or recommendations. The joint committee shall keep complete minutes of its meetings. [1996 c 288 § 19; 1987 c 505 § 45; 1975 1st ex.s. c 293 § 16; 1951 c 43 § 6.]

Additional notes found at www.leg.wa.gov

44.28.110 Examinations—Subpoenas—Depositions—Access to confidential records. (1) In the discharge of any duty herein imposed, the joint committee or any personnel under its authority and its subcommittees shall have the authority to examine and inspect all properties, equipment, facilities, files, records, and accounts of any state office, department, institution, board, committee, commission, agency, or local government, and to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by laws for taking depositions in civil actions in the superior courts.

(2) The authority in this section extends to accessing any confidential records needed to discharge the joint committee's performance audit duties. However, access to confidential records for the purpose of conducting performance audits does not change their confidential nature, and any existing confidentiality requirements shall remain in force and be similarly respected by the joint committee and its staff. [2010 c 26 § 6; 1955 c 206 § 8; 1951 c 43 § 8.]

Depositions: Rules of court: CR 26 through 37.

44.28.120 Contempt proceedings—Recalcitrant witnesses. In case of the failure on the part of any person to comply with any subpoena issued in behalf of the joint committee, or on the refusal of any witness to testify to any matters regarding which he or she may be lawfully interrogated, it shall be the duty of the superior court of any county, or of the judge thereof, on application of the joint committee, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. [1996 c 288 § 20; 1951 c 43 § 9.]

Contempt: Chapter 7.21 RCW.

Legislative inquiry: Chapter 44.16 RCW.

Witness refusing to attend legislature or committee or to testify: RCW 9.55.020.

44.28.130 Witness fees and mileage. Each witness who appears before the joint committee by its order, other than a state official or employee, shall receive for his or her attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers signed by such witness, verified by the legislative auditor, and approved by the chair and the vice-chair of the joint committee. [1996 c 288 § 21; 1951 c 43 § 10.]

Witness fees and mileage: Chapter 2.40 RCW.

44.28.150 Cooperation with legislative committees and others. The joint committee shall cooperate, act, and function with legislative committees and with the councils or committees of other states similar to this joint committee and with other interstate research organizations. [1996 c 288 § 22; 1975 1st ex.s. c 293 § 18; 1951 c 43 § 7.]

Additional notes found at www.leg.wa.gov

44.28.155 WorkFirst program evaluation. (1) The joint legislative audit and review committee shall conduct an evaluation of the effectiveness of the WorkFirst program described in chapter 58, Laws of 1997, including the job opportunities and basic skills training program and any approved private, county, or local government WorkFirst program. The evaluation shall assess the success of the program in assisting clients to become employed and to reduce their use of temporary assistance for needy families. The study shall include but not be limited to the following:

(a) An assessment of employment outcomes, including hourly wages, hours worked, and total earnings, for clients;

(b) A comparison of temporary assistance for needy families outcomes, including grant amounts and program exits, for clients; and

(c) An audit of the performance-based contract for each private nonprofit contractor for job opportunities and basic skills training program services. The joint legislative audit and review committee may contract with the Washington institute for public policy for appropriate portions of the evaluation required by this section.

(2) Administrative data shall be provided by the department of social and health services, the employment security

department, the state board for community and technical colleges, local governments, and private contractors. The department of social and health services shall require contractors to provide administrative and outcome data needed for this study as a condition of contract compliance. [1997 c 58 § 705.]

Additional notes found at www.leg.wa.gov

44.28.156 Education performance agreement pilot—Evaluation. The joint committee shall conduct an evaluation of the higher education performance agreement pilot test under RCW 28B.10.920 through 28B.10.922 and make recommendations regarding changes to the substance or process of creating the agreements, including whether the performance agreement process should be continued and expanded to include additional higher education institutions. The evaluation shall be submitted to the governor and the higher education committees of the senate and house of representatives by November 1, 2014. [2008 c 160 § 5.]

Findings—Intent—2008 c 160: See note following RCW 28B.10.920.

44.28.800 Legislation affecting mentally ill persons—Report to legislature. The joint legislative audit and review committee shall conduct an evaluation of the efficiency and effectiveness of chapter 297, Laws of 1998 in meeting its stated goals. Such an evaluation shall include the operation of the state mental hospitals and the regional support networks, as well as any other appropriate entity. The joint legislative audit and review committee shall prepare an interim report of its findings which shall be delivered to the appropriate legislative committees of the house of representatives and the senate no later than September 1, 2000. In addition, the joint legislative audit and review committee shall prepare a final report of its findings which shall be delivered to the appropriate legislative committees of the house of representatives and the senate no later than January 1, 2001. [1998 c 297 § 61.]

Effective dates—Severability—Intent—1998 c 297: See notes following RCW 71.05.010.

44.28.805 Review of distributions to cities and counties—Report. During calendar year 2008, the joint legislative audit and review committee shall review the distributions to cities and counties under RCW 43.08.290 to determine the extent to which the distributions target the needs of cities and counties for which the repeal of the motor vehicle excise tax had the greatest fiscal impact. In conducting the study, the committee shall solicit input from the cities and counties. The department of revenue and the state treasurer shall provide the committee with any data within their purview that the committee considers necessary to conduct the review. The committee shall report to the legislature the results of its findings, and any recommendations for changes to the distribution formulas under RCW 43.08.290, by December 31, 2008. [2005 c 450 § 3.]

Effective date—2005 c 450: See note following RCW 82.45.060.

44.28.810 Review of governor's interagency coordinating council on health disparities—Report to the legislature. The joint committee shall conduct a review of the governor's interagency coordinating council on health dis-

parities and its functions. The review shall be substantially the same as a sunset review under chapter 43.131 RCW. The joint committee shall present its findings to appropriate committees of the legislature by December 1, 2016. [2006 c 239 § 7.]

44.28.815 Review of streamlined sales and use tax mitigation—Report. (Expires July 1, 2011.) (1) During calendar year 2010, the joint legislative audit and review committee shall review the mitigation provisions for local taxing jurisdictions under RCW 82.14.390 and 82.14.500 to determine the extent to which the mitigation provisions address the needs of local taxing jurisdictions for which the sourcing provisions in RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020 had the greatest fiscal impact. In conducting the study, the committee shall solicit input from the oversight committee created in RCW 82.14.500 and additional local taxing jurisdictions as the committee determines. The department of revenue and the state treasurer shall provide the committee with any data within their purview that the committee considers necessary to conduct the review. The committee shall report to the legislature the results of its findings, and any recommendations for changes to the mitigation provisions under RCW 82.14.390 and 82.14.500, by December 31, 2010.

(2) The definitions in RCW 82.14.495 apply to this section.

(3) This section expires July 1, 2011. [2007 c 6 § 905.]

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

44.28.900 Severability—1951 c 43. If any section, subsection, paragraph or provision of this chapter shall be held invalid by any court for any reason, such invalidity shall not in any way affect the validity of the remainder of this chapter. [1951 c 43 § 16.]

Chapter 44.39 RCW

JOINT COMMITTEE ON ENERGY SUPPLY AND ENERGY CONSERVATION

Sections

44.39.010	Committee created.
44.39.012	Definitions.
44.39.015	Composition—Appointment of members.
44.39.020	Terms.
44.39.025	Vacancies.
44.39.038	Study of state building code relating to energy.
44.39.039	Statewide thermal efficiency and lighting code—Adoption by state building code council.
44.39.045	Expenses and per diem.
44.39.050	Payment of expenses—Vouchers.
44.39.060	Examinations—Subpoenas—Depositions—Contempt proceedings—Witness fees.
44.39.070	Meetings—Energy supply alert or energy emergency—Duties.

Energy supply emergencies, alerts: Chapter 43.21G RCW.

44.39.010 Committee created. There is hereby created the joint committee on energy supply and energy conservation. [2005 c 299 § 1; 2001 c 214 § 30; 1977 ex.s. c 328 § 13; 1969 ex.s. c 260 § 1.]

(2010 Ed.)

Intent—2005 c 299: "It is the intent of the legislature to utilize lessons learned from efforts to conserve energy usage in single state buildings or complexes and extend conservation measures across all levels of government. Implementing conservation measures across all levels of government will create actual energy conservation savings, maintenance and cost savings to state and local governments, and savings to the state economy, which depends on affordable, realizable electricity to retain jobs. The legislature intends that conservation measures be identified and aggregated within a government entity or among multiple government entities to maximize energy savings and project efficiencies." [2005 c 299 § 3.]

Severability—Effective date—2001 c 214: See notes following RCW 80.50.010.

Findings—2001 c 214: See note following RCW 39.35.010.

Additional notes found at www.leg.wa.gov

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

(1) "Committee" means the joint committee on energy supply and energy conservation.

(2) "Conservation" means reduced energy consumption or energy cost, or increased efficiency in the use of energy, and activities, measures, or equipment designed to achieve such results. [2005 c 299 § 4.]

Intent—2005 c 299: See note following RCW 44.39.010.

44.39.015 Composition—Appointment of members. The committee shall consist of four senators and four representatives who shall be selected biennially as follows:

(1) The president of the senate shall appoint four members from the senate to serve on the committee, including the chair of the committee responsible for energy issues. Two members from each major political party must be appointed.

(2) The speaker or co-speakers of the house of representatives shall appoint four members from the house of representatives to serve on the committee, including the chair or co-chairs of the committee responsible for energy issues. Two members from each major political party must be appointed.

(3) The committee shall elect a chair and a vice-chair. The chair shall be a member of the house of representatives in even-numbered years and a member of the senate in odd-numbered years. In the case of a tie in the membership of the house of representatives in an even-numbered year, the committee shall elect co-chairs from the house of representatives in that year. [2001 c 214 § 31; 1977 ex.s. c 328 § 14; 1969 ex.s. c 260 § 2.]

Severability—Effective date—2001 c 214: See notes following RCW 80.50.010.

Findings—2001 c 214: See note following RCW 39.35.010.

Additional notes found at www.leg.wa.gov

44.39.020 Terms. Members shall serve until their successors are installed as provided in RCW 44.39.015, as now or hereafter amended, at the next succeeding regular session of the legislature during an odd-numbered year, or until they are no longer members of the legislature, whichever is sooner. [1980 c 87 § 38; 1977 ex.s. c 328 § 15; 1969 ex.s. c 260 § 3.]

Additional notes found at www.leg.wa.gov

44.39.025 Vacancies. The presiding officer of the appropriate legislative chamber shall fill any vacancies occurring on the committee by appointment from the same political party as the departing member. Notwithstanding the provisions of RCW 44.39.015 as now or hereafter amended, any such appointee shall be deemed installed as a member upon appointment. Members filling vacancies shall serve until they or their successors are installed as provided in RCW 44.39.015, as now or hereafter amended, or until they are no longer members of the legislature, whichever is sooner. [1977 ex.s. c 328 § 16; 1969 ex.s. c 260 § 4.]

Additional notes found at www.leg.wa.gov

44.39.038 Study of state building code relating to energy. The senate and house committees on energy and utilities shall make continuing studies of the state building code as it relates to energy consumption, conservation and retention and shall submit their recommendations concerning such to the legislature periodically. [1977 ex.s. c 14 § 13.]

Energy-related building standards: Chapter 19.27A RCW.

Additional notes found at www.leg.wa.gov

44.39.039 Statewide thermal efficiency and lighting code—Adoption by state building code council. See RCW 19.27A.020.

44.39.045 Expenses and per diem. The members of the committee shall serve without compensation, but shall be reimbursed for their expenses incurred while attending sessions of the committee or any subcommittee of the committee, or while engaged in other committee business authorized by the committee, as provided for in RCW 44.04.120. [1969 ex.s. c 260 § 8.]

44.39.050 Payment of expenses—Vouchers. All expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the director of financial management and signed by the chair of the committee. Vouchers may be drawn upon funds appropriated generally by the legislature for legislative expenses or upon any special appropriation which may be provided by the legislature for the expenses of the committee. [2009 c 549 § 6015; 1979 c 151 § 156; 1969 ex.s. c 260 § 9.]

44.39.060 Examinations—Subpoenas—Depositions—Contempt proceedings—Witness fees. In the discharge of any duty imposed by this chapter, the committee or any personnel acting under its direction shall have the authority to examine and inspect all properties, equipment, facilities, files, records, and accounts of any state office, department, institution, board, committee, commission, or agency; to administer oaths; and to issue subpoenas, upon approval of a majority of the members of the house or senate rules committee, to compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the superior courts.

In case of the failure of any person to comply with any subpoena issued in behalf of the committee, or on the refusal of any witness to testify to any matters regarding which he or she may be lawfully interrogated, it shall be the duty of the superior court of any county, or of the judge thereof, on application of the committee, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

Each witness who appears before the committee by its order, other than a state official or employee, shall receive for his or her attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers signed by such witness and approved by the chair of the committee. [2010 c 8 § 8001; 2009 c 549 § 6016; 1977 ex.s. c 328 § 17.]

Additional notes found at www.leg.wa.gov

44.39.070 Meetings—Energy supply alert or energy emergency—Duties. (1) The committee shall meet and function at the following times: (a) At least once per year or at anytime upon the call of the chair to receive information related to the state or regional energy supply situation; (b) during a condition of energy supply alert or energy emergency; and (c) upon the call of the chair, in response to gubernatorial action to terminate such a condition. Upon the declaration by the governor of a condition of energy supply alert or energy emergency, the committee shall meet to receive any plans proposed by the governor for programs, controls, standards, and priorities for the production, allocation, and consumption of energy during any current or anticipated condition of energy supply alert or energy emergency, any proposed plans for the suspension or modification of existing rules of the Washington Administrative Code, and any other relevant matters the governor deems desirable. The committee shall review such plans and matters and shall transmit its recommendations to the governor for review. The committee may review any voluntary programs or local or regional programs for the production, allocation, or consumption of energy which have been submitted to the committee.

(2) The committee shall receive any request from the governor for the approval of a declaration of a condition of energy emergency as provided in RCW 43.21G.040 as now or hereafter amended and shall either approve or disapprove such request.

(3) During a condition of energy supply alert, the committee shall: (a) Receive any request from the governor for an extension of the condition of energy supply alert for an additional period of time not to exceed ninety consecutive days and the findings upon which such request is based; (b) receive any request from the governor for subsequent extensions of the condition of energy supply alert for an additional period of time not to exceed one hundred twenty consecutive days and the findings upon which such a request is based; and (c) either approve or disapprove the requested extensions. When approving a request, the committee may specify a longer period than requested, up to ninety days for initial extensions and one hundred twenty days for additional extensions.

(4) During a condition of energy emergency the committee shall: (a) Receive any request from the governor for an extension of the condition of energy emergency for an additional period of time not to exceed forty-five consecutive days and the finding upon which any such request is based; (b) receive any request from the governor for subsequent extensions of the condition of energy emergency for an additional period of time not to exceed sixty consecutive days and the findings upon which such a request is based; and (c) either approve or disapprove the requested extensions. When approving a request, the committee may specify a longer period than requested, up to forty-five days for initial extensions and sixty days for additional extensions. [2005 c 299 § 2; 2002 c 192 § 1; 1977 ex.s. c 328 § 18.]

Intent—2005 c 299: See note following RCW 44.39.010.

Additional notes found at www.leg.wa.gov

Chapter 44.40 RCW

**JOINT TRANSPORTATION COMMITTEE
(See RCW 44.04.300 and 44.04.310)**

Chapter 44.44 RCW

**OFFICE OF STATE ACTUARY—SELECT
COMMITTEE ON PENSION POLICY**

Sections

- 44.44.010 Office of state actuary—Created—Qualifications.
- 44.44.013 State actuary appointment committee—Creation—Membership—Powers.
- 44.44.030 Personnel—Member of American academy of actuaries.
- 44.44.040 Powers and duties—Actuarial fiscal notes.
- 44.44.900 Severability—1975-'76 2nd ex.s. c 105.

Department of retirement systems: Chapter 41.50 RCW.

44.44.010 Office of state actuary—Created—Qualifications. (1) There is hereby created an office within the legislative branch to be known as the office of the state actuary.

(2) The executive head of the office shall be the state actuary who shall be qualified by education and experience in the field of actuarial science. [1987 c 25 § 1; 1975-'76 2nd ex.s. c 105 § 19.]

44.44.013 State actuary appointment committee—Creation—Membership—Powers. (1) The state actuary appointment committee is created. The committee shall consist of: (a) The chair and ranking minority member of the house of representatives appropriations committee and the chair and ranking minority member of the senate ways and means committee; and (b) four members of the select committee on pension policy appointed jointly by the chair and vice-chair of the select committee, at least one member representing state retirement systems active or retired members, and one member representing state retirement system employers.

(2) The state actuary appointment committee shall be jointly chaired by the chair of the house of representatives appropriations committee and the chair of the senate ways and means committee.

(3) The state actuary appointment committee shall appoint or remove the state actuary by a two-thirds vote of the committee. When considering the appointment or

removal of the state actuary, the appointment committee shall consult with the director of the department of retirement systems, the director of the office of financial management, and other interested parties.

(4) The state actuary appointment committee shall be convened by the chairs of the house of representatives appropriations committee and the senate ways and means committee (a) whenever the position of state actuary becomes vacant, or (b) upon the written request of any four members of the appointment committee. [2003 c 295 § 13.]

44.44.030 Personnel—Member of American academy of actuaries. (1) Subject to RCW 44.04.260, the state actuary shall have the authority to select and employ such research, technical, clerical personnel, and consultants as the actuary deems necessary, whose salaries shall be fixed by the actuary and approved by the state actuary appointment committee, and who shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

(2) All actuarial valuations and experience studies performed by the office of the state actuary shall be signed by a member of the American academy of actuaries. If the state actuary is not such a member, the state actuary, after approval by the select committee, shall contract for a period not to exceed two years with a member of the American academy of actuaries to assist in developing actuarial valuations and experience studies. [2003 c 295 § 14; 2001 c 259 § 11; 1987 c 25 § 2; 1975-'76 2nd ex.s. c 105 § 21.]

44.44.040 Powers and duties—Actuarial fiscal notes. The office of the state actuary shall have the following powers and duties:

(1) Perform all actuarial services for the department of retirement systems, including all studies required by law.

(2) Advise the legislature and the governor regarding pension benefit provisions, and funding policies and investment policies of the state investment board.

(3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.

(4) Prepare a report, to be known as the actuarial fiscal note, on each pension bill introduced in the legislature which briefly explains the financial impact of the bill. The actuarial fiscal note shall include: (a) The statutorily required contribution for the biennium and the following twenty-five years; (b) the biennial cost of the increased benefits if these exceed the required contribution; and (c) any change in the present value of the unfunded accrued benefits. An actuarial fiscal note shall also be prepared for all amendments which are offered in committee or on the floor of the house of representatives or the senate to any pension bill. However, a majority of the members present may suspend the requirement for an actuarial fiscal note for amendments offered on the floor of the house of representatives or the senate.

(5) Provide such actuarial services to the legislature as may be requested from time to time.

(6) Provide staff and assistance to the committee established under RCW 41.04.276.

(7) Provide actuarial assistance to the law enforcement officers' and firefighters' plan 2 retirement board as provided

in chapter 2, Laws of 2003. Reimbursement for services shall be made to the state actuary under RCW 39.34.130 and section 5(5), chapter 2, Laws of 2003. [2003 c 295 § 4; 2003 c 92 § 2; 1987 c 25 § 3; 1986 c 317 § 6; 1975-'76 2nd ex.s. c 105 § 22.]

Reviser's note: This section was amended by 2003 c 92 § 2 and by 2003 c 295 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—Effective date—2003 c 92: See RCW 41.26.905 and 41.26.906.

Legislative findings—Intent—Severability—1986 c 317: See notes following RCW 41.40.150.

44.44.900 Severability—1975-'76 2nd ex.s. c 105.
See note following RCW 41.04.270.

Chapter 44.48 RCW

LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

Sections

44.48.010	Committee created—Composition.
44.48.020	Terms of members—Vacancies.
44.48.030	Continuation of memberships, powers, duties, etc.
44.48.040	Travel expenses of members—Reimbursement.
44.48.045	Administration.
44.48.050	Expenses of committee—Vouchers.
44.48.060	Officers and rules.
44.48.070	Committee's duties with respect to data processing capability for fiscal matters—LEAP defined.
44.48.080	Duties of LEAP administration.
44.48.090	Committee's powers.
44.48.100	Reports to legislature—Minutes.
44.48.110	Witness fees and mileage.
44.48.120	LEAP administrator and other assistants—Employment—Duties of LEAP administrator.
44.48.130	Exemption from department of information services.
44.48.140	Cooperation with legislative committees and others.
44.48.150	State expenditure information web site—Access to data—Maintenance.
44.48.900	Severability—1977 ex.s. c 373.

Alternative economic and revenue forecasts to be provided at the request of the legislative evaluation and accountability program committee: RCW 82.33.030.

44.48.010 Committee created—Composition. There is hereby created a legislative evaluation and accountability program committee which shall consist of four senators and four representatives from the legislature. The senate members of the committee shall be appointed by the president of the senate and the house members of the committee shall be appointed by the speaker of the house. Not more than two members from each house shall be from the same political party. All members shall be appointed before the close of the 1977 session of the legislature and before the close of each regular session during an odd-numbered year thereafter. Members shall be subject to confirmation, as to the senate members by the senate, and as to the house members by the house. [1980 c 87 § 40; 1977 ex.s. c 373 § 1.]

44.48.020 Terms of members—Vacancies. The term of office of the members of the committee who continue to be members of the senate and house shall be from the close of the session in which they were appointed or elected as provided in RCW 44.48.010 until the close of the next regular

session during an odd-numbered year, or, in the event that such appointments or elections are not made, until the close of the next regular session during an odd-numbered year during which successors are appointed or elected. The term of office of such committee members as shall not continue to be members of the senate and house shall cease upon the convening of the next regular session of the legislature during an odd-numbered year after their confirmation, election, or appointment. Vacancies on the committee shall be filled by appointment by the remaining members. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated. [1980 c 87 § 41; 1977 ex.s. c 373 § 2.]

44.48.030 Continuation of memberships, powers, duties, etc. On and after the commencement of a succeeding regular session of the legislature during an odd-numbered year, those members of the committee who continue to be members of the senate and house, respectively, shall continue as members of the committee as indicated in RCW 44.48.020 and the committee shall continue with all its powers, duties, authorities, records, papers, personnel and staff, and all funds made available for its use. [1980 c 87 § 42; 1977 ex.s. c 373 § 3.]

44.48.040 Travel expenses of members—Reimbursement. The members of the committee shall serve without additional compensation, but shall be reimbursed in accordance with RCW 44.04.120 while attending sessions of the committee or meetings of any subcommittee of the committee, or on other committee business authorized by the committee. [1977 ex.s. c 373 § 4.]

44.48.045 Administration. The administration of the legislative evaluation and accountability program committee is subject to RCW 44.04.260. [2001 c 259 § 12.]

44.48.050 Expenses of committee—Vouchers. Subject to RCW 44.04.260, all expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the administrator and signed by the chair or vice chair of the committee and attested by the secretary of said committee, and the authority of said chair and secretary to sign vouchers shall continue until their successors are selected after each ensuing session of the legislature. Vouchers may be drawn on funds appropriated by law for the committee: PROVIDED, That the senate and the house may authorize the committee to draw on funds appropriated by the legislature for legislative expenses. [2009 c 549 § 6017; 2001 c 259 § 13; 1977 ex.s. c 373 § 5.]

44.48.060 Officers and rules. The committee shall have the power and duty to appoint its own chair, vice chair, and other officers; and to make rules for orderly procedure. [2009 c 549 § 6018; 1977 ex.s. c 373 § 6.]

44.48.070 Committee's duties with respect to data processing capability for fiscal matters—LEAP defined. The committee shall acquire a data processing service capability under the exclusive jurisdiction and control of the leg-

islature acting through the committee and its administrator for the purpose of providing the legislature and its staff with the type of information required for in-depth analysis and monitoring of state agency expenditures, budgets, and related fiscal matters. The legislative evaluation and accountability program established in this section may be referred to in this chapter as the LEAP administration. [1977 ex.s. c 373 § 7.]

44.48.080 Duties of LEAP administration. To carry out the provisions of RCW 44.48.070 the LEAP administration shall provide for:

(1) Automated databases and application systems in support of legislative requirements to monitor, evaluate, analyze, report, and review;

(2) Maintenance of computer software, application programs, databases, and related documentation;

(3) Education, training, and programming services;

(4) Procedural documentation support; and

(5) Consulting assistance on special projects. [1977 ex.s. c 373 § 8.]

44.48.090 Committee's powers. The committee shall have the following powers:

(1) To have timely access, upon written request of the administrator, to all machine readable, printed, and other data of state agencies relative to expenditures, budgets, and related fiscal matters;

(2) To suggest changes relative to state accounting and reporting systems to the office of financial management or its successor and to require timely written responses to such suggestions; and

(3) Subject to RCW 44.04.260, to enter into contracts; and when entering into any contract for computer access, make necessary provisions relative to the scheduling of computer time and usage in recognition of the unique requirements and priorities of the legislative process. [2001 c 259 § 14; 1979 c 151 § 158; 1977 ex.s. c 373 § 9.]

44.48.100 Reports to legislature—Minutes. The committee shall have the power to make reports to the legislature. The committee shall keep complete minutes of its meetings. [1987 c 505 § 46; 1977 ex.s. c 373 § 10.]

44.48.110 Witness fees and mileage. Each person who appears before the committee, other than a state official or employee, may upon request receive for attendance the fees and mileage provided for witnesses in civil cases in courts of record in accordance with the provisions of RCW 2.40.010, which shall be audited and paid upon the presentation of proper vouchers signed by such person and approved by the secretary and chair of the committee. [2009 c 549 § 6019; 1977 ex.s. c 373 § 11.]

44.48.120 LEAP administrator and other assistants—Employment—Duties of LEAP administrator. The committee is hereby authorized and empowered to appoint an officer to be known as the LEAP administrator who shall be the executive officer of the committee and assist in its duties and shall compile information for the committee.

Subject to RCW 44.04.260, the committee is hereby authorized and empowered to select and employ temporary and permanent personnel and fix their salaries.

The duties of the administrator shall be as follows:

(1) To manage the LEAP operations.

(2) To assist the several standing committees of the house and senate; to appear before other legislative committees; and to assist any other legislative committee upon instruction by the committee.

(3) To provide the legislature with information obtained under the direction of the committee.

(4) To maintain a record of all work performed by the administrator under the direction of the committee and to keep and make available all documents, data, and reports submitted to the administrator by any legislative committee. [2001 c 259 § 15; 1977 ex.s. c 373 § 12.]

44.48.130 Exemption from department of information services. The committee is hereby expressly exempted from the provisions of chapter 43.105 RCW. [1977 ex.s. c 373 § 13.]

44.48.140 Cooperation with legislative committees and others. The committee shall cooperate, act, and function with Washington state legislative committees and may cooperate with the councils or committees of other states similar to this committee and with other interstate research organizations. [1977 ex.s. c 373 § 14.]

44.48.150 State expenditure information web site—Access to data—Maintenance. (1) By January 1, 2009, in collaboration with the office of financial management, using existing databases and structures currently shared, the office of the legislative evaluation and accountability program committee shall establish and make available to the public a searchable state expenditure information web site. The state expenditure information web site shall provide access to current budget data, access to current accounting data for budgeted expenditures and staff, and access to historical data. At a minimum, the web site will provide access or links to the following information as data are available:

(a) State expenditures by fund or account;

(b) State expenditures by agency, program, and subprogram;

(c) State revenues by major source;

(d) State expenditures by object and subobject;

(e) State agency workloads, caseloads, and performance measures, and recent performance audits; and

(f) State agency budget data by activity.

(2) "State agency," as used in this section, includes every state agency, office, board, commission, or institution of the executive, legislative, or judicial branches, including institutions of higher education.

(3) The state expenditure information web site shall be updated periodically as subsequent fiscal year data become available, and the prior year expenditure data shall be maintained by the legislative evaluation and accountability program committee as part of its ten-year historical budget data. [2008 c 326 § 2.]

Intent—2008 c 326: "The intent of the legislature is to make state revenue and expenditure data as open, transparent, and publicly accessible as is feasible. Increasing the ease of public access to state budget data, particularly where the data are currently available from disparate internal government sources but are difficult for the public to collect and efficiently aggregate, significantly contributes to governmental accountability, public participation, agency efficiency, and open government." [2008 c 326 § 1.]

44.48.900 Severability—1977 ex.s. c 373. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 373 § 16.]

Chapter 44.55 RCW

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON TRADE POLICY

Sections

44.55.010	Findings—Intent.
44.55.020	Committee membership.
44.55.030	Chair—Officers—Rules.
44.55.040	Powers, duties.
44.55.050	Staff support.
44.55.060	Compensation.

44.55.010 Findings—Intent. The legislature finds that international trade is an important part of Washington's economy with Washington as the fifth largest exporting state in the nation. The legislature further finds that World Trade Organization agreements and the North American Free Trade Agreement have implications for Washington state laws governing agriculture, services, environmental regulation, and economic subsidies. The legislature further finds that future trade agreements such as the proposed Free Trade Area of the Americas may also impact Washington state. Therefore, it is the intent of the legislature to create a joint legislative oversight committee on trade policy to monitor the impact of these trade agreements on Washington state laws, and to provide a mechanism for legislators and citizens to voice their opinions and concerns about the potential impacts of these trade agreements to state and federal government officials. [2003 c 404 § 1.]

44.55.020 Committee membership. A joint legislative oversight committee on trade policy is created, to consist of four senators and four representatives from the legislature and three ex officio members. The president of the senate shall appoint the senate members of the committee, and the speaker of the house shall appoint the house members of the committee. No more than two members from each house may be from the same political party. A list of appointees must be submitted by July 1, 2003, and before the close of each regular session during an even-numbered year. Vacancies on the committee will be filled by appointment and must be filled from the same political party and from the same house as the member whose seat was vacated. The ex officio members shall be appointed by the speaker of the house and the president of the senate, and include a representative from the department of agriculture, the state trade representative, and a representative from the office of the attorney general. [2003 c 404 § 2.]

[Title 44 RCW—page 50]

Reviser's note: Substitute House Bill No. 1059, Substitute House Bill No. 1173, and Engrossed Substitute House Bill No. 1827 were enacted during the 2003 regular session of the legislature, but were vetoed in part by the governor. A stipulated judgment, No. 03-2-01988-4 filed in the Superior Court of Thurston County, between the governor and the legislature, settled litigation over the governor's use of veto powers and declared the vetoes of SHB 1059, SHB 1173, and ESHB 1827 null and void. Consequently, the text of this section has been returned to the version passed by the legislature prior to the vetoes. For vetoed text and message, see chapter 404, Laws of 2003.

Effective date—2003 c 404 § 2: "Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 20, 2003]." [2003 c 404 § 8.]

44.55.030 Chair—Officers—Rules. The committee shall appoint its own chair and other officers and make rules for orderly procedure. [2003 c 404 § 3.]

44.55.040 Powers, duties. The committee has the following powers and duties:

(1) At least once a year, hear public testimony on the actual and potential impacts of international trade agreements and negotiations on Washington state and submit an annual report to the state trade representative's office and to the legislature regarding the public testimony;

(2) Maintain active communication with the state trade representative's office, the United States trade representative's office, Washington's congressional delegation, the national conference of state legislatures, and any other bodies the committee deems appropriate regarding ongoing developments in international trade agreements and policy;

(3) Conduct an annual assessment of the impacts of international trade agreements upon Washington law and submit the report to the legislature;

(4) Examine any aspects of international trade, international economic integration, and trade agreements that the members deem appropriate. [2003 c 404 § 4.]

44.55.050 Staff support. The committee will receive the necessary staff support from both the senate committee services and the house office of program research. [2003 c 404 § 5.]

44.55.060 Compensation. The members of the committee shall serve without additional compensation, but are entitled to receive per diem, mileage, and incidental expense allowances at the rates provided in chapter 44.04 RCW. [2003 c 404 § 6.]

Chapter 44.68 RCW

JOINT LEGISLATIVE SYSTEMS ADMINISTRATIVE COMMITTEE

Sections

44.68.010	Definitions.
44.68.020	Committee created—Members, terms, vacancies, officers, rules.
44.68.030	Administrative committee—Membership, coordinator as secretary.
44.68.035	Administration.
44.68.040	Legislative systems coordinator—Employment, duties.
44.68.050	Administrative committee—Powers and duties.
44.68.060	Legislative service center—Duties—Protection of information—Bill drafts.

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- 44.68.065 Additional duties of legislative service center.
- 44.68.080 Scope of requirements of this chapter.
- 44.68.085 Salaries and expenses of employees—Vouchers—Authority to draw on funds—Transfer of moneys.
- 44.68.090 Systems committee, administrative committee members—Travel expenses.
- 44.68.100 Electronic access to legislative information.
- 44.68.105 Systems committee, administrative committee, center—Exemption.
- 44.68.900 Effective date—2007 c 18.

44.68.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Administrative committee" means the joint legislative systems administrative committee created under RCW 44.68.030.

(2) "Center" means the legislative service center established under RCW 44.68.060.

(3) "Coordinator" means the legislative systems coordinator employed under RCW 44.68.040.

(4) "Systems committee" means the joint legislative systems committee created under RCW 44.68.020. [2007 c 18 § 1; 1986 c 61 § 1.]

44.68.020 Committee created—Members, terms, vacancies, officers, rules. (1) The joint legislative systems committee is created to oversee the direction of the information processing and communications systems of the legislature and to enforce the policies, procedures, and standards established under this chapter. The systems committee consists of four members as follows:

(a) A member from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house of representatives; and

(b) A member from each of the two largest caucuses in the senate, appointed by the majority leader of the senate.

(2) Members shall serve two-year terms, beginning with their appointment in the regular legislative session held in an odd-numbered year and continuing until their successors are appointed and qualified. In case of a vacancy, the original appointing authority shall appoint another member of the same party as the vacating member.

(3) The systems committee shall choose its own presiding officer and other necessary officers from among its membership, and shall make rules for orderly procedure. [1993 c 332 § 1; 1986 c 61 § 2.]

44.68.030 Administrative committee—Membership, coordinator as secretary. (1) The joint legislative systems administrative committee is created to manage the information processing and communications systems of the legislature. The administrative committee consists of five members appointed as follows:

(a) The secretary of the senate, and another senate staff person appointed by and serving at the pleasure of the secretary;

(b) The chief clerk of the house of representatives, and another house of representatives staff person appointed by and serving at the pleasure of the chief clerk; and

(c) The code reviser, or the code reviser's designee, serving in a nonvoting capacity.

(2010 Ed.)

(2) The coordinator shall serve as the secretary of the administrative committee. [2007 c 18 § 2; 1986 c 61 § 3.]

44.68.035 Administration. The administration of the joint legislative systems committee is subject to RCW 44.04.260. [2001 c 259 § 16.]

44.68.040 Legislative systems coordinator—Employment, duties. Subject to RCW 44.04.260:

(1) The systems committee, after consultation with the administrative committee, shall employ a legislative systems coordinator. The coordinator shall serve at the pleasure of the systems committee, which shall fix the coordinator's salary.

(2)(a) The coordinator shall serve as the executive and administrative head of the center, and shall assist the administrative committee in managing the information processing and communications systems of the legislature as directed by the administrative committee;

(b) In accordance with an adopted personnel plan, the coordinator shall employ or engage and fix the compensation for personnel required to carry out the purposes of this chapter;

(c) The coordinator shall enter into contracts for: (i) The sale, exchange, or acquisition of equipment, supplies, services, and facilities required to carry out the purposes of this chapter; and (ii) the distribution of legislative information. [2007 c 18 § 3; 2001 c 259 § 17; 1986 c 61 § 4.]

44.68.050 Administrative committee—Powers and duties. The administrative committee shall, subject to the approval of the systems committee and subject to RCW 44.04.260:

(1) Adopt policies, procedures, and standards regarding the information processing and communications systems of the legislature;

(2) Establish appropriate charges for services, equipment, and publications provided by the legislative information processing and communications systems, applicable to legislative and nonlegislative users as determined by the administrative committee;

(3) Adopt a compensation plan for personnel required to carry out the purposes of this chapter;

(4) Approve strategic and tactical information technology plans and provide guidance in operational matters required to carry out (a) the purposes of this chapter; and (b) the distribution of legislative information;

(5) Generally assist the systems committee in carrying out its responsibilities under this chapter, as directed by the systems committee. [2007 c 18 § 4; 2001 c 259 § 18; 1986 c 61 § 5.]

44.68.060 Legislative service center—Duties—Protection of information—Bill drafts. (1) The administrative committee, subject to the approval of the systems committee, shall establish a legislative service center. The center shall provide automatic data processing services, equipment, training, and support to the legislature and legislative agencies. The center may also, by agreement, provide services to agencies of the judicial and executive branches of state govern-

ment and other governmental entities, and provide public access to legislative information. All operations of the center shall be subject to the general supervision of the administrative committee in accordance with the policies, procedures, and standards established under RCW 44.68.050.

(2) Except as provided otherwise in subsection (3) of this section, determinations regarding the security, disclosure, and disposition of information placed or maintained in the center shall rest solely with the originator and shall be made in accordance with any law regulating the disclosure of such information. The originator is the person who directly places information in the center.

(3) When utilizing the center to carry out the bill drafting functions required under RCW 1.08.027, the code reviser shall be considered the originator as defined in RCW 44.68.060. However, determinations regarding the security, disclosure, and disposition of drafts placed or maintained in the center shall be made by the person requesting the code reviser's services and the code reviser, acting as the originator, shall comply with and carry out such determinations as directed by that person. A measure once introduced shall not be considered a draft under this subsection. [2007 c 18 § 5; 1986 c 61 § 6.]

44.68.065 Additional duties of legislative service center. The legislative service center, under the direction of the joint legislative systems committee and the joint legislative systems administrative committee, shall:

(1) Develop a legislative information technology portfolio consistent with the provisions of RCW 43.105.172;

(2) Participate in the development of an enterprise-based statewide information technology strategy as defined in RCW 43.105.019;

(3) Ensure the legislative information technology portfolio is organized and structured to clearly indicate participation in and use of enterprise-wide information technology strategies;

(4) As part of the biennial budget process, submit the legislative information technology portfolio to the chair and ranking member of the ways and means committees of the house of representatives and the senate, the office of financial management, and the department of information services. [2010 c 282 § 8.]

44.68.080 Scope of requirements of this chapter. The information and communications functions of the legislature and legislative agencies are subject to the requirements of this chapter, and the standards, policies, and procedures established under this chapter. [1986 c 61 § 8.]

44.68.085 Salaries and expenses of employees—Vouchers—Authority to draw on funds—Transfer of moneys. Subject to RCW 44.04.260, all expenses incurred, including salaries and expenses of employees, shall be paid upon voucher forms as provided and signed by the coordinator. Vouchers may be drawn on funds appropriated by law for the systems committee, administrative committee, and center: PROVIDED, That the senate, house of representatives, and code reviser may authorize the systems committee, administrative committee, and center to draw on funds appro-

priated by the legislature for related information technology expenses. The senate and house of representatives may transfer moneys appropriated for legislative expenses to the systems committee, administrative committee, and center, in addition to charges made under RCW 44.68.050(2). [2007 c 18 § 6.]

44.68.090 Systems committee, administrative committee members—Travel expenses. Members of the systems committee and of the administrative committee shall be reimbursed for travel expenses under RCW 44.04.120 or 43.03.050 and 43.03.060, as appropriate, while attending meetings of their respective committees or on other official business authorized by their respective committees. [1986 c 61 § 9.]

44.68.100 Electronic access to legislative information. The legislature and legislative agencies through the joint legislative systems committee, shall:

(1) Continue to plan for and implement processes for making legislative information available electronically;

(2) Promote and facilitate electronic access to the public of legislative information and services;

(3) Establish technical standards for such services;

(4) Consider electronic public access needs when planning new information systems or major upgrades of information systems;

(5) Develop processes to determine which legislative information the public most wants and needs;

(6) Increase capabilities to receive information electronically from the public and transmit forms, applications and other communications and transactions electronically;

(7) Use technologies that allow continuous access twenty-four hours a day, seven days per week, involve little or no cost to access, and are capable of being used by persons without extensive technology ability; and

(8) Consider and incorporate wherever possible ease of access to electronic technologies by persons with disabilities. [1996 c 171 § 4.]

Additional notes found at www.leg.wa.gov

44.68.105 Systems committee, administrative committee, center—Exemption. The systems committee, administrative committee, and center are hereby expressly exempted from the provisions of chapter 43.105 RCW. [2007 c 18 § 7.]

44.68.900 Effective date—2007 c 18. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007. [2007 c 18 § 10.]

Chapter 44.73 RCW LEGISLATIVE GIFT CENTER

Sections

44.73.005	Findings.
44.73.010	Legislative gift center—Created—Retail sale of products—Governance—Planning.

- 44.73.015 Legislative gift center—Selling wine for off-premises consumption—Collection and remittance of all applicable state and local taxes—Consultation with the Washington wine commission.
- 44.73.020 Legislative gift center account.

44.73.005 Findings. The legislature finds that Washington is committed to economic development and supporting the tourism industry, and that economic development is achieved by promoting the state and the goods produced around the state. The legislature further finds that tourism is encouraged providing a memorable experience and an opportunity for visitors to take something back home with them to remind them of this experience. There are many visitors every day to the legislative building, including tourists, school children, and people from around the state visiting the state capitol. These visitors offer an opportunity for the state to showcase its products and history. Therefore, the legislature finds that a gift center in the legislative building would be an appropriate response to this opportunity, and further, that such a gift center could provide a source of revenue to help fund the oral history program and to pay for the restoration and repurchase of historical capitol furnishings. [2007 c 453 § 1.]

44.73.010 Legislative gift center—Created—Retail sale of products—Governance—Planning. (1) There is created in the legislature a legislative gift center for the retail sale of products bearing the state seal, Washington state souvenirs, other Washington products, and other products as approved. Wholesale purchase of products for sale at the legislative gift center is not subject to competitive bidding.

(2) Governance for the legislative gift center shall be under the chief clerk of the house of representatives and the secretary of the senate. They may designate a legislative staff member as the lead staff person to oversee management and operation of the gift shop.

(3) The chief clerk of the house of representatives and secretary of the senate shall consult with the department of general administration in planning, siting, and maintaining legislative building space for the gift center.

(4) Products bearing the "Seal of the State of Washington" as described in Article XVIII, section 1 of the Washington state Constitution and RCW 1.20.080, must be purchased from the secretary of state pursuant to an agreement between the chief clerk of the house of representatives, the secretary of the senate, and the secretary of state. [2007 c 453 § 2.]

44.73.015 Legislative gift center—Selling wine for off-premises consumption—Collection and remittance of all applicable state and local taxes—Consultation with the Washington wine commission. (1) The legislative gift center is authorized to sell at retail for off-premises consumption wine produced in Washington by a licensed domestic winery. Wine sold by the legislative gift center must: (a) Be sold to individuals twenty-one years of age or older; (b) be sold for personal use and not for resale; and (c) have been purchased from a licensed wine distributor or from a manufacturer authorized to distribute wine of its own production.

(2) The legislative gift center must collect and remit to the department of revenue all applicable state and local taxes on sales of wine.

(3) The legislative gift center must consult with the Washington wine commission to select which Washington wines will be sold. The Washington wine commission must give consideration to award winning wines in assisting the gift center. [2009 c 228 § 3.]

Findings—Intent—2009 c 228: See note following RCW 66.12.195.

44.73.020 Legislative gift center account. (1) The legislative gift center account is created in the custody of the state treasurer. All moneys received by the gift center from the sale of Washington state souvenirs, other Washington products, and other products as approved shall be deposited in the account. Expenditures from the account may be used only for the operations and maintenance of the gift center, including the purchase of inventory, and for other purposes as provided in this section. Only the chief clerk of the house of representatives and the secretary of the senate, or the lead staff person designated by them to oversee management and operation of the gift shop, may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Net profits, after expenses, from the sale of Washington state souvenirs, other Washington products, and products approved by the legislative gift center, shall be deposited as provided in this subsection:

(a) Twenty-five percent in the legislative oral history account in chapter 44.04 RCW (created in *Substitute House Bill No. 1741);

(b) Twenty-five percent in the oral history, state library, and archives account created in **RCW 43.07.380; and

(c) Fifty percent in the capitol furnishings preservation committee account created in RCW 27.48.040.

(3) Net profits, after expenses, from the sale of items bearing the state seal by the legislative gift center shall be deposited in the capitol furnishings preservation committee account created in RCW 27.48.040. A full accounting thereof shall be provided to the secretary of state.

(4) The legislative gift center may designate special sales, the proceeds of which shall go to an account specified at the time of designation. [2007 c 453 § 3.]

Reviser's note: *(1) Substitute House Bill No. 1741 was not enacted during the 2007 legislative session.

***(2) RCW 43.07.380 was amended by 2008 c 222 § 13, renaming the "oral history, state library, and archives account" to the "Washington state legacy project, state library, and archives account."

Title 46

MOTOR VEHICLES

Chapters

- 46.01** Department of licensing.
- 46.04** Definitions.
- 46.08** General provisions.
- 46.09** Off-road and nonhighway vehicles.
- 46.10** Snowmobiles.
- 46.12** Certificates of title.
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- 46.16A** Registration.
- 46.17** Vehicle fees.
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- 46.19** Special parking privileges for persons with disabilities.
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- 46.21** Driver license compact.
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Chapter 46.01 RCW

DEPARTMENT OF LICENSING

Sections

- 46.01.011 Purpose.
- 46.01.020 Department created.
- 46.01.030 Administration and improvement of certain motor vehicle laws.
- 46.01.040 Powers, duties, and functions relating to motor vehicle laws vested in department.
- 46.01.070 Functions performed by state patrol as agent for director of licenses transferred to department.
- 46.01.100 Organization of department.
- 46.01.110 Rule-making authority.
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- 46.01.130 Powers and duties of department and director—Personnel screening, appointment of county auditors as agents.

- 46.01.135 Establishment of investigation unit—Use of criminal history information.
- 46.01.140 Special deputies and subagents of director—Disposition of application fees.
- 46.01.150 Branch offices.
- 46.01.160 Forms for applications, licenses, and certificates.
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- 46.01.230 Payment by check or money order—Regulations—Surrender of canceled license—Handling fee for dishonored checks—Internet payment option.
- 46.01.235 Payment by credit or debit card.
- 46.01.240 Internet payment option.
- 46.01.250 Certified copies of records—Fee.
- 46.01.260 Destruction of records by director.
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- 46.01.290 Director to make annual reports to governor.
- 46.01.310 Immunity of licensing agents.
- 46.01.320 Title and registration advisory committee.
- 46.01.325 Agent and subagent fees—Analysis and evaluation.
- 46.01.330 Facilities siting coordination.
- 46.01.340 Database of fuel dealer and distributor license information.
- 46.01.350 Fuel tax advisory group.
- 46.01.360 Fees—Study and adjustment.

Extension or modification of licensing, certification, or registration period authorized—Rules and regulations, manner and content: RCW 43.24.140.

Gambling commission, administrator and staff for: RCW 9.46.080.

Health, department of, functions transferred to: RCW 43.70.901.

Public bodies may retain collection agencies to collect public debts—Fees: RCW 19.16.500.

46.01.011 Purpose. (Effective until July 1, 2011.) The legislature finds that the department of licensing administers laws relating to the licensing and regulation of professions, businesses, gambling, and other activities in addition to administering laws relating to the licensing and regulation of vehicles and vehicle operators, dealers, and manufacturers. The laws administered by the department have the common denominator of licensing and regulation and are directed toward protecting and enhancing the well-being of the residents of the state. [1994 c 92 § 500; 1979 c 158 § 113; 1977 ex.s. c 334 § 1.]

Additional notes found at www.leg.wa.gov

46.01.011 Purpose. (Effective July 1, 2011.) The legislature finds that the department of licensing administers laws relating to the licensing and regulation of professions, businesses, and other activities in addition to administering laws relating to the licensing and regulation of vehicles and vehicle operators, dealers, and manufacturers. The laws administered by the department have the common denominator of licensing and regulation and are directed toward protecting and enhancing the well-being of the residents of the state. [2010 c 161 § 201; 1994 c 92 § 500; 1979 c 158 § 113; 1977 ex.s. c 334 § 1.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.01.020 Department created. A department of the government of this state to be known as the "department of licensing" is hereby created. [1979 c 158 § 114; 1977 ex.s. c 334 § 2; 1965 c 156 § 2.]

Additional notes found at www.leg.wa.gov

46.01.030 Administration and improvement of certain motor vehicle laws. (Effective until July 1, 2011.) The department shall be responsible for administering and recommending the improvement of the motor vehicle laws of this state relating to:

- (1) driver examining and licensing;
- (2) driver improvement;
- (3) driver records;
- (4) financial responsibility;
- (5) certificates of ownership;
- (6) certificates of license registration and license plates;
- (7) proration and reciprocity;
- (8) liquid fuel tax collections;
- (9) licensing of dealers, motor vehicle transporters, motor vehicle wreckers, for hire vehicles, and drivers' schools;
- (10) general highway safety promotion in cooperation with the Washington state patrol and traffic safety commission;
- (11) such other activities as the legislature may provide.

[1990 c 250 § 14; 1965 c 156 § 3.]

Additional notes found at www.leg.wa.gov

46.01.030 Administration and improvement of certain motor vehicle laws. (Effective July 1, 2011.) The department is responsible for administering and recommending the improvement of the motor vehicle laws of this state relating to:

- (1) Driver examining and licensing;
- (2) Driver improvement;
- (3) Driver records;
- (4) Financial responsibility;
- (5) Certificates of title;
- (6) Vehicle registration certificates and license plates;
- (7) Proration and reciprocity;
- (8) Liquid fuel tax collections;
- (9) Licensing of dealers, motor vehicle transporters, motor vehicle wreckers, for hire vehicles, and drivers' schools;
- (10) General highway safety promotion in cooperation with the Washington state patrol and traffic safety commission; and
- (11) Such other activities as the legislature may provide.

[2010 c 161 § 1107; 1990 c 250 § 14; 1965 c 156 § 3.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.01.040 Powers, duties, and functions relating to motor vehicle laws vested in department. (Effective until July 1, 2011.) The department of licensing is vested with all powers, functions, and duties with respect to and including the following:

- (1) The motor vehicle fuel excise tax as provided in chapter 82.36 RCW;
- (2) The special fuel tax as provided in chapter 82.38 RCW;
- (3) The motor vehicle excise tax as provided in chapter 82.44 RCW;

(4) The *house trailer excise tax as provided in chapter 82.50 RCW;

(5) All general powers and duties relating to motor vehicles as provided in chapter 46.08 RCW;

(6) Certificates of ownership and registration as provided in chapters 46.12 and 46.16 RCW;

(7) The registration and licensing of motor vehicles as provided in chapters 46.12 and 46.16 RCW;

(8) Dealers' licenses as provided in chapter 46.70 RCW;

(9) The licensing of motor vehicle transporters as provided in chapter 46.76 RCW;

(10) The licensing of **motor vehicle wreckers as provided in chapter 46.80 RCW;

(11) The administration of the laws relating to reciprocal or proportional registration of motor vehicles as provided in chapter 46.85 RCW;

(12) The licensing of passenger vehicles for hire as provided in chapter 46.72 RCW;

(13) Operators' licenses as provided in chapter 46.20 RCW;

(14) Commercial driver training schools as provided in chapter 46.82 RCW;

(15) Financial responsibility as provided in chapter 46.29 RCW;

(16) Accident reporting as provided in chapter 46.52 RCW;

(17) Disposition of revenues as provided in chapter 46.68 RCW; and

(18) The administration of all other laws relating to motor vehicles vested in the director of licenses on June 30, 1965. [1983 c 3 § 117; 1979 c 158 § 115; 1965 c 156 § 4.]

Reviser's note: *(1) Redesignated the "travel trailers and campers excise tax" by 1967 ex.s. c 149 § 59.

***(2) "Motor vehicle wrecker" redesignated "vehicle wrecker" by 1995 c 256.

46.01.040 Powers, duties, and functions relating to motor vehicle laws vested in department. (Effective July 1, 2011.) The department is vested with all powers, functions, and duties with respect to and including the following:

(1) The motor vehicle fuel excise tax as provided in chapter 82.36 RCW;

(2) The special fuel tax as provided in chapter 82.38 RCW;

(3) The motor vehicle excise tax as provided in chapter 82.44 RCW;

(4) The travel trailers and campers excise tax as provided in chapter 82.50 RCW;

(5) All general powers and duties relating to motor vehicles as provided in chapter 46.08 RCW;

(6) Certificates of title and registration certificates as provided in chapters 46.12 and *46.16 RCW;

(7) The registration of motor vehicles as provided in *chapter 46.16 RCW;

(8) Dealers' licenses as provided in chapter 46.70 RCW;

(9) The licensing of motor vehicle transporters as provided in chapter 46.76 RCW;

(10) The licensing of vehicle wreckers as provided in chapter 46.80 RCW;

(2010 Ed.)

(11) The administration of the laws relating to reciprocal or proportional registration of motor vehicles as provided in chapter 46.85 RCW;

(12) The licensing of passenger vehicles for hire as provided in chapter 46.72 RCW;

(13) Drivers' licenses as provided in chapter 46.20 RCW;

(14) Commercial driver training schools as provided in chapter 46.82 RCW;

(15) Financial responsibility as provided in chapter 46.29 RCW;

(16) Accident reporting as provided in chapter 46.52 RCW;

(17) Disposition of revenues as provided in chapter 46.68 RCW; and

(18) The administration of all other laws relating to motor vehicles vested in the director of licenses on June 30, 1965. [2010 c 161 § 1108; 1983 c 3 § 117; 1979 c 158 § 115; 1965 c 156 § 4.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.01.070 Functions performed by state patrol as agent for director of licenses transferred to department. Functions named in RCW 46.01.030 which have been performed by the state patrol as agent of the director of licenses before June 30, 1965 shall be performed by the department of licensing after June 30, 1965. [1979 c 158 § 118; 1965 c 156 § 7.]

46.01.100 Organization of department. Directors shall organize the department in such manner as they may deem necessary to segregate and conduct the work of the department. [1990 c 250 § 16; 1965 c 156 § 10.]

Additional notes found at www.leg.wa.gov

46.01.110 Rule-making authority. (Effective until July 1, 2011.) The director of licensing is hereby authorized to adopt and enforce such reasonable rules as may be consistent with and necessary to carry out the provisions relating to vehicle licenses, certificates of ownership and license registration and drivers' licenses not in conflict with the provisions of Title 46 RCW: PROVIDED, That the director of licensing may not adopt rules after July 23, 1995, that are based solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 108; 1979 c 158 § 120; 1965 c 156 § 11; 1961 c 12 § 46.08.140. Prior: 1937 c 188 § 79; RRS § 6312-79. Formerly RCW 46.08.140.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

46.01.110 Rule-making authority. (Effective July 1, 2011.) The director may adopt and enforce rules to carry out

provisions related to vehicle registrations, certificates of title, and drivers' licenses. These rules must not be based:

(1) Solely on a section of law stating a statute's intent or purpose;

(2) On the enabling provisions of the statute establishing the agency; or

(3) On any combination of subsections (1) and (2) of this section. [2010 c 161 § 202; 1995 c 403 § 108; 1979 c 158 § 120; 1965 c 156 § 11; 1961 c 12 § 46.08.140. Prior: 1937 c 188 § 79; RRS § 6312-79. Formerly RCW 46.08.140.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

46.01.115 Rules to implement 1998 c 165. The department of licensing may adopt rules as necessary to implement chapter 165, Laws of 1998. [1998 c 165 § 14.]

Additional notes found at www.leg.wa.gov

46.01.130 Powers and duties of department and director—Personnel screening, appointment of county auditors as agents. (Effective until July 1, 2011.) (1) The department of licensing shall have the general supervision and control of the issuing of vehicle licenses and vehicle license number plates and shall have the full power to do all things necessary and proper to carry out the provisions of the law relating to the licensing of vehicles; the director shall have the power to appoint and employ deputies, assistants and representatives, and such clerks as may be required from time to time, and to provide for their operation in different parts of the state, and the director shall have the power to appoint the county auditors of the several counties as the director's agents for the licensing of vehicles.

(2)(a) The director shall investigate the conviction records and pending charges of any current employee of or prospective employee being considered for any position with the department that has or will have:

(i) The ability to create or modify records of applicants for enhanced drivers' licenses and identicards issued under RCW 46.20.202; and

(ii) The ability to issue enhanced drivers' licenses and identicards under RCW 46.20.202.

(b) The investigation consists of a background check as authorized under RCW 10.97.050, 43.43.833, and 43.43.834, and the federal bureau of investigation. The background check must be conducted through the Washington state patrol criminal identification section and may include a national check from the federal bureau of investigation, which is through the submission of fingerprints. The director shall use the information solely to determine the character, suitability, and competence of current or prospective employees subject to this section.

(c) The director shall investigate the conviction records and pending charges of an employee subject to this subsection every five years.

(d) Criminal justice agencies shall provide the director with information that they may possess and that the director may require solely to determine the employment suitability

of current or prospective employees subject to this section. [2009 c 169 § 1; 1979 c 158 § 121; 1973 c 103 § 2; 1971 ex.s. c 231 § 8; 1965 c 156 § 13; 1961 c 12 § 46.08.090. Prior: 1937 c 188 § 26; RRS § 6312-26; prior: 1921 c 96 § 3, part; 1917 c 155 § 2, part; 1915 c 142 § 3, part. Formerly RCW 46.08.090.]

Additional notes found at www.leg.wa.gov

46.01.130 Powers and duties of director—Personnel screening, appointment of county auditors as agents. (Effective July 1, 2011.) The director:

(1) Shall supervise and control the issuing of vehicle certificates of title, vehicle registrations, and vehicle license plates, and has the full power to do all things necessary and proper to carry out the provisions of the law relating to the registration of vehicles;

(2) May appoint and employ deputies, assistants, representatives, and clerks;

(3) May establish branch offices in different parts of the state;

(4) May appoint county auditors in Washington state or, in the absence of a county auditor, the department or an official of county government as agents for applications for and the issuance of vehicle certificates of title and vehicle registrations; and

(5)(a) Shall investigate the conviction records and pending charges of any current employee of or prospective employee being considered for any position with the department that has or will have:

(i) The ability to create or modify records of applicants for enhanced drivers' licenses and identicards issued under RCW 46.20.202; and

(ii) The ability to issue enhanced drivers' licenses and identicards under RCW 46.20.202.

(b) The investigation consists of a background check as authorized under RCW 10.97.050, 43.43.833, and 43.43.834, and the federal bureau of investigation. The background check must be conducted through the Washington state patrol criminal identification section and may include a national check from the federal bureau of investigation, which is through the submission of fingerprints. The director shall use the information solely to determine the character, suitability, and competence of current or prospective employees subject to this section.

(c) The director shall investigate the conviction records and pending charges of an employee subject to this subsection every five years.

(d) Criminal justice agencies shall provide the director with information that they may possess and that the director may require solely to determine the employment suitability of current or prospective employees subject to this section. [2010 c 161 § 203; 2009 c 169 § 1; 1979 c 158 § 121; 1973 c 103 § 2; 1971 ex.s. c 231 § 8; 1965 c 156 § 13; 1961 c 12 § 46.08.090. Prior: 1937 c 188 § 26; RRS § 6312-26; prior: 1921 c 96 § 3, part; 1917 c 155 § 2, part; 1915 c 142 § 3, part. Formerly RCW 46.08.090.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.01.135 Establishment of investigation unit—Use of criminal history information. (1) There is established an investigation unit within the department for the purpose of detection, investigation, and prosecution of any act prohibited or declared to be unlawful in the programs administered by the department. The director will employ qualified supervisory, legal, and investigative personnel for the program. Program staff must be qualified by training and experience.

(2) The director and the investigation unit are authorized to receive criminal history record information that includes nonconviction data for any purpose associated with an investigation conducted by the investigation unit established under this section. Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited. [2008 c 74 § 6.]

Finding—2008 c 74: See note following RCW 51.04.024.

46.01.140 Special deputies and subagents of director—Disposition of application fees. (Effective until July 1, 2011.) (1) The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies and recommend subagents to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

(2) A county auditor appointed by the director may request that the director appoint subagencies within the county.

(a) Upon authorization of the director, the auditor shall use an open competitive process including, but not limited to, a written business proposal and oral interview to determine the qualifications of all interested applicants.

(b) A subagent may recommend a successor who is either the subagent's sibling, spouse, or child, or a subagency employee, as long as the recommended successor participates in the open, competitive process used to select an applicant. In making successor recommendation and appointment determinations, the following provisions apply:

(i) If a subagency is held by a partnership or corporate entity, the nomination must be submitted on behalf of, and agreed to by, all partners or corporate officers.

(ii) No subagent may receive any direct or indirect compensation or remuneration from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment.

(iii) (a) and (b) of this subsection are intended to assist in the efficient transfer of appointments in order to minimize public inconvenience. They do not create a proprietary or property interest in the appointment.

(c) The auditor shall submit all proposals to the director, and shall recommend the appointment of one or more subagents who have applied through the open competitive process. The auditor shall include in his or her recommendation to the director, not only the name of the successor who is a relative or employee, if applicable and if otherwise qualified, but also the name of one other applicant who is qualified and was chosen through the open competitive process. The director has final appointment authority.

(3)(a) A county auditor who is appointed as an agent by the department shall enter into a standard contract provided by the director.

(b) A subagent appointed under subsection (2) of this section shall enter into a standard contract with the county auditor. The director shall provide the standard contract to county auditors.

(c) The contracts provided for in (a) and (b) of this subsection must contain at a minimum provisions that:

(i) Describe the responsibilities, and where applicable, the liability, of each party relating to the service expectations and levels, equipment to be supplied by the department, and equipment maintenance;

(ii) Require the specific type of insurance or bonds so that the state is protected against any loss of collected motor vehicle tax revenues or loss of equipment;

(iii) Specify the amount of training that will be provided by the state, the county auditor, or subagents;

(iv) Describe allowable costs that may be charged to vehicle licensing activities as provided for in (d) of this subsection;

(v) Describe the causes and procedures for termination of the contract, which may include mediation and binding arbitration.

(2010 Ed.)

(d) The department shall develop procedures that will standardize and prescribe allowable costs that may be assigned to vehicle licensing and vessel registration and title activities performed by county auditors.

(e) The contracts may include any provision that the director deems necessary to ensure acceptable service and the full collection of vehicle and vessel tax revenues.

(f) The director may waive any provisions of the contract deemed necessary in order to ensure that readily accessible service is provided to the citizens of the state.

(4)(a) At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or the right to operate any vehicle or vessel upon the public highways or waters of this state, excluding applicants already paying such fee under RCW *46.16.070 or **46.16.085, the applicant shall pay to the director, county auditor, or other agent a fee of three dollars for each application in addition to any other fees required by law.

(b) Counties that do not cover the expenses of vehicle licensing and vessel registration and title activities may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to verify whether a request is reasonable. Payment shall be made on requests found to be allowable from the licensing services account.

(c) Applicants for certificates of ownership, including applicants paying fees under RCW *46.16.070 or **46.16.085, shall pay to the director, county auditor, or other agent a fee of four dollars in addition to any other fees required by law.

(d) The fees under (a) and (c) of this subsection, if paid to the county auditor as agent of the director, or if paid to a subagent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. If the fee is paid to another agent of the director, the fee shall be used by the agent to defray his or her expenses in handling the application.

(e) Applicants required to pay the three-dollar fee established under (a) of this subsection, must pay an additional seventy-five cents, which must be collected and remitted to the state treasurer and distributed as follows:

(i) Fifty cents must be deposited into the department of licensing services account of the motor vehicle fund and must be used for agent and subagent support, which is to include but not be limited to the replacement of department-owned equipment in the possession of agents and subagents.

(ii) Twenty-five cents must be deposited into the license plate technology account created under ***RCW 46.16.685.

(5) A subagent shall collect a service fee of (a) twelve dollars for changes in a certificate of ownership, with or without registration renewal, or verification of record and preparation of an affidavit of lost title other than at the time of the title application or transfer and (b) five dollars for registration renewal only, issuing a transit permit, or any other service under this section.

(6) If the fee is collected by the state patrol as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the state patrol highway account. If the fee is collected by the department of transportation as agent for the director, the fee shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund.

(7) Any county revenues that exceed the cost of providing vehicle licensing and vessel registration and title activities in a county, calculated in accordance with the procedures in subsection (3)(d) of this section, shall be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(8) The director may adopt rules to implement this section. [2010 1st sp.s. c 7 § 139; 2010 c 221 § 1; 2005 c 343 § 1; 2003 c 370 § 3; 2001 c 331 § 1; 1996 c 315 § 1; 1992 c 216 § 1; 1991 c 339 § 16; 1990 c 250 § 89; 1988 c 12 § 1; 1987 c 302 § 1; 1985 c 380 § 12. Prior: 1983 c 77 § 1; 1983 c 26 § 1; 1980 c 114 § 2; 1979 c 158 § 122; 1975 1st ex.s. c 146 § 1; 1973 c 103 § 1; 1971 ex.s. c 231 § 9; 1971 ex.s. c 91 § 3; 1965 c 156 § 14; 1963 c 85 § 1; 1961 c 12 § 46.08.100; prior: 1955 c 89 § 3; 1937 c 188 § 27; RRS § 6312-27. Formerly RCW 46.08.100.]

Reviser's note: *(1) RCW 46.16.070 was recodified as RCW 46.16A.455 pursuant to 2010 c 161 § 1217, effective July 1, 2011. However, the appropriate reference appears to be to RCW 46.17.355.

** (2) RCW 46.16.085 was repealed by 2010 c 161 § 438, effective July 1, 2011. For later enactment, see RCW 46.17.350(1)(c).

*** (3) RCW 46.16.685 was recodified as RCW 46.68.370 pursuant to 2010 c 161 § 1230, effective July 1, 2011.

(4) This section was amended by 2010 c 221 § 1 and by 2010 1st sp.s. c 7 § 139, each without reference to the other. Both amendments are incor-

porated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Application—2003 c 370: "Sections 2 and 3 of this act take effect for renewals that are due or become due on or after November 1, 2003." [2003 c 370 § 6.] Section 2 of this act was vetoed by the governor.

Additional notes found at www.leg.wa.gov

46.01.140 County auditors, agents, and subagents—Powers and duties—Standard contracts—Rules (as amended by 2010 c 161). (*Effective July 1, 2011.*) ((1) The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies and recommend subagents to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates:

(2) A county auditor appointed by the director may request that the director appoint subagencies within the county:

(a) Upon authorization of the director, the auditor shall use an open competitive process including, but not limited to, a written business proposal and oral interview to determine the qualifications of all interested applicants:

(b) A subagent may recommend a successor who is either the subagent's sibling, spouse, or child, or a subagency employee, as long as the recommended successor participates in the open, competitive process used to select an applicant. In making successor recommendation and appointment determinations, the following provisions apply:

(i) If a subagency is held by a partnership or corporate entity, the nomination must be submitted on behalf of, and agreed to by, all partners or corporate officers:

(ii) No subagent may receive any direct or indirect compensation or remuneration from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment:

(iii) (a) and (b) of this subsection are intended to assist in the efficient transfer of appointments in order to minimize public inconvenience. They do not create a proprietary or property interest in the appointment:

(c) The auditor shall submit all proposals to the director, and shall recommend the appointment of one or more subagents who have applied through the open competitive process. The auditor shall include in his or her recommendation to the director, not only the name of the successor who is a relative or employee, if applicable and if otherwise qualified, but also the name of one other applicant who is qualified and was chosen through the open competitive process. The director has final appointment authority:

(3)(a) A county auditor who is appointed as an agent by the department shall enter into a standard contract provided by the director, developed with the advice of the title and registration advisory committee:

(b) A subagent appointed under subsection (2) of this section shall enter into a standard contract with the county auditor, developed with the advice of the title and registration advisory committee. The director shall provide the standard contract to county auditors:

(c) The contracts provided for in (a) and (b) of this subsection must contain at a minimum provisions that:

(i) Describe the responsibilities, and where applicable, the liability, of each party relating to the service expectations and levels, equipment to be supplied by the department, and equipment maintenance;

(ii) Require the specific type of insurance or bonds so that the state is protected against any loss of collected motor vehicle tax revenues or loss of equipment;

(iii) Specify the amount of training that will be provided by the state, the county auditor, or subagents;

(iv) Describe allowable costs that may be charged to vehicle licensing activities as provided for in (d) of this subsection;

(v) Describe the causes and procedures for termination of the contract, which may include mediation and binding arbitration:

(d) The department shall develop procedures that will standardize and prescribe allowable costs that may be assigned to vehicle licensing and vessel registration and title activities performed by county auditors:

(e) The contracts may include any provision that the director deems necessary to ensure acceptable service and the full collection of vehicle and vessel tax revenues:

(f) The director may waive any provisions of the contract deemed necessary in order to ensure that readily accessible service is provided to the citizens of the state:

(4)(a) At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or the right to operate any vehicle or vessel upon the public highways or waters of this state, excluding applicants already paying such fee under RCW 46.16.070 or 46.16.085, the applicant shall pay to the director, county auditor, or other agent a fee of three dollars for each application in addition to any other fees required by law:

(b) Counties that do not cover the expenses of vehicle licensing and vessel registration and title activities may submit to the department a request for cost coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to verify whether a request is reasonable. Payment shall be made on requests found to be allowable from the licensing services account:

(c) Applicants for certificates of ownership, including applicants paying fees under RCW 46.16.070 or 46.16.085, shall pay to the director, county auditor, or other agent a fee of four dollars in addition to any other fees required by law:

(d) The fees under (a) and (c) of this subsection, if paid to the county auditor as agent of the director, or if paid to a subagent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. If the fee is paid to another agent of the director, the fee shall be used by the agent to defray his or her expenses in handling the application:

(e) Applicants required to pay the three-dollar fee established under (a) of this subsection, must pay an additional seventy-five cents, which must be collected and remitted to the state treasurer and distributed as follows:

(i) Fifty cents must be deposited into the department of licensing services account of the motor vehicle fund and must be used for agent and subagent support, which is to include but not be limited to the replacement of department-owned equipment in the possession of agents and subagents:

(ii) Twenty-five cents must be deposited into the license plate technology account created under RCW 46.16.685:

(5) A subagent shall collect a service fee of (a) ten dollars for changes in a certificate of ownership, with or without registration renewal, or verification of record and preparation of an affidavit of lost title other than at the time of the title application or transfer and (b) four dollars for registration renewal only, issuing a transit permit, or any other service under this section:

(6) If the fee is collected by the state patrol as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the state patrol highway account. If the fee is collected by the department of transportation as agent for the director, the fee shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund:

(7) Any county revenues that exceed the cost of providing vehicle licensing and vessel registration and title activities in a county, calculated in accordance with the procedures in subsection (3)(d) of this section, shall be expended as determined by the county legislative authority during the process established by law for adoption of county budgets:

(8) The director may adopt rules to implement this section:))

(1) County auditor/agent duties. A county auditor or other agent appointed by the director shall:

(a) Enter into a standard contract provided by the director, as developed in consultation with the advice of the title and registration advisory committee;

(b) Provide all services authorized by the director for vehicle certificates of title and vehicle registration applications and issuance under the direction and supervision of the director including, but not limited to:

(i) Processing reports of sale;

(ii) Processing transitional ownership transactions;

(iii) Processing mail-in vehicle registration renewals until directed otherwise by legislative authority;

(iv) Issuing registrations and temporary ORV use permits for off-road vehicles as required under chapter 46.09 RCW;

(v) Issuing registrations for snowmobiles as required under chapter 46.10 RCW; and

(vi) Collecting fees and taxes as required.

(2) County auditor/agent assistants and subagents. A county auditor or other agent appointed by the director may, with approval of the director:

(a) Appoint assistants as special deputies to accept applications for vehicle certificates of title and to issue vehicle registrations; and

(b) Recommend and request that the director appoint subagencies within the county to accept applications for vehicle certificates of title and vehicle registration application issuance.

(3) **Appointing subagents.** A county auditor or other agent appointed by the director who requests a subagency shall, with approval of the director:

(a) Use an open competitive process including, but not limited to, a written business proposal and oral interview to determine the qualifications of all interested applicants; and

(b) Submit all proposals to the director with a recommendation for appointment of one or more subagents who have applied through the open competitive process. If a qualified successor who is an existing subagent's sibling, spouse, or child, or a subagency employee has applied, the county auditor shall provide the name of the qualified successor and the name of one other applicant who is qualified and was chosen through the open competitive process.

(4) **Subagent duties.** A subagent appointed by the director shall:

(a) Enter into a standard contract with the county auditor or agent provided by the director, as developed in consultation with the title and registration advisory committee; and

(b) Provide all services authorized by the director for vehicle certificates of title and vehicle registration applications and issuance under the direction and supervision of the county auditor or agent and the director including, but not limited to:

(i) Processing reports of sale;

(ii) Processing transitional ownership transactions;

(iii) Mailing out vehicle registrations and replacement plates to internet payment option customers until directed otherwise by legislative authority;

(iv) Issuing registrations and temporary ORV use permits for off-road vehicles as required under chapter 46.09 RCW;

(v) Issuing registrations for snowmobiles as required under chapter 46.10 RCW; and

(vi) Collecting fees and taxes as required.

(5) **Subagent successorship.** A subagent appointed by the director who no longer wants his or her appointment may recommend a successor who is the subagent's sibling, spouse, or child, or a subagency employee. The recommended successor must participate in the open competitive process used to select an applicant. In making successor recommendations and appointment determinations, the following provisions apply:

(a) If a subagency is held by a partnership or corporate entity, the nomination must be submitted on behalf of, and agreed to by, all partners or corporate officers;

(b) A subagent may not receive any direct or indirect compensation or remuneration from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment; and

(c) The appointment of a successor is intended to assist in the efficient transfer of appointments to minimize public inconvenience. The appointment of a successor does not create a proprietary or property interest in the appointment.

(6) **Standard contracts.** The standard contracts provided by the director in this section may include provisions that the director deems necessary to ensure that readily accessible and acceptable service is provided to the citizens of the state, including the full collection of fees and taxes. The standard contracts must include provisions that:

(a) Describe responsibilities and liabilities of each party related to service expectations and levels;

(b) Describe the equipment to be supplied by the department and equipment maintenance;

(c) Require specific types of insurance or bonds, or both, to protect the state against any loss of collected revenue or loss of equipment;

(d) Specify the amount of training that will be provided by each of the parties;

(e) Describe allowable costs that may be charged for vehicle registration activities as described in subsection (7) of this section; and

(f) Describe causes and procedures for termination of the contract, which may include mediation and binding arbitration.

(7) **County auditor/agent cost reimbursement.** A county auditor or other agent appointed by the director who does not cover expenses for services provided by the standard contract may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to standardize and identify allowable costs and to verify whether a request is reasonable. Payment must be made on those requests found to be allowable from the licensing services account.

(8) **County auditor/agent revenue disbursement.** County revenues that exceed the cost of providing services described in the standard contract,

calculated in accordance with the procedures in subsection (7) of this section, must be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(9) **Appointment authority.** The director has final appointment authority for county auditors or other agents or subagents.

(10) **Rules.** The director may adopt rules to implement this section. [2010 c 161 § 204; 2005 c 343 § 1; 2003 c 370 § 3; 2001 c 331 § 1; 1996 c 315 § 1; 1992 c 216 § 1; 1991 c 339 § 16; 1990 c 250 § 89; 1988 c 12 § 1; 1987 c 302 § 1; 1985 c 380 § 12. Prior: 1983 c 77 § 1; 1983 c 26 § 1; 1980 c 114 § 2; 1979 c 158 § 122; 1975 1st ex.s. c 146 § 1; 1973 c 103 § 1; 1971 ex.s. c 231 § 9; 1971 ex.s. c 91 § 3; 1965 c 156 § 14; 1963 c 85 § 1; 1961 c 12 § 46.08.100; prior: 1955 c 89 § 3; 1937 c 188 § 27; RRS § 6312-27. Formerly RCW 46.08.100.]

Reviser's note: RCW 46.01.140 was amended three times during the 2010 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Application—2003 c 370: "Sections 2 and 3 of this act take effect for renewals that are due or become due on or after November 1, 2003." [2003 c 370 § 6.] Section 2 of this act was vetoed by the governor.

Additional notes found at www.leg.wa.gov

46.01.150 Branch offices. The department may maintain such branch offices within the state as the director may deem necessary properly to carry out the powers and duties vested in the department. [1965 c 156 § 15.]

Office of department, maintenance at state capital: RCW 43.17.050.

46.01.160 Forms for applications, licenses, and certificates. (Effective until July 1, 2011.) The director shall prescribe and provide suitable forms of applications, certificates of ownership and registration, drivers' licenses and all other forms and licenses requisite or deemed necessary to carry out the provisions of Title 46 RCW and any other laws the enforcement and administration of which are vested in the department. [1965 c 156 § 16.]

Director to prescribe forms for applications, licenses, and certificates: RCW 43.24.040.

46.01.160 Forms for applications, certificates of title, registration certificates, etc. (Effective July 1, 2011.) The director shall prescribe and provide suitable forms of applications, certificates of title and registration certificates, drivers' licenses, and all other forms and licenses requisite or deemed necessary to carry out the provisions of this title and any other laws the enforcement and administration of which are vested in the department. [2010 c 161 § 1109; 1965 c 156 § 16.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Director to prescribe forms for applications, licenses, and certificates: RCW 43.24.040.

46.01.170 Seal. The department shall have an official seal with the words "Department of Licensing of Washington" engraved thereon. [1977 ex.s. c 334 § 4; 1965 c 156 § 17.]

Additional notes found at www.leg.wa.gov

46.01.180 Oaths and acknowledgments. Officers and employees of the department designated by the director are, for the purpose of administering the motor vehicle laws, authorized to administer oaths and acknowledge signatures and shall do so without fee. [1965 c 156 § 18.]

Oath of director: RCW 43.17.030.

46.01.190 Designation of state patrol as agent for surrender of drivers' licenses. The director of licensing may designate the Washington state patrol as an agent to secure the surrender of drivers' licenses which have been suspended, revoked, or canceled pursuant to law. [1979 c 158 § 123; 1965 c 156 § 19.]

46.01.230 Payment by check or money order—Regulations—Surrender of canceled license—Handling fee for dishonored checks—Internet payment option. (Effective until July 1, 2011.) (1) The department of licensing is authorized to accept checks and money orders for payment of drivers' licenses, certificates of ownership and registration, motor vehicle excise taxes, gross weight fees, and other fees and taxes collected by the department, in accordance with regulations adopted by the director. The director's regulations shall duly provide for the public's convenience consistent with sound business practice and shall encourage the annual renewal of vehicle registrations by mail to the department, authorizing checks and money orders for payment. Such regulations shall contain provisions for cancellation of any registrations, licenses, or permits paid for by checks or money orders which are not duly paid and for the necessary accounting procedures in such cases: PROVIDED, That any bona fide purchaser for value of a vehicle shall not be liable or responsible for any prior uncollected taxes and fees paid, pursuant to this section, by a check which has subsequently been dishonored: AND PROVIDED FURTHER, That no transfer of ownership of a vehicle may be denied to a bona fide purchaser for value of a vehicle if there are outstanding uncollected fees or taxes for which a predecessor paid, pursuant to this section, by check which has subsequently been dishonored nor shall the new owner be required to pay any fee for replacement vehicle license number plates that may be required pursuant to RCW 46.16.270 as now or hereafter amended.

(2) It is a traffic infraction to fail to surrender within ten days to the department or any authorized agent of the department any certificate, license, or permit after being notified that such certificate, license, or permit has been canceled pursuant to this section. Notice of cancellation may be accomplished by sending a notice by first-class mail using the last known address in department records for the holder of the certificate, license, or permit, and recording the transmittal on an affidavit of first-class mail.

(3) Whenever registrations, licenses, or permits have been paid for by checks that have been dishonored by nonacceptance or nonpayment, a reasonable handling fee may be assessed for each such instrument. Notwithstanding provisions of any other laws, county auditors, agents, and subagents, appointed or approved by the director pursuant to RCW 46.01.140, may collect restitution, and where they have collected restitution may retain the reasonable handling fee.

The amount of the reasonable handling fee may be set by rule by the director.

(4) In those counties where the county auditor has been appointed an agent of the director under RCW 46.01.140, the auditor shall continue to process mail-in registration renewals until directed otherwise by legislative authority. Subagents appointed by the director under RCW 46.01.140 have the same authority to mail out registrations and replacement plates to Internet payment option customers as the agents until directed otherwise by legislative authority. The department shall provide separate statements giving notice to Internet payment option customers that: (a) A subagent service fee, as provided in RCW 46.01.140(5)(b), will be collected by a subagent office for providing mail and pick-up services; and (b) a filing fee will be collected on all transactions listed under RCW 46.01.140(4)(a). The statement must include the amount of the fee and be published on the department's Internet web site on the page that lists each department, county auditor, and subagent office, eligible to provide mail or pick-up services for registration renewals and replacement plates. The statements must be published below each office listed. [2003 c 369 § 1; 1994 c 262 § 1; 1992 c 216 § 2; 1987 c 302 § 2; 1979 ex.s. c 136 § 39; 1979 c 158 § 124; 1975 c 52 § 1; 1965 ex.s. c 170 § 44.]

Effective date—2003 c 369: "This act takes effect October 1, 2003." [2003 c 369 § 2.]

Additional notes found at www.leg.wa.gov

46.01.230 Payment by check or money order—Dishonored checks or money orders—Failure to surrender canceled certificate, registration, or permit—Immunity from payment of uncollected fees—Rules. (Effective July 1, 2011.) (1) The department may accept checks and money orders for the payment of drivers' licenses, certificates of title and vehicle registrations, vehicle excise taxes, gross weight fees, and other fees and taxes collected by the department. Whenever registrations, licenses, or permits have been paid for by checks or money orders that have been dishonored by nonacceptance or nonpayment, the department shall:

(a) Cancel the registration, license, or permit;

(b) Send a notice of cancellation by first-class mail using the last known address in department records for the holder of the certificate, license, or permit, and complete an affidavit of first-class mail; and

(c) Assess a handling fee, set by rule.

(2) It is a traffic infraction to fail to surrender a certificate of title, registration certificate, or permit to the department or to an authorized agent within ten days of being notified that the certificate, registration, or permit has been canceled.

(3) County auditors, agents, and subagents appointed by the director may collect restitution for dishonored checks and money orders and keep the handling fee.

(4) A person who has recently acquired a vehicle by purchase, exchange, gift, lease, inheritance, or legal action is not liable or responsible for the payment of uncollected fees and taxes that were paid for by a predecessor's check or money order that was subsequently dishonored. The department may not deny an application to transfer ownership for the uncollected amount.

(5) The director may adopt rules to implement this section. The rules must provide for the public's convenience

consistent with sound business practice and encourage annual renewal of vehicle registrations by mail, authorizing checks and money orders for payment. [2010 c 161 § 205; 2003 c 369 § 1; 1994 c 262 § 1; 1992 c 216 § 2; 1987 c 302 § 2; 1979 ex.s. c 136 § 39; 1979 c 158 § 124; 1975 c 52 § 1; 1965 ex.s. c 170 § 44.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2003 c 369: "This act takes effect October 1, 2003." [2003 c 369 § 2.]

Additional notes found at www.leg.wa.gov

46.01.235 Payment by credit or debit card. (Effective until July 1, 2011.) The department may adopt necessary rules and procedures to allow use of credit and debit cards for payment of fees and excise taxes to the department and its agents or subagents related to the licensing of drivers, the issuance of identicards, and vehicle and vessel titling and registration. The department may establish a convenience fee to be paid by the credit or debit card user whenever a credit or debit card is chosen as the payment method. The fee must be sufficient to offset the charges imposed on the department and its agents and subagents by credit and debit card companies. In no event may the use of credit or debit cards authorized by this section create a loss of revenue to the state.

The use of a personal credit card does not rely upon the credit of the state as prohibited by Article VIII, section 5 of the state Constitution. [2004 c 249 § 9; 1999 c 271 § 1.]

46.01.235 Payment by credit or debit card. (Effective July 1, 2011.) The department may adopt necessary rules and procedures to allow use of credit and debit cards for payment of fees and excise taxes to the department and its agents or subagents related to the licensing of drivers, the issuance of identicards, and vehicle and vessel certificates of title and registration. The department may establish a convenience fee to be paid by the credit or debit card user whenever a credit or debit card is chosen as the payment method. The fee must be sufficient to offset the charges imposed on the department and its agents and subagents by credit and debit card companies. In no event may the use of credit or debit cards authorized by this section create a loss of revenue to the state.

The use of a personal credit card does not rely upon the credit of the state as prohibited by Article VIII, section 5 of the state Constitution. [2010 c 161 § 207; 2004 c 249 § 9; 1999 c 271 § 1.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.01.240 Internet payment option. (Effective July 1, 2011.) (1) The department shall provide on its internet payment option web site:

(a) That a filing fee will be collected on all transactions subject to a filing fee;

(b) That a subagent service fee will be collected by a subagent office for mail or pick-up licensing services; and

(c) The amount of the filing and subagent service fees.

(2) The filing and subagent service fees must be shown below each office listed. [2010 c 161 § 206.]

(2010 Ed.)

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.01.250 Certified copies of records—Fee. The director shall have the power and it shall be his or her duty upon request and payment of the fee as provided herein to furnish under seal of the director certified copies of any records of the department, except those for confidential use only. The director shall charge and collect therefor the actual cost to the department. Any funds accruing to the director of licensing under this section shall be certified and sent to the state treasurer and by him or her deposited to the credit of the highway safety fund. [2010 c 8 § 9001; 1979 c 158 § 125; 1967 c 32 § 3; 1961 c 12 § 46.08.110. Prior: 1937 c 188 § 80; RRS § 6312-80. Formerly RCW 46.08.110.]

46.01.260 Destruction of records by director. (Effective until July 1, 2011.) (1) Except as provided in subsection (2) of this section, the director, in his or her discretion, may destroy applications for vehicle licenses, copies of vehicle licenses issued, applications for drivers' licenses, copies of issued drivers' licenses, certificates of title and registration or other documents, records or supporting papers on file in his or her office which have been microfilmed or photographed or are more than five years old. If the applications for vehicle licenses are renewal applications, the director may destroy such applications when the computer record thereof has been updated.

(2)(a) The director shall not destroy records of convictions or adjudications of RCW 46.61.502, 46.61.504, 46.61.520, and 46.61.522, or records of deferred prosecutions granted under RCW 10.05.120 and shall maintain such records permanently on file.

(b) The director shall not, within fifteen years from the date of conviction or adjudication, destroy records if the offense was originally charged as one of the offenses designated in (a) of this subsection, convictions or adjudications of the following offenses: RCW 46.61.500 or 46.61.5249 or any other violation that was originally charged as one of the offenses designated in (a) of this subsection.

(c) For purposes of RCW 46.52.101 and 46.52.130, offenses subject to this subsection shall be considered "alcohol-related" offenses. [2009 c 276 § 2; 1999 c 86 § 2; 1998 c 207 § 3; 1997 c 66 § 11; 1996 c 199 § 4; 1994 c 275 § 14; 1984 c 241 § 1; 1971 ex.s. c 22 § 1; 1965 ex.s. c 170 § 45; 1961 c 12 § 46.08.120. Prior: 1955 c 76 § 1; 1951 c 241 § 1; 1937 c 188 § 77; RRS § 6312-77. Formerly RCW 46.08.120.]

Additional notes found at www.leg.wa.gov

46.01.260 Destruction of records by director. (Effective July 1, 2011.) (1) Except as provided in subsection (2) of this section, the director may destroy applications for vehicle registrations, copies of vehicle registrations issued, applications for drivers' licenses, copies of issued drivers' licenses, certificates of title and registration or other documents, and records or supporting papers on file in the department that have been microfilmed or photographed or are more than five years old. The director may destroy applications for vehicle

registrations that are renewal applications when the computer record of the applications has been updated.

(2)(a) The director shall not destroy records of convictions or adjudications of RCW 46.61.502, 46.61.504, 46.61.520, and 46.61.522, or records of deferred prosecutions granted under RCW 10.05.120 and shall maintain such records permanently on file.

(b) The director shall not, within fifteen years from the date of conviction or adjudication, destroy records if the offense was originally charged as one of the offenses designated in (a) of this subsection, convictions or adjudications of the following offenses: RCW 46.61.500 or 46.61.5249 or any other violation that was originally charged as one of the offenses designated in (a) of this subsection.

(c) For purposes of RCW 46.52.101 and 46.52.130, offenses subject to this subsection shall be considered "alcohol-related" offenses. [2010 c 161 § 208; 2009 c 276 § 2; 1999 c 86 § 2; 1998 c 207 § 3; 1997 c 66 § 11; 1996 c 199 § 4; 1994 c 275 § 14; 1984 c 241 § 1; 1971 ex.s. c 22 § 1; 1965 ex.s. c 170 § 45; 1961 c 12 § 46.08.120. Prior: 1955 c 76 § 1; 1951 c 241 § 1; 1937 c 188 § 77; RRS § 6312-77. Formerly RCW 46.08.120.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.01.270 Destruction of records by county auditor. (Effective until July 1, 2011.) The county auditor may destroy applications for vehicle licenses and any copies of vehicle licenses issued after such records have been on file in the auditor's office for a period of eighteen months, unless otherwise directed by the director. [1991 c 339 § 18; 1967 c 32 § 4; 1961 c 12 § 46.08.130. Prior: 1937 c 188 § 78; RRS § 6312-78. Formerly RCW 46.08.130.]

46.01.270 Destruction of records by county auditor or other agent. (Effective July 1, 2011.) A county auditor or other agent appointed by the director may destroy applications for vehicle registrations and any copies of vehicle registrations or other records issued after those records have been on file in the county auditor's or other agent's office for a period of eighteen months, unless otherwise directed by the director. [2010 c 161 § 209; 1991 c 339 § 18; 1967 c 32 § 4; 1961 c 12 § 46.08.130. Prior: 1937 c 188 § 78; RRS § 6312-78. Formerly RCW 46.08.130.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.01.290 Director to make annual reports to governor. The director shall report annually to the governor on the activities of the department. [1977 c 75 § 66; 1967 c 32 § 5; 1965 c 28 § 1; 1961 ex.s. c 21 § 29. Formerly RCW 46.08.200.]

46.01.310 Immunity of licensing agents. (Effective until July 1, 2011.) No civil suit or action may ever be commenced or prosecuted against any county auditor, or against any other government officer or entity, or against any other person, by reason of any act done or omitted to be done in

connection with the titling, licensing, or registration of vehicles or vessels while administering duties and responsibilities as an agent of the director of licensing, or as an agent of an agent of the director of licensing, pursuant to RCW 46.01.140. However, this section does not bar the state of Washington or the director of licensing from bringing any action, whether civil or criminal, against any such agent, nor shall it bar a county auditor or other agent of the director from bringing an action against his or her agent. [1987 c 302 § 3.]

Additional notes found at www.leg.wa.gov

46.01.310 Immunity of director, the state, county auditors, agents, and subagents. (Effective July 1, 2011.) No civil suit or action may ever be commenced or prosecuted against the director, the state of Washington, any county auditor or other agents appointed by the director, any other government officer or entity, or against any other person, by reason of any act done or omitted to be done in connection with the titling or registration of vehicles or vessels while administering duties and responsibilities imposed on the director or as an agent of the director, or as a subagent of an agent of the director. This section does not bar the state of Washington or the director from bringing any action, whether civil or criminal, against any agent, nor shall it bar a county auditor or other agent of the director from bringing an action against the agent. [2010 c 161 § 210; 1987 c 302 § 3.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.01.320 Title and registration advisory committee.

Reviser's note: RCW 46.01.320 was amended by 2010 c 161 § 1110 without reference to its repeal by 2010 1st sp.s. c 7 § 137. It has been declassified for publication purposes under RCW 1.12.025.

46.01.325 Agent and subagent fees—Analysis and evaluation. (1) The director shall prepare an annual comprehensive analysis and evaluation of agent and subagent fees. The director shall make recommendations for agent and subagent fee revisions to the senate and house transportation committees by January 1st of every third year starting with 1996. Fee revision recommendations may be made more frequently when justified by the annual analysis and evaluation.

(2) The annual comprehensive analysis and evaluation must consider, but is not limited to:

(a) Unique and significant financial, legislative, or other relevant developments that may impact fees;

(b) Current funding for ongoing operating and maintenance automation project costs affecting revenue collection and service delivery;

(c) Future system requirements including an appropriate sharing of costs between the department, agents, and subagents;

(d) Beneficial mix of customer service delivery options based on a fee structure commensurate with quality performance standards;

(e) Appropriate indices projecting state and national growth in business and economic conditions prepared by the United States department of commerce, the department of revenue, and the revenue forecast council for the state of

Washington. [2010 1st sp.s. c 7 § 138; 2005 c 319 § 116; 1996 c 315 § 3.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

46.01.330 Facilities siting coordination. The state patrol and the department of licensing shall coordinate their activities when siting facilities. This coordination shall result in the collocation of driver and vehicle licensing and vehicle inspection service facilities whenever possible.

The department and state patrol shall explore alternative state services, such as vehicle emission testing, that would be feasible to collocate in these joint facilities. The department and state patrol shall reach agreement with the department of transportation for the purposes of offering department of transportation permits at these one-stop transportation centers. All services provided at these transportation service facilities shall be provided at cost to the participating agencies.

In those instances where the community need or the agencies' needs do not warrant collocation this section shall not apply. [1993 sp.s. c 23 § 46.]

Additional notes found at www.leg.wa.gov

46.01.340 Database of fuel dealer and distributor license information. By December 31, 1996, the department of licensing shall implement a PC or server-based database of fuel dealer and distributor license application information. [1996 c 104 § 17.]

46.01.350 Fuel tax advisory group. By July 1, 1996, the department of licensing shall establish a fuel tax advisory group comprised of state agency and petroleum industry representatives to develop or recommend audit and investigation techniques, changes to fuel tax statutes and rules, information protocols that allow sharing of information with other states, and other tools that improve fuel tax administration or combat fuel tax evasion. [1996 c 104 § 18.]

46.01.360 Fees—Study and adjustment. To ensure cost recovery for department of licensing services, the department of licensing shall submit a fee study to the transportation committees of the house of representatives and the senate by December 1, 2003, and on a biennial basis thereafter. Based on this fee study, the Washington state legislature will review and adjust fees accordingly. [2002 c 352 § 27.]

Effective dates—2002 c 352: See note following RCW 46.09.410.

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 46.04.900 Construction—Title applicable to state registered domestic partnerships—2009 c 521.
- Abandoned, unauthorized, and junk vehicles, definitions relating to: RCW 46.55.010.*
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- Commercial drivers' licenses, definitions relating to: RCW 46.25.010.*
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- "Motor vehicle liability policy" defined: RCW 46.29.490.*
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- "Proof of financial responsibility for the future" defined: RCW 46.29.260.*
- "Resident" defined: RCW 46.16.028, 46.20.021.*
- Snowmobiles, definitions relating to: RCW 46.10.010.*
- "State" defined for purposes of financial responsibility: RCW 46.29.270.*
- "Traffic infraction, finding that has been committed" defined: RCW 46.20.270.*
- 46.04.010 Scope and construction of terms.** Terms used in this title shall have the meaning given to them in this chapter except where otherwise defined, and unless where used the context thereof shall clearly indicate to the contrary.
- Words and phrases used herein in the past, present or future tense shall include the past, present and future tenses; words and phrases used herein in the masculine, feminine or neuter gender shall include the masculine, feminine and neuter genders; and words and phrases used herein in the singular or plural shall include the singular and plural; unless the context thereof shall indicate to the contrary. [1961 c 12 § 46.04.010. Prior: 1959 c 49 § 2; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part; 1923 c 181 § 1, part; 1921 c 96 § 2, part; 1919 c 59 § 1, part; 1917 c 155 § 1, part; 1915 c 142 § 2, part; RRS § 6313, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]
- 46.04.013 Affidavit of loss. (Effective July 1, 2011.)** "Affidavit of loss" means a written statement confirming that the certificate of title, registration certificate, gross weight license, validation tab, or decal has been lost, stolen,

destroyed, or mutilated. The statement must be in a form prescribed by the director. [2010 c 161 § 101.]

Effective date—2010 c 161: "Except for section 1020 of this act, this act takes effect July 1, 2011." [2010 c 161 § 1238.]

Intent—2010 c 161: "This act is intended to streamline and make technical amendments to certain codified statutes that deal with vehicle and vessel registration and title. Any statutory changes made by this act should be interpreted as technical in nature and not be interpreted to have any substantive policy or legal implications." [2010 c 161 § 1.]

Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: "The senate and house of representatives transportation committees, in consultation with the office of the code reviser, shall prepare legislation for the 2011 regular legislative session that reconciles and conforms amendments made during the 2010 legislative session in this act." [2010 c 161 § 1201.]

46.04.014 Agent. (Effective July 1, 2011.) "Agent," for the purposes of entering into the standard contract required under RCW 46.01.140(1), means any county auditor or other individual, government, or business entity other than a subagent that is appointed to carry out vehicle registration and certificate of title functions for the department. [2010 c 161 § 102.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.015 Alcohol concentration. "Alcohol concentration" means (1) grams of alcohol per two hundred ten liters of a person's breath, or (2) grams of alcohol per one hundred milliliters of a person's blood. [1995 c 332 § 17; 1994 c 275 § 1.]

Additional notes found at www.leg.wa.gov

46.04.020 Alley. "Alley" means a public highway not designed for general travel and used primarily as a means of access to the rear of residences and business establishments. [1961 c 12 § 46.04.020. Prior: 1959 c 49 § 3; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.022 Amateur radio operator license plates. (Effective July 1, 2011.) "Amateur radio operator license plates" means special license plates displaying amateur radio call letters assigned by the federal communications commission. [2010 c 161 § 103.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.028 Armed forces license plate collection. (Effective July 1, 2011.) "Armed forces license plate collection" means the collection of six separate license plate designs issued under RCW 46.18.210. Each license plate design displays a symbol representing one of the five branches of the armed forces, and one representing the national guard. [2010 c 161 § 104.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.030 Arterial highway. "Arterial highway" means every public highway, or portion thereof, designated as such by proper authority. [1961 c 12 § 46.04.030. Prior:

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1959 c 49 § 4; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.040 Authorized emergency vehicle. "Authorized emergency vehicle" means any vehicle of any fire department, police department, sheriff's office, coroner, prosecuting attorney, Washington state patrol, ambulance service, public or private, which need not be classified, registered or authorized by the state patrol, or any other vehicle authorized in writing by the state patrol. [1987 c 330 § 701; 1961 c 12 § 46.04.040. Prior: 1959 c 49 § 5; 1953 c 40 § 1; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

Additional notes found at www.leg.wa.gov

46.04.050 Auto stage. "Auto stage" means any motor vehicle used for the purpose of carrying passengers together with incidental baggage and freight or either, on a regular schedule of time and rates: PROVIDED, That no motor vehicle shall be considered to be an auto stage where substantially the entire route traveled by such vehicle is within the corporate limits of any city or town or the corporate limits of any adjoining cities or towns. [1961 c 12 § 46.04.050. Prior: 1959 c 49 § 6; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part; 1923 c 181 § 1, part; 1921 c 96 § 2, part; 1919 c 59 § 1, part; 1917 c 155 § 1, part; 1915 c 142 § 1, part; RRS § 6313, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.060 Axle. "Axle" means structure or structures in the same or approximately the same transverse plane with a vehicle supported by wheels and on which or with which such wheels revolve. [1961 c 12 § 46.04.060. Prior: 1959 c 49 § 7; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part; 1923 c 181 § 1, part; RRS § 6313, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

46.04.062 Baseball stadium license plate. (Effective July 1, 2011.) "Baseball stadium license plate" means special license plates commemorating the construction of a baseball stadium as defined in RCW 82.14.0485. [2010 c 161 § 105.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.071 Bicycle. "Bicycle" means every device propelled solely by human power upon which a person or persons may ride, having two tandem wheels either of which is sixteen inches or more in diameter, or three wheels, any one of which is more than twenty inches in diameter. [1982 c 55 § 4; 1965 ex.s. c 155 § 86.]

46.04.079 Business day. (Effective July 1, 2011.) "Business day" means Monday through Friday and excludes Saturday, Sunday, and state and federal holidays. [2010 c 161 § 106.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.080 Business district. "Business district" means the territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway. [1975 c 62 § 2; 1961 c 12 § 46.04.080. Prior: 1959 c 49 § 9; prior: 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

Additional notes found at www.leg.wa.gov

46.04.083 Cab and chassis. (Effective July 1, 2011.) "Cab and chassis" means an incomplete vehicle manufactured and sold with only a cab, frame, and running gear. [2010 c 161 § 107.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.085 Camper. "Camper" means a structure designed to be mounted upon a motor vehicle which provides facilities for human habitation or for temporary outdoor or recreational lodging and which is five feet or more in overall length and five feet or more in height from its floor to its ceiling when fully extended, but shall not include motor homes as defined in RCW 46.04.305. [1971 ex.s. c 231 § 2.]

Additional notes found at www.leg.wa.gov

46.04.090 Cancel. "Cancel," in all its forms, means invalidation indefinitely. [1979 c 61 § 1; 1961 c 12 § 46.04.090. Prior: 1959 c 49 § 10; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.100 Center line. "Center line" means the line, marked or unmarked, parallel to and equidistant from the sides of a two-way traffic roadway of a highway except where otherwise indicated by painted lines or markers. [1975 c 62 § 3; 1961 c 12 § 46.04.100. Prior: 1959 c 49 § 11; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

Additional notes found at www.leg.wa.gov

46.04.110 Center of intersection. "Center of intersection" means the point of intersection of the center lines of the roadway of intersecting public highways. [1961 c 12 § 46.04.110. Prior: 1959 c 49 § 12; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.115 Chauffeur. "Chauffeur" means a person authorized by the department under this title to drive a limousine, and, if operating in a port district that regulates limousines under RCW 46.72A.030(2), meets the licensing requirements of that port district. [1996 c 87 § 1.]

[Title 46 RCW—page 14]

46.04.120 City street. "City street" means every public highway, or part thereof located within the limits of cities and towns, except alleys. [1961 c 12 § 46.04.120. Prior: 1959 c 49 § 13; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.125 Collector. (Effective until July 1, 2011.) "Collector" means the owner of one or more vehicles described in RCW 46.16.305(1) who collects, purchases, acquires, trades, or disposes of the vehicle or parts of it, for his or her personal use, in order to preserve, restore, and maintain the vehicle for hobby or historical purposes. [1996 c 225 § 2.]

Finding—1996 c 225: "The legislature finds and declares that constructive leisure pursuits by Washington citizens is most important. This act is intended to encourage responsible participation in the hobby of collecting, preserving, restoring, and maintaining motor vehicles of historic and special interest, which hobby contributes to the enjoyment of the citizens and the preservation of Washington's automotive memorabilia." [1996 c 225 § 1.]

46.04.125 Collector. (Effective July 1, 2011.) "Collector" means the owner of one or more vehicles described in RCW 46.18.220(1) who collects, purchases, acquires, trades, or disposes of the vehicle or parts of it, for his or her personal use, in order to preserve, restore, and maintain the vehicle for hobby or historical purposes. [2010 c 161 § 108; 1996 c 225 § 2.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Finding—1996 c 225: "The legislature finds and declares that constructive leisure pursuits by Washington citizens is most important. This act is intended to encourage responsible participation in the hobby of collecting, preserving, restoring, and maintaining motor vehicles of historic and special interest, which hobby contributes to the enjoyment of the citizens and the preservation of Washington's automotive memorabilia." [1996 c 225 § 1.]

46.04.126 Collector vehicle. "Collector vehicle" means any motor vehicle that is more than thirty years old. [2009 c 142 § 2.]

46.04.1261 Collector vehicle license plate. (Effective July 1, 2011.) "Collector vehicle license plate" means a special license plate that may be assigned to a vehicle that is more than thirty years old. [2010 c 161 § 109.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.127 Collegiate license plates. "Collegiate license plates" means license plates that display a depiction of the name and mascot or symbol of a state university, regional university, or state college as defined in RCW 28B.10.016. [1994 c 194 § 1.]

46.04.130 Combination of vehicles. "Combination of vehicles" means every combination of motor vehicle and motor vehicle, motor vehicle and trailer or motor vehicle and semitrailer. [1963 c 154 § 26; 1961 c 12 § 46.04.130. Prior: 1959 c 49 § 14; prior: (i) 1943 c 153 § 1, part; 1937 c 188 §

1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

Additional notes found at www.leg.wa.gov

46.04.136 Commercial trailer. (*Effective July 1, 2011.*) "Commercial trailer" means a trailer that is principally used to transport commodities, merchandise, produce, freight, or animals. [2010 c 161 § 110.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.140 Commercial vehicle. "Commercial vehicle" means any vehicle the principal use of which is the transportation of commodities, merchandise, produce, freight, animals, or passengers for hire. [1961 c 12 § 46.04.140. Prior: 1959 c 49 § 15; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.142 Confidential license plates. (*Effective July 1, 2011.*) "Confidential license plates" and "undercover license plates" mean standard issue license plates assigned to vehicles owned or operated by public agencies. These license plates are used as specifically authorized under RCW 46.08.066. [2010 c 161 § 111.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.143 Converter gear. (*Effective July 1, 2011.*) "Converter gear" means an auxiliary axle, booster axle, dolly, or jeep axle. [2010 c 161 § 112.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.144 Cooper Jones Act license plate emblems. (*Effective until July 1, 2011.*) "Cooper Jones Act license plate emblems" means emblems on valid Washington license plates that display the symbol of bicycle safety created in RCW 46.16.333. [2002 c 264 § 2.]

Finding—2002 c 264: See note following RCW 46.16.333.

46.04.150 County road. "County road" means every public highway or part thereof, outside the limits of cities and towns and which has not been designated as a state highway. [1961 c 12 § 46.04.150. Prior: 1959 c 49 § 16; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.160 Crosswalk. "Crosswalk" means the portion of the roadway between the intersection area and a prolongation or connection of the farthest sidewalk line or in the event there are no sidewalks then between the intersection area and a line ten feet therefrom, except as modified by a marked crosswalk. [1961 c 12 § 46.04.160. Prior: 1959 c 49 § 17; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.162 Department. The term "department" shall mean the department of licensing unless a different depart-

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ment is specified. [1979 c 158 § 126; 1975 c 25 § 4. Formerly RCW 46.04.690.]

46.04.163 Director. The term "director" shall mean the director of licensing unless the director of a different department of government is specified. [1979 c 158 § 127; 1975 c 25 § 5. Formerly RCW 46.04.695.]

46.04.164 Disabled American veteran license plates. (*Effective July 1, 2011.*) "Disabled American veteran license plates" means special license plates issued to a veteran, as defined in RCW 41.04.007, who meets the requirements provided in RCW 46.18.235. [2010 c 161 § 113.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.165 Driveaway-towaway operation. "Driveaway-towaway operation" means any operation in which any motor vehicle, trailer or semitrailer, singly or in combination, new or used, constitutes the commodity being transported when one set or more wheels of any such vehicle are on the roadway during the course of transportation, whether or not any such vehicle furnishes the motive power. [1963 c 154 § 27.]

Additional notes found at www.leg.wa.gov

46.04.167 Driver education. Whenever the term "driver education" is used in the code, it shall be defined to mean "traffic safety education". [1969 ex.s. c 218 § 12. Formerly RCW 46.04.700.]

46.04.168 Driving privilege withheld. "Driving privilege withheld" means that the department has revoked, suspended, or denied a person's Washington state driver's license, permit to drive, driving privilege, or nonresident driving privilege. [1999 c 6 § 2.]

Intent—1999 c 6: "(1) This act is intended to edit some of the statutes relating to driver's licenses in order to make those statutes more comprehensible to the citizenry of the state of Washington. The legislature does not intend to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of chapter 46.20 RCW or other statutory provisions or rules adopted under those provisions.

(2) This act is technical in nature and does not terminate or in any way modify any rights, proceedings, or liabilities, civil or criminal, that exist on July 25, 1999." [1999 c 6 § 1.]

46.04.169 Electric-assisted bicycle. "Electric-assisted bicycle" means a bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The electric-assisted bicycle's electric motor must have a power output of no more than one thousand watts, be incapable of propelling the device at a speed of more than twenty miles per hour on level ground, and be incapable of further increasing the speed of the device when human power alone is used to propel the device beyond twenty miles per hour. [1997 c 328 § 1.]

46.04.1695 Electric personal assistive mobility device (EPAMD). "Electric personal assistive mobility device" (EPAMD) means a self-balancing device with two wheels not in tandem, designed to transport only one person by an

electric propulsion system with an average power of seven hundred fifty watts (one horsepower) having a maximum speed on a paved level surface, when powered solely by such a propulsion system while ridden by an operator weighing one hundred seventy pounds, of less than twenty miles per hour. [2002 c 247 § 1.]

Legislative review—2002 c 247: "The legislature shall review the provisions of this act and make any necessary changes by July 1, 2005." [2002 c 247 § 9.]

46.04.1697 Electronic commerce. "Electronic commerce" may include, but is not limited to, transactions conducted over the Internet or by telephone or other electronic means. [2004 c 249 § 1.]

46.04.1698 Empty scale weight. (Effective July 1, 2011.) "Empty scale weight" means the weight of a vehicle as it stands without a load. [2010 c 161 § 114.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.1699 Endangered wildlife license plates. (Effective July 1, 2011.) "Endangered wildlife license plates" means special license plates that display a symbol or artwork symbolizing endangered wildlife in Washington state. [2010 c 161 § 115.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.170 Explosives. "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, and which contains any oxidizing or combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonation of any part of the compound mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb. [1961 c 12 § 46.04.170. Prior: 1959 c 49 § 18; prior: 1937 c 189 § 1, part; RRS § 6360-1, part. Cf. 1951 c 102 § 3.]

46.04.180 Farm tractor. "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry. [1961 c 12 § 46.04.180. Prior: 1959 c 49 § 19; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.181 Farm vehicle. "Farm vehicle" means any vehicle other than a farm tractor or farm implement which is designed and/or used primarily in agricultural pursuits on farms for the purpose of transporting machinery, equipment, implements, farm products, supplies and/or farm labor thereon and is only incidentally operated on or moved along public highways for the purpose of going from one farm to another. [1967 c 202 § 1.]

[Title 46 RCW—page 16]

46.04.182 Farmer. "Farmer" means any person, firm, partnership or corporation engaged in farming. If a person, firm, partnership or corporation is engaged in activities in addition to that of farming, the definition shall only apply to that portion of the activity that is defined as farming in RCW 46.04.183. [1969 ex.s. c 281 § 58.]

46.04.183 Farming. "Farming" means the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (except forestry or forestry operations), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices performed on a farm as an incident to or in conjunction with such farming operations. [1969 ex.s. c 281 § 59.]

46.04.186 Fixed load vehicle. (Effective July 1, 2011.) "Fixed load vehicle" means a commercial vehicle that has a structure or machinery permanently attached such as, but not limited to, an air compressor, a bunk house, a conveyor, a cook house, a donkey engine, a hoist, a rock crusher, a tool house, or a well drilling machine. Fixed load vehicles are not capable of carrying any additional load other than the structure or machinery permanently attached. [2010 c 161 § 116.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.187 Flammable liquid. "Flammable liquid" means any liquid which has a flash point of 70° Fahrenheit, or less, as determined by a Tagliabue or equivalent closed cup test device. [1961 c 12 § 46.04.210. Prior: 1959 c 49 § 22; prior: 1937 c 189 § 1, part; RRS § 6360-1, part. Cf. 1951 c 102 § 3. Formerly RCW 46.04.210.]

46.04.190 For hire vehicle. "For hire vehicle" means any motor vehicle used for the transportation of persons for compensation, except auto stages and ride-sharing vehicles. [1979 c 111 § 13; 1961 c 12 § 46.04.190. Prior: 1959 c 49 § 20; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part; 1923 c 181 § 1, part; 1921 c 96 § 2, part; 1919 c 59 § 1, part; 1917 c 155 § 1, part; 1915 c 142 § 2, part; RRS § 6313, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

Ride sharing: Chapter 46.74 RCW.

Additional notes found at www.leg.wa.gov

46.04.192 Former prisoner of war license plates. (Effective July 1, 2011.) "Former prisoner of war license plates" means special license plates that may be issued to former prisoners of war as authorized under RCW 46.18.235. [2010 c 161 § 117.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.194 Garbage truck. "Garbage truck" means a truck specially designed and used exclusively for garbage or refuse operations. [1983 c 68 § 1.]

(2010 Ed.)

46.04.1945 Golf cart. "Golf cart" means a gas-powered or electric-powered four-wheeled vehicle originally designed and manufactured for operation on a golf course for sporting purposes and has a speed attainable in one mile of not more than twenty miles per hour. A golf cart is not a nonhighway vehicle or *off-road vehicle as defined in **RCW 46.09.020. [2010 c 217 § 3.]

Reviser's note: *(1) The definition of "off-road vehicle" was removed from RCW 46.09.020 pursuant to 2010 c 161 § 213, effective July 1, 2011. Later enactment, see RCW 46.04.365.

***(2) RCW 46.09.020 was recodified as RCW 46.09.310 pursuant to 2010 c 161 § 1202, effective July 1, 2011.

46.04.1951 Gonzaga University alumni association license plates. "Gonzaga University alumni association license plates" means license plates issued under *RCW 46.16.30916 that display a symbol or artwork recognizing the efforts of the Gonzaga University alumni association in Washington state. [2005 c 85 § 2.]

***Reviser's note:** RCW 46.16.30916 was repealed by 2010 c 161 § 438, effective July 1, 2011.

46.04.1953 Gross vehicle weight rating. (*Effective July 1, 2011.*) "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum load weight of a single vehicle. [2010 c 161 § 118.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.196 Helping Kids Speak license plates. "Helping Kids Speak license plates" means license plates that display a symbol of an organization that supports programs that provide free diagnostic and therapeutic services to children who have a severe delay in language or speech development. [2004 c 48 § 2.]

46.04.1961 Helping kids speak license plates. (*Effective July 1, 2011.*) "Helping kids speak license plates" means special license plates that commemorate an organization that supports programs that provide free diagnostic and therapeutic services to children who have a severe delay in language or speech development. [2010 c 161 § 119.]

Reviser's note: This section was created without cognizance of RCW 46.04.196 (Helping Kids Speak license plates).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.197 Highway. Highway means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. [1965 ex.s. c 155 § 87. Formerly RCW 46.04.431.]

46.04.199 Horseless carriage license plate. (*Effective July 1, 2011.*) "Horseless carriage license plate" is a special license plate that may be assigned to a vehicle that is more than forty years old. [2010 c 161 § 120.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

(2010 Ed.)

46.04.200 Hours of darkness. "Hours of darkness" means the hours from one-half hour after sunset to one-half hour before sunrise, and any other time when persons or objects may not be clearly discernible at a distance of five hundred feet. [1961 c 12 § 46.04.200. Prior: 1959 c 49 § 21; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.204 Hybrid motor vehicle. (*Effective July 1, 2011.*) "Hybrid motor vehicle" means a motor vehicle that uses multiple power sources or fuel types for propulsion and meets the federal definition of a hybrid motor vehicle. [2010 c 161 § 121.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.215 Ignition interlock device. "Ignition interlock device" means breath alcohol analyzing ignition equipment or other biological or technical device certified in conformance with RCW 43.43.395 and rules adopted by the state patrol and designed to prevent a motor vehicle from being operated by a person who has consumed an alcoholic beverage. [2010 c 268 § 1; 2005 c 200 § 1; 1997 c 229 § 9; 1994 c 275 § 23; 1987 c 247 § 3. Formerly RCW 46.20.730.]

Additional notes found at www.leg.wa.gov

46.04.217 Ignition interlock driver's license. "Ignition interlock driver's license" means a permit issued to a person by the department that allows the person to operate a non-commercial motor vehicle with an ignition interlock device while the person's regular driver's license is suspended, revoked, or denied. [2008 c 282 § 1.]

46.04.220 Intersection area. (1) "Intersection area" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none then the lateral boundary lines of the roadways of two or more highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(2) Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

(3) The junction of an alley with a street or highway shall not constitute an intersection. [1975 c 62 § 4; 1961 c 12 § 46.04.220. Prior: 1959 c 49 § 23; prior: 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

Additional notes found at www.leg.wa.gov

46.04.240 Intersection control area. "Intersection control area" means intersection area, together with such modification of the adjacent roadway area as results from the arc of curb corners and together with any marked or unmarked crosswalks adjacent to the intersection. [1961 c 12 § 46.04.240. Prior: 1959 c 49 § 25; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.249 Keep Kids Safe license plates. "Keep Kids Safe license plates" means license plates issued under *RCW 46.16.30913 that display artwork recognizing efforts to prevent child abuse and neglect in Washington state. [2005 c 53 § 2.]

*Reviser's note: RCW 46.16.30913 was repealed by 2010 c 161 § 438, effective July 1, 2011.

46.04.251 Kit vehicle. "Kit vehicle" means a passenger car or light truck assembled from a manufactured kit, and is either (1) a complete kit consisting of a prefabricated body and chassis used to construct a new vehicle, or (2) a kit consisting of a prefabricated body to be mounted on an existing vehicle chassis and drive train, commonly referred to as a donor vehicle. [1996 c 225 § 5.]

Finding—1996 c 225: See note following RCW 46.04.125.

46.04.260 Laned highway. "Laned highway" means a highway the roadway of which is divided into clearly marked lanes for vehicular traffic. [1961 c 12 § 46.04.260. Prior: 1959 c 49 § 27; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.265 Law enforcement memorial license plates. "Law enforcement memorial license plates" means license plates issued under *RCW 46.16.30905 that display a symbol honoring law enforcement officers in Washington killed in the line of duty. [2004 c 221 § 2.]

*Reviser's note: RCW 46.16.30905 was repealed by 2010 c 161 § 438, effective July 1, 2011.

46.04.270 Legal owner. "Legal owner" means a person having a security interest in a vehicle perfected in accordance with chapter 46.12 RCW or the registered owner of a vehicle unencumbered by a security interest or the lessor of a vehicle unencumbered by a security interest. [1975 c 25 § 1; 1961 c 12 § 46.04.270. Prior: 1959 c 49 § 28; prior: 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part.]

46.04.271 Light truck. (*Effective July 1, 2011.*) "Light truck" means a motor vehicle manufactured as a truck with a declared gross weight of twelve thousand pounds or less. [2010 c 161 § 122.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.272 Lightweight stud. (1) "Lightweight stud" means a stud intended for installation and use in a vehicle tire. As used in this title, this means a stud that is recommended by the manufacturer of the tire for the type and size of the tire and that:

(a) Weighs no more than 1.5 grams if the stud conforms to Tire Stud Manufacturing Institute (TSMI) stud size 14 or less;

(b) Weighs no more than 2.3 grams if the stud conforms to TSMI stud size 15 or 16; or

(c) Weighs no more than 3.0 grams if the stud conforms to TSMI stud size 17 or larger.

(2) A lightweight stud may contain any materials necessary to achieve the lighter weight.

(3) Subsection (1) of this section does not apply to retractable studs as described in RCW 46.37.420. [2007 c 140 § 1; 1999 c 219 § 1.]

46.04.274 Limousine. "Limousine" means a category of for hire, chauffeur-driven, unmetered, unmarked luxury motor vehicles. The director in consultation with the Washington state patrol will by rule define the categories of limousines. [2006 c 98 § 1; 1996 c 87 § 2.]

Effective date—2006 c 98: "This act takes effect November 1, 2006." [2006 c 98 § 2.]

46.04.276 Limousine carrier. "Limousine carrier" means a person engaged in the transportation of a person or group of persons, who, under a single contract, acquires, on a prearranged basis, the use of a limousine to travel to a specified destination or for a particular itinerary. The term "prearranged basis" refers to the manner in which the carrier dispatches vehicles. [1996 c 87 § 3.]

46.04.280 Local authorities. "Local authorities" includes every county, municipal, or other local public board or body having authority to adopt local police regulations under the Constitution and laws of this state. [1961 c 12 § 46.04.280. Prior: 1959 c 49 § 29; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part; 1923 c 181 § 1, part; 1921 c 96 § 2, part; 1919 c 59 § 1, part; 1917 c 155 § 1, part; 1915 c 142 § 2, part; RRS § 6313, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

46.04.290 Marked crosswalk. "Marked crosswalk" means any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface thereof. [1961 c 12 § 46.04.290. Prior: 1959 c 49 § 30; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.292 Market value threshold amount. (*Effective July 1, 2011.*) "Market value threshold amount" means an amount set by rule by the department that is used to determine, together with the age of the vehicle, whether vehicle certificates of title for vehicles aged six years through twenty years should be identified as having been previously destroyed or reported as an insurance total loss. [2010 c 161 § 123.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.295 Medium-speed electric vehicle. "Medium-speed electric vehicle" means a self-propelled, electrically powered four-wheeled motor vehicle, equipped with a roll cage or crush-proof body design, whose speed attainable in one mile is more than twenty-five miles per hour but not more than thirty-five miles per hour and otherwise meets or exceeds the federal regulations set forth in 49 C.F.R. Sec. 571.500. [2010 c 144 § 1; 2007 c 510 § 2.]

Effective date—2007 c 510: See note following RCW 46.04.320.

46.04.300 Metal tire. "Metal tire" includes every tire, the bearing surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material. [1961 c 12 § 46.04.300. Prior: 1959 c 49 § 31; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

46.04.301 Military affiliate radio system license plates. (Effective July 1, 2011.) "Military affiliate radio system license plates" means special license plates displaying official military affiliate radio system call letters assigned by the United States department of defense. [2010 c 161 § 124.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.302 Mobile home, manufactured home. "Mobile home" or "manufactured home" means a structure, designed and constructed to be transportable in one or more sections, and is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities that include plumbing, heating, and electrical systems contained therein. The structure must comply with the national mobile home construction and safety standards act of 1974 as adopted by chapter 43.22 RCW if applicable. Manufactured home does not include a modular home. A structure which met the definition of a "manufactured home" at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable. [1993 c 154 § 1. Prior: 1989 c 343 § 24; 1989 c 337 § 1; 1977 ex.s. c 22 § 1; 1971 ex.s. c 231 § 4.]

Additional notes found at www.leg.wa.gov

46.04.303 Modular home. "Modular home" means a factory-assembled structure designed primarily for use as a dwelling when connected to the required utilities that include plumbing, heating, and electrical systems contained therein, does not contain its own running gear, and must be mounted on a permanent foundation. A modular home does not include a mobile home or manufactured home. [1990 c 250 § 17; 1971 ex.s. c 231 § 5.]

Additional notes found at www.leg.wa.gov

46.04.304 Moped. "Moped" means a motorized device designed to travel with not more than three wheels in contact with the ground and having an electric or a liquid fuel motor with a cylinder displacement not exceeding fifty cubic centimeters which produces no more than two gross brake horsepower (developed by a prime mover, as measured by a brake applied to the driving shaft) that is capable of propelling the device at not more than thirty miles per hour on level ground. [2009 c 275 § 1; 1990 c 250 § 18; 1987 c 330 § 702; 1979 ex.s. c 213 § 1.]

Additional notes found at www.leg.wa.gov

46.04.305 Motor homes. "Motor homes" means motor vehicles originally designed, reconstructed, or permanently altered to provide facilities for human habitation, which

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include lodging and cooking or sewage disposal, and is enclosed within a solid body shell with the vehicle, but excludes a camper or like unit constructed separately and affixed to a motor vehicle. [1990 c 250 § 19; 1971 ex.s. c 231 § 3.]

Additional notes found at www.leg.wa.gov

46.04.310 Motor truck. "Motor truck" means any motor vehicle designed or used for the transportation of commodities, merchandise, produce, freight, or animals. [1961 c 12 § 46.04.310. Prior: 1959 c 49 § 32; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part; 1923 c 181 § 1, part; 1921 c 96 § 2, part; 1919 c 59 § 1, part; 1917 c 155 § 1, part; 1915 c 142 § 2, part; RRS § 6313, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

46.04.320 Motor vehicle. "Motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails. "Motor vehicle" includes a neighborhood electric vehicle as defined in RCW 46.04.357. "Motor vehicle" includes a medium-speed electric vehicle as defined in RCW 46.04.295. An electric personal assistive mobility device is not considered a motor vehicle. A power wheelchair is not considered a motor vehicle. A golf cart is not considered a motor vehicle, except for the purposes of chapter 46.61 RCW. [2010 c 217 § 1; 2007 c 510 § 1. Prior: 2003 c 353 § 1; 2003 c 141 § 2; 2002 c 247 § 2; 1961 c 12 § 46.04.320; prior: 1959 c 49 § 33; 1955 c 384 § 10; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part; 1923 c 181 § 1, part; 1921 c 96 § 2, part; 1919 c 59 § 1, part; 1917 c 155 § 1, part; 1915 c 142 § 2, part; RRS § 6313, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

Effective date—2007 c 510: "This act takes effect August 1, 2007." [2007 c 510 § 6.]

Effective date—2003 c 353: "This act takes effect August 1, 2003." [2003 c 353 § 12.]

Legislative review—2002 c 247: See note following RCW 46.04.1695.

46.04.330 Motorcycle. "Motorcycle" means a motor vehicle designed to travel on not more than three wheels in contact with the ground, on which the driver:

(1) Rides on a seat or saddle and the motor vehicle is designed to be steered with a handlebar; or

(2) Rides on a seat in a partially or completely enclosed seating area that is equipped with safety belts and the motor vehicle is designed to be steered with a steering wheel.

"Motorcycle" excludes a farm tractor, a power wheelchair, an electric personal assistive mobility device, a motorized foot scooter, an electric-assisted bicycle, and a moped. [2009 c 275 § 2; 2003 c 141 § 3; 2002 c 247 § 3; 1990 c 250 § 20; 1979 ex.s. c 213 § 2; 1961 c 12 § 46.04.330. Prior: 1959 c 49 § 34; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part; 1923 c 181 § 1, part; 1921 c 96 § 2, part; 1919 c 59 § 1, part; 1917 c 155 § 1, part; 1915 c 142 § 2, part; RRS § 6313, part. (ii) 1937 c 189 § 1,

part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

Legislative review—2002 c 247: See note following RCW 46.04.1695. Additional notes found at www.leg.wa.gov

46.04.332 Motor-driven cycle. "Motor-driven cycle" means every motorcycle, including every motor scooter, with a motor that produces not to exceed five brake horsepower (developed by a prime mover, as measured by a brake applied to the driving shaft). A motor-driven cycle does not include a moped, a power wheelchair, a motorized foot scooter, or an electric personal assistive mobility device. [2003 c 353 § 7; 2003 c 141 § 4; 2002 c 247 § 4; 1979 ex.s. c 213 § 3; 1963 c 154 § 28.]

Reviser's note: This section was amended by 2003 c 141 § 4 and by 2003 c 353 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2003 c 353: See note following RCW 46.04.320.

Legislative review—2002 c 247: See note following RCW 46.04.1695. Additional notes found at www.leg.wa.gov

46.04.336 Motorized foot scooter. "Motorized foot scooter" means a device with no more than two ten-inch or smaller diameter wheels that has handlebars, is designed to be stood upon by the operator, and is powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion at a speed no more than twenty miles per hour on level ground.

For purposes of this section, a motor-driven cycle, a moped, an electric-assisted bicycle, or a motorcycle is not a motorized foot scooter. [2009 c 275 § 3; 2003 c 353 § 6.]

Effective date—2003 c 353: See note following RCW 46.04.320.

46.04.340 Muffler. "Muffler" means a device consisting of a series of chambers, or other mechanical designs for the purpose of receiving exhaust gas from an internal combustion engine and effective in reducing noise resulting therefrom. [1961 c 12 § 46.04.340. Prior: 1959 c 49 § 35; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.350 Multiple lane highway. "Multiple lane highway" means any highway the roadway of which is of sufficient width to reasonably accommodate two or more separate lanes of vehicular traffic in the same direction, each lane of which shall be not less than the maximum legal vehicle width and whether or not such lanes are marked. [1975 c 62 § 5; 1961 c 12 § 46.04.350. Prior: 1959 c 49 § 36; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

Additional notes found at www.leg.wa.gov

46.04.355 Municipal transit vehicle. Municipal transit vehicle includes every motor vehicle, streetcar, train, trolley vehicle, and any other device, which (1) is capable of being moved within, upon, above, or below a public highway, (2) is owned or operated by a city, county, county transportation authority, public transportation benefit area, regional transit authority, or metropolitan municipal corporation within the state, and (3) is used for the purpose of carrying passengers together with incidental baggage and freight on a regular

schedule. [2004 c 118 § 2; 1984 c 167 § 2; 1974 ex.s. c 76 § 4.]

Unlawful conduct in a transit vehicle: RCW 9.91.025.

46.04.356 Natural person. (*Effective July 1, 2011.*) "Natural person" means a human being. [2010 c 161 § 125.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.357 Neighborhood electric vehicle. "Neighborhood electric vehicle" means a self-propelled, electrically powered four-wheeled motor vehicle whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour and conforms to federal regulations under Title 49 C.F.R. Part 571.500. [2003 c 353 § 2.]

Effective date—2003 c 353: See note following RCW 46.04.320.

46.04.358 New motor vehicle. (*Effective July 1, 2011.*) "New motor vehicle" means any motor vehicle that (1) is self-propelled and is required to be registered and titled under this title, (2) has not been previously titled to a retail purchaser or lessee, and (3) is not a used vehicle as defined under RCW 46.04.660. [2010 c 161 § 126.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.360 Nonresident. "Nonresident" means any person whose residence is outside this state and who is temporarily sojourning within this state. [1961 c 12 § 46.04.360. Prior: 1959 c 49 § 37; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.365 Off-road vehicle. (*Effective July 1, 2011.*) "Off-road vehicle" or "ORV" means a nonstreet registered vehicle when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain. "Off-road vehicle" or "ORV" includes, but is not limited to, all-terrain vehicles, motorcycles, four-wheel drive vehicles, and dune buggies. [2010 c 161 § 127.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.370 Operator or driver. "Operator or driver" means every person who drives or is in actual physical control of a vehicle. [1975 c 62 § 6; 1967 c 32 § 1; 1961 c 12 § 46.04.370. Prior: 1959 c 49 § 38; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part; 1923 c 181 § 1, part; 1921 c 96 § 2, part; RRS § 6313, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

Additional notes found at www.leg.wa.gov

46.04.372 ORV registration. (*Effective July 1, 2011.*) "ORV registration" means a registration certificate or decal issued under the laws of this state pertaining to the registration of off-road vehicles under chapter 46.09 RCW. [2010 c 161 § 128.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.380 Owner. "Owner" means a person who has a lawful right of possession of a vehicle by reason of obtaining it by purchase, exchange, gift, lease, inheritance or legal action whether or not the vehicle is subject to a security interest and means registered owner where the reference to owner may be construed as either to registered or legal owner. [1975 c 25 § 2; 1961 c 12 § 46.04.380. Prior: 1959 c 49 § 39; prior: 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

46.04.3802 Ownership in doubt. (Effective July 1, 2011.) "Ownership in doubt" means that a vehicle or vessel owner is unable to obtain satisfactory evidence of ownership or releases of interest and is permitted to apply for a three-year registration period without a certificate of title or a three-year period with a bond covering the certificate of title. [2010 c 161 § 129.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.381 Park or parking. "Park or parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers. [1975 c 62 § 9.]

Additional notes found at www.leg.wa.gov

46.04.3815 Parts car. (Effective until July 1, 2011.) "Parts car" means a motor vehicle that is owned by a collector to furnish parts for restoration or maintenance of a vehicle described in RCW 46.16.305(1), thus enabling a collector to preserve, restore, and maintain such a vehicle. [1996 c 225 § 3.]

Finding—1996 c 225: See note following RCW 46.04.125.

46.04.3815 Parts car. (Effective July 1, 2011.) "Parts car" means a motor vehicle that is owned by a collector to furnish parts for restoration or maintenance of a vehicle described in RCW 46.18.220(1), thus enabling a collector to preserve, restore, and maintain such a vehicle. [2010 c 161 § 130; 1996 c 225 § 3.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Finding—1996 c 225: See note following RCW 46.04.125.

46.04.382 Passenger car. "Passenger car" means every motor vehicle except motorcycles and motor-driven cycles, designed for carrying ten passengers or less and used for the transportation of persons. [1963 c 154 § 29.]

Additional notes found at www.leg.wa.gov

46.04.385 Personalized license plates. (Effective July 1, 2011.) "Personalized license plates" means license plates that display the license plate number assigned to the vehicle or camper for which the license plate number was issued in a (2010 Ed.)

combination of letters or numbers, or both, requested by the owner of the vehicle or camper in accordance with chapter 46.18 RCW. [2010 c 161 § 131.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.391 Police officer. Police officer means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. [1965 ex.s. c 155 § 89.]

46.04.400 Pedestrian. "Pedestrian" means any person who is afoot or who is using a wheelchair, a power wheelchair, or a means of conveyance propelled by human power other than a bicycle. [2003 c 141 § 5; 1990 c 241 § 1; 1961 c 12 § 46.04.400. Prior: 1959 c 49 § 41; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.405 Person. "Person" includes every natural person, firm, copartnership, corporation, association, or organization. [1961 c 12 § 46.04.405. Prior: 1959 c 49 § 42; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

46.04.408 Photograph, picture, negative. "Photograph," along with the terms "picture" and "negative," means a pictorial representation, whether produced through photographic or other means, including, but not limited to, digital data imaging. [1990 c 250 § 21.]

Additional notes found at www.leg.wa.gov

46.04.410 Pneumatic tires. "Pneumatic tires" includes every tire of rubber or other resilient material designed to be inflated with compressed air to support the load thereon. [1961 c 12 § 46.04.410. Prior: 1959 c 49 § 43; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

46.04.414 Pole trailer. "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes, logs or structural members capable, generally, of sustaining themselves as beams between the supporting connections. [1961 c 12 § 46.04.414. Prior: 1959 c 49 § 44; prior: 1951 c 56 § 1.]

46.04.415 Power wheelchair. "Power wheelchair" means any self-propelled vehicle capable of traveling no more than fifteen miles per hour, usable indoors, designed as a mobility aid for individuals with mobility impairments, and operated by such an individual. [2003 c 141 § 1.]

Wheelchair conveyance: RCW 46.04.710.

46.04.416 Private carrier bus. "Private carrier bus" means every motor vehicle designed for the purpose of carrying passengers (having a seating capacity for eleven or more persons) used regularly to transport persons in furtherance of any organized agricultural, religious or charitable purpose. Such term does not include buses operated by common carriers under a franchise granted by any city or town or the Washington public utilities commission. [1970 ex.s. c 100 § 3.]

46.04.420 Private road or driveway. "Private road or driveway" includes every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons. [1961 c 12 § 46.04.420. Prior: 1959 c 49 § 45; prior: 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

46.04.422 Private use single-axle trailer. (Effective July 1, 2011.) "Private use single-axle trailer" means a trailer owned by a natural person and used for the private noncommercial use of the owner. [2010 c 161 § 132.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.429 Professional firefighters and paramedics license plates. "Professional firefighters and paramedics license plates" means license plates issued under *RCW 46.16.30901 that display a symbol denoting professional firefighters and paramedics. [2004 c 35 § 2.]

***Reviser's note:** RCW 46.16.30901 was repealed by 2010 c 161 § 438, effective July 1, 2011.

46.04.435 Public scale. "Public scale" means every scale under public or private ownership which is certified as to its accuracy and which is available for public weighing. [1961 c 12 § 46.04.435. Prior: 1959 c 49 § 47.]

46.04.437 Purple heart license plates. (Effective July 1, 2011.) "Purple heart license plates" means special license plates that may be assigned to a motor vehicle to recipients of the Purple Heart medal or to another qualified person. [2010 c 161 § 133.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.440 Railroad. "Railroad" means a carrier of persons or property upon vehicles, other than streetcars, operated upon stationary rails, the route of which is principally outside cities and towns. [1961 c 12 § 46.04.440. Prior: 1959 c 49 § 48; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.450 Railroad sign or signal. "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach

of a railroad train. [1961 c 12 § 46.04.450. Prior: 1959 c 49 § 49; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.455 Reasonable grounds. "Reasonable grounds," when used in the context of a law enforcement officer's decision to make an arrest, means probable cause. [1995 c 332 § 19.]

Additional notes found at www.leg.wa.gov

46.04.460 Registered owner. "Registered owner" means the person whose lawful right of possession of a vehicle has most recently been recorded with the department. [1975 c 25 § 3; 1961 c 12 § 46.04.460. Prior: 1959 c 49 § 50; prior: 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part.]

46.04.462 Registration. (Effective July 1, 2011.) "Registration" means the registration certificate or license plates issued under the laws of this state pertaining to the registration of vehicles. [2010 c 161 § 134.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.464 Renewal notice. (Effective July 1, 2011.) "Renewal notice" means the notice to renew a vehicle registration sent to the registered owner by the department. [2010 c 161 § 135.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.465 Rental car. (1) "Rental car" means a passenger car, as defined in RCW 46.04.382, that is used solely by a rental car business for rental to others, without a driver provided by the rental car business, for periods of not more than thirty consecutive days.

(2) "Rental car" does not include:

(a) Vehicles rented or loaned to customers by automotive repair businesses while the customer's vehicle is under repair;

(b) Vehicles licensed and operated as taxicabs. [1992 c 194 § 1.]

Additional notes found at www.leg.wa.gov

46.04.466 Rental car business. "Rental car business" means a person engaging within this state in the business of renting rental cars, as determined under rules of the department of licensing. [1992 c 194 § 5.]

Registration of rental car businesses: RCW 46.87.023.

Additional notes found at www.leg.wa.gov

46.04.468 Report of sale. (Effective July 1, 2011.) "Report of sale" means a document or electronic record transaction that when properly completed and filed protects the seller of a vehicle from certain criminal and civil liabilities arising from use of the vehicle by another person after the vehicle has been sold or a change in ownership has occurred. [2010 c 161 § 136.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.470 Residence district. "Residence district" means the territory contiguous to and including a public highway not comprising a business district, when the property on such public highway for a continuous distance of three hundred feet or more on either side thereof is in the main improved with residences or residences and buildings in use for business. [1961 c 12 § 46.04.470. Prior: 1959 c 49 § 51; prior: 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

46.04.480 Revoke. "Revoke," in all its forms, means the invalidation for a period of one calendar year and thereafter until reissue. However, under the provisions of RCW 46.20.285, 46.20.311, 46.20.265, or 46.61.5055, and chapters 46.32 and 46.65 RCW, the invalidation may last for a period other than one calendar year. [2007 c 419 § 4; 1995 c 332 § 10; 1994 c 275 § 38; 1988 c 148 § 8; 1985 c 407 § 1; 1983 c 165 § 14; 1983 c 165 § 13; 1979 c 62 § 7; 1961 c 12 § 46.04.480. Prior: 1959 c 49 § 52; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

Findings—Short title—2007 c 419: See notes following RCW 46.16A.010.

Legislative finding—Severability—1988 c 148: See notes following RCW 13.40.265.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.04.485 Ride share license plates. (Effective July 1, 2011.) "Ride share license plates" means special license plates issued for motor vehicles that are used primarily for commuter ride sharing as defined in RCW 46.74.010. [2010 c 161 § 137.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.490 Road tractor. "Road tractor" includes every motor vehicle designed and used primarily as a road building vehicle in drawing road building machinery and devices. [1961 c 12 § 46.04.490. Prior: 1959 c 49 § 53; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.500 Roadway. "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder even though such sidewalk or shoulder is used by persons riding bicycles. In the event a highway includes two or more separated roadways, the term "roadway" shall refer to any such roadway separately but shall not refer to all such roadways collectively. [1977 c 24 § 1; 1961 c 12 § 46.04.500. Prior: 1959 c 49 § 54; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

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46.04.510 Safety zone. "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is marked or indicated by painted marks, signs, buttons, standards, or otherwise, so as to be plainly discernible. [1961 c 12 § 46.04.510. Prior: 1959 c 49 § 55; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.514 Salvage vehicle. (Effective July 1, 2011.) "Salvage vehicle" means a vehicle whose certificate of title has been surrendered to the department under RCW 46.12.600 due to the vehicle's destruction or declaration as a total loss or for which there is documentation indicating that the vehicle has been declared salvage or has been damaged to the extent that the owner, an insurer, or other person acting on behalf of the owner, has determined that the cost of parts and labor plus the salvage value has made it uneconomical to repair the vehicle. "Salvage vehicle" does not include a motor vehicle having a model year designation of a calendar year that is at least six years before the calendar year in which the vehicle was wrecked, destroyed, or damaged, unless, after June 13, 2002, and immediately before the vehicle was wrecked, destroyed, or damaged, the vehicle had a retail fair market value of at least the then market value threshold amount and has a model year designation of a calendar year not more than twenty years before the calendar year in which the vehicle was wrecked, destroyed, or damaged. [2010 c 161 § 138.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.518 Scale weight. (Effective July 1, 2011.) "Scale weight" means the weight of a vehicle without a load. [2010 c 161 § 139.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.521 School bus. School bus means every motor vehicle used regularly to transport children to and from school or in connection with school activities, which is subject to the requirements set forth in the most recent edition of "Specifications for School Buses" published by the state superintendent of public instruction, but does not include buses operated by common carriers in urban transportation of school children or private carrier buses operated as school buses in the transportation of children to and from private schools or school activities. [1995 c 141 § 1; 1965 ex.s. c 155 § 90.]

46.04.526 Secured party. (Effective July 1, 2011.) "Secured party" has the same meaning as in RCW 62A.1-201. [2010 c 161 § 140.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.527 Security interest. (Effective July 1, 2011.) "Security interest" has the same meaning as in RCW 62A.1-201. [2010 c 161 § 141.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.530 Semitrailer. "Semitrailer" includes every vehicle without motive power designed to be drawn by a vehicle, motor vehicle, or truck tractor and so constructed that an appreciable part of its weight and that of its load rests upon and is carried by such other vehicle, motor vehicle, or truck tractor. [1979 ex.s. c 149 § 1; 1961 c 12 § 46.04.530. Prior: 1959 c 49 § 57; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

46.04.535 Share the road license plates. (Effective July 1, 2011.) "Share the road license plates" means special license plates displaying a symbol or artwork recognizing an organization that promotes bicycle safety and awareness education. Share the road license plates commemorate the life of Cooper Jones. [2010 c 161 § 142.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.540 Sidewalk. "Sidewalk" means that property between the curb lines or the lateral lines of a roadway and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a public highway and dedicated to use by pedestrians. [1961 c 12 § 46.04.540. Prior: 1959 c 49 § 58; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.542 Ski & ride Washington license plates. (Effective July 1, 2011.) "Ski & ride Washington license plates" means special license plates displaying a symbol or artwork recognizing the Washington snowsports industry. [2010 c 161 § 143.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.546 Snowmobile. (Effective July 1, 2011.) "Snowmobile" means a self-propelled vehicle that is capable of traveling over snow or ice that (1) utilizes as its means of propulsion an endless belt tread or cleats, or any combination of these or other similar means of contact with the surface upon which it is operated, (2) is steered wholly or in part by skis or sled type runners, and (3) is not otherwise registered as, or subject to, the motor vehicle excise tax in the state of Washington. [2010 c 161 § 145.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.550 Solid tire. "Solid tire" includes every tire of rubber or other resilient material which does not depend upon inflation with compressed air for the support of the load thereon. [1961 c 12 § 46.04.550. Prior: 1959 c 49 § 59; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1,

part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

46.04.551 Special highway construction equipment. (Effective July 1, 2011.) (1) "Special highway construction equipment" means any vehicle that is (a) designed and used primarily for the grading of highways, the paving of highways, earth moving, and other construction work on highways, (b) not designed or used primarily to transport persons or property on a public highway, and (c) only incidentally operated or moved over the highway.

(2) "Special highway construction equipment" includes, but is not limited to, road construction and maintenance machinery that is designed and used for the purposes described under subsection (1) of this section, such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carry-alls, lighting plants, welders, pumps, power shovels and draglines, and self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations that (a) are in excess of the legal width, (b) because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (c) are driven or moved upon a public highway only for the purpose of crossing the highway from one property to another, provided that the movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads that will not damage the roadway surface. [2010 c 161 § 144.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.552 Special mobile equipment. "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: Ditch digging apparatus, well boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck-tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and draglines, and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels or other vehicles designed for the transportation of persons or property to which machinery has been attached. [1973 1st ex.s. c 17 § 1; 1972 ex.s. c 5 § 1; 1963 c 154 § 30.]

Additional notes found at www.leg.wa.gov

46.04.553 Sport utility vehicle. (Effective July 1, 2011.) "Sport utility vehicle" means a high performance motor vehicle weighing six thousand pounds or less, designed to carry ten passengers or less or designated as a sport utility vehicle by the manufacturer. [2010 c 161 § 146.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.554 Square dancer license plates. (*Effective July 1, 2011.*) "Square dancer license plates" means special license plates displaying a symbol of square dancers. [2010 c 161 § 147.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.555 Stand or standing. "Stand or standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers. [1975 c 62 § 10.]

Additional notes found at www.leg.wa.gov

46.04.556 Standard issue license plates. (*Effective July 1, 2011.*) "Standard issue license plates" means license plates that are held for general issue, and does not mean personalized license plates or any other special license plate. [2010 c 161 § 148.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.560 State highway. "State highway" includes every highway or part thereof, which has been designated as a state highway or branch thereof, by legislative enactment. [1975 c 62 § 7; 1961 c 12 § 46.04.560. Prior: 1959 c 49 § 60; prior: 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

Additional notes found at www.leg.wa.gov

46.04.565 Stop. "Stop" when required means complete cessation from movement. [1975 c 62 § 11.]

Additional notes found at www.leg.wa.gov

46.04.566 Stop or stopping. "Stop or stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal. [1975 c 62 § 12.]

Additional notes found at www.leg.wa.gov

46.04.570 Streetcar. "Streetcar" means a vehicle other than a train for transporting persons or property and operated upon stationary rails principally within cities and towns. [1961 c 12 § 46.04.570. Prior: 1959 c 49 § 61; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.571 Street rod vehicle. "Street rod vehicle" is a motor vehicle, other than a motorcycle, that meets the following conditions:

(1)(a) The vehicle was manufactured before 1949, (b) the vehicle has been assembled or reconstructed using major component parts of a motor vehicle manufactured before

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1949, or (c) the vehicle was assembled or manufactured after 1949, to resemble a vehicle manufactured before 1949; and

(2)(a) The vehicle has been modified in its body style or design through the use of nonoriginal or reproduction components, such as frame, engine, drive train, suspension, or brakes in a manner that does not adversely affect its safe performance as a motor vehicle or render it unlawful for highway use, or (b) the body has been constructed from nonoriginal materials or has been altered dimensionally or in shape and appearance from the original manufactured body. [1999 c 58 § 1; 1996 c 225 § 4.]

Finding—1996 c 225: See note following RCW 46.04.125.

46.04.574 Subagency. (*Effective July 1, 2011.*) "Subagency" means the licensing office in which vehicle title and registration functions are carried out by a subagent. [2010 c 161 § 149.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.575 Subagent. (*Effective July 1, 2011.*) "Subagent" means a person or governmental entity recommended by a county auditor or other agent and who is appointed by the director to provide vehicle registration and certificate of title services under contract with the county auditor or other agent. [2010 c 161 § 150.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.580 Suspend. "Suspend," in all its forms and unless a different period is specified, means invalidation for any period less than one calendar year and thereafter until reinstatement. [1994 c 275 § 28; 1990 c 250 § 22; 1961 c 12 § 46.04.580. Prior: 1959 c 49 § 62; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

Additional notes found at www.leg.wa.gov

46.04.581 Tab. (*Effective July 1, 2011.*) "Tab" or "license tab" means a sticker issued by the department and affixed to the rear license plate to identify the vehicle license expiration month and year for a specific vehicle. [2010 c 161 § 151.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.582 Tandem axle. "Tandem axle" means any two or more consecutive axles whose centers are less than seven feet apart. [1988 c 6 § 1; 1979 ex.s. c 149 § 2.]

46.04.585 Temporarily sojourning. "Temporarily sojourning," as the term is used in chapter 46.04 RCW, shall be construed to include any nonresident who is within this state for a period of not to exceed six months in any one year. [1961 c 12 § 46.04.585. Prior: 1959 c 49 § 63; prior: 1955 c 89 § 6.]

46.04.587 Total loss vehicle. (*Effective July 1, 2011.*) "Total loss vehicle" means a vehicle that has been reported to the department as destroyed by an insurance company, self-insurer, or the vehicle owner or the owner's authorized representative. [2010 c 161 § 152.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.588 Tow dolly. (*Effective July 1, 2011.*) "Tow dolly" means a trailer equipped with between one and three axles designed to connect to a tow bar on the rear of a motor vehicle that is used to tow another vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly. [2010 c 161 § 153.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.590 Traffic. "Traffic" includes pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together, while using any public highways for purposes of travel. [1961 c 12 § 46.04.590. Prior: 1959 c 49 § 64; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.600 Traffic control signal. "Traffic control signal" means any traffic device, whether manually, electrically, or mechanically operated, by which traffic alternately is directed to stop or proceed or otherwise controlled. [1961 c 12 § 46.04.600. Prior: 1959 c 49 § 65; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.611 Traffic-control devices. Official traffic-control devices means all signs, signals, markings and devices not inconsistent with Title 46 RCW placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic. [1965 ex.s. c 155 § 88.]

46.04.620 Trailer. "Trailer" includes every vehicle without motive power designed for being drawn by or used in conjunction with a motor vehicle constructed so that no appreciable part of its weight rests upon or is carried by such motor vehicle, but does not include a municipal transit vehicle, or any portion thereof. [1974 ex.s. c 76 § 3; 1961 c 12 § 46.04.620. Prior: 1959 c 49 § 67; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part; 1923 c 181 § 1, part; 1921 c 96 § 2, part; 1919 c 59 § 1, part; 1917 c 155 § 1, part; RRS § 6313, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

46.04.621 Transit permit. (*Effective July 1, 2011.*) "Transit permit" means a document that authorizes a person to operate a vehicle on a public highway of this state solely for the purpose of obtaining the necessary documentation to complete and apply for a Washington certificate of title or vehicle registration. Unlimited use of the vehicle is prohib-

ited when operated under a transit permit. [2010 c 161 § 154.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.622 Park trailer. "Park trailer" or "park model trailer" means a travel trailer designed to be used with temporary connections to utilities necessary for operation of installed fixtures and appliances. The trailer's gross area shall not exceed four hundred square feet when in the setup mode. "Park trailer" excludes a mobile home. [1989 c 337 § 2.]

46.04.62240 Share the Road license plates. "Share the Road license plates" means license plates that commemorate the life of Cooper Jones and display a symbol of an organization that promote[s] bicycle safety and awareness education in communities throughout Washington. [2005 c 426 § 2.]

46.04.62250 Signal preemption device. "Signal preemption device" means a device that is capable of altering the normal operation of a traffic control signal. Any such device manufactured by a vehicle manufacturer is not a signal preemption device for purposes of this section if the primary purpose of the device is any purpose other than the preemption of traffic signals and the device's ability to alter traffic signals is unintended and incidental to the device's primary purpose. [2005 c 183 § 1.]

46.04.62260 Ski & Ride Washington license plates. "Ski & Ride Washington license plates" means license plates issued under RCW 46.16.30922 that display a symbol or artwork recognizing the efforts of the Washington snowsports industry in this state. [2005 c 220 § 2.]

46.04.623 Travel trailer. "Travel trailer" means a trailer built on a single chassis transportable upon the public streets and highways that is designed to be used as a temporary dwelling without a permanent foundation and may be used without being connected to utilities. [1989 c 337 § 3.]

46.04.630 Train. "Train" means a vehicle propelled by steam, electricity, or other motive power with or without cars coupled thereto, operated upon stationary rails, except streetcars. [1961 c 12 § 46.04.630. Prior: 1959 c 49 § 68; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.640 Trolley vehicle. "Trolley vehicle" means a vehicle the motive power for which is supplied by means of a trolley line and which may or may not be confined in its operation to a certain portion of the roadway in order to maintain trolley line contact. [1961 c 12 § 46.04.640. Prior: 1959 c 49 § 69; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.650 Tractor. "Tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of

the weight of the vehicle and load so drawn. [1986 c 18 § 1; 1975 c 62 § 8; 1961 c 12 § 46.04.650. Prior: 1959 c 49 § 70; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

Additional notes found at www.leg.wa.gov

46.04.653 Truck. "Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property. [1986 c 18 § 2.]

46.04.655 Truck tractor. "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles but so constructed as to permit carrying a load in addition to part of the weight of the vehicle and load so drawn. [1986 c 18 § 3.]

46.04.660 Used vehicle. "Used vehicle" means a vehicle which has been sold, bargained, exchanged, given away, or title transferred from the person who first took title to it from the manufacturer or first importer, dealer, or agent of the manufacturer or importer, and so used as to have become what is commonly known as "secondhand" within the ordinary meaning thereof. [1961 c 12 § 46.04.660. Prior: 1959 c 49 § 71; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

46.04.670 Vehicle. (Effective until July 1, 2011.) "Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including bicycles. The term does not include power wheelchairs or devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks. Mopeds shall not be considered vehicles or motor vehicles for the purposes of chapter 46.70 RCW. Bicycles shall not be considered vehicles for the purposes of chapter 46.12, 46.16, or 46.70 RCW. Electric personal assistive mobility devices are not considered vehicles or motor vehicles for the purposes of chapter 46.12, 46.16, 46.29, 46.37, or 46.70 RCW. A golf cart is not considered a vehicle, except for the purposes of chapter 46.61 RCW. [2010 c 217 § 2; 2003 c 141 § 6; 2002 c 247 § 5; 1994 c 262 § 2; 1991 c 214 § 2; 1979 ex.s. c 213 § 4; 1961 c 12 § 46.04.670. Prior: 1959 c 49 § 72; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

Legislative review—2002 c 247: See note following RCW 46.04.1695.

Mopeds

helmet required: RCW 46.37.530, 46.37.535.

motorcycle endorsement, exemption: RCW 46.20.500.

operation and safety standards: RCW 46.61.710, 46.61.720.

registration: RCW 46.16.630.

46.04.670 Vehicle. (Effective July 1, 2011.) "Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including bicycles. "Vehicle" does not include power wheel-

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chairs or devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks. Mopeds are not considered vehicles or motor vehicles for the purposes of chapter 46.70 RCW. Bicycles are not considered vehicles for the purposes of chapter 46.12, *46.16, or 46.70 RCW or RCW 82.12.045. Electric personal assistive mobility devices are not considered vehicles or motor vehicles for the purposes of chapter 46.12, *46.16, 46.29, 46.37, or 46.70 RCW. A golf cart is not considered a vehicle, except for the purposes of chapter 46.61 RCW. [2010 c 217 § 2; 2010 c 161 § 155; 2003 c 141 § 6; 2002 c 247 § 5; 1994 c 262 § 2; 1991 c 214 § 2; 1979 ex.s. c 213 § 4; 1961 c 12 § 46.04.670. Prior: 1959 c 49 § 72; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

Reviser's note: *(1) Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

(2) This section was amended by 2010 c 161 § 155 and by 2010 c 217 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Legislative review—2002 c 247: See note following RCW 46.04.1695.

Mopeds

helmet required: RCW 46.37.530, 46.37.535.

motorcycle endorsement, exemption: RCW 46.20.500.

operation and safety standards: RCW 46.61.710, 46.61.720.

registration: RCW 46.16A.405(2), 46.17.350(1)(f).

46.04.671 Vehicle license fee. (Effective July 1, 2011.) "Vehicle license fee" means a fee collected by the state of Washington as a license fee, as that term is construed in Article II, section 40 of the state Constitution, for the act of registering a vehicle under chapter *46.16 RCW. "Vehicle license fee" does not include license plate fees, or taxes and fees collected by the department for other jurisdictions. [2010 c 161 § 156.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.672 Vehicle or pedestrian right-of-way. "Vehicle or pedestrian right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other. [1975 c 62 § 13.]

Additional notes found at www.leg.wa.gov

46.04.681 Vintage snowmobile. (Effective July 1, 2011.) "Vintage snowmobile" means a snowmobile manufactured at least thirty years ago. [2010 c 161 § 157.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.691 Washington Lighthouses license plates.

"Washington Lighthouses license plates" means license plates issued under *RCW 46.16.30911 that display a symbol or artwork recognizing the efforts of lighthouse environmental programs in Washington state. [2005 c 48 § 2.]

***Reviser's note:** RCW 46.16.30911 was repealed by 2010 c 161 § 438, effective July 1, 2011.

46.04.6911 Washington state parks license plates.

(Effective July 1, 2011.) "Washington state parks license plates" means special license plates displaying a symbol or artwork recognizing Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources. [2010 c 161 § 158.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.692 Washington's National Park Fund license plates.

"Washington's National Park Fund license plates" means license plates issued under *RCW 46.16.30918 that display a symbol or artwork recognizing the efforts of Washington's National Park Fund in preserving Washington's national parks for future generations in Washington state. [2005 c 177 § 2.]

***Reviser's note:** RCW 46.16.30918 was repealed by 2010 c 161 § 438, effective July 1, 2011.

46.04.693 Washington's wildlife license plate collection. *(Effective July 1, 2011.)* "Washington's wildlife license plate collection" means the collection of three separate license plate designs. Each license plate design displays a distinct symbol or artwork, to include bear, deer, and elk, recognizing the wildlife of Washington. [2010 c 161 § 159.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.705 We love our pets license plates. "We love our pets license plates" means license plates issued under *RCW 46.16.30914 that display a symbol or artwork recognizing the efforts of the Washington state federation of animal care and control agencies in Washington state that assists local member agencies of the federation to promote and perform spay/neuter surgery of Washington state pets, in order to reduce pet overpopulation. [2005 c 71 § 2.]

***Reviser's note:** RCW 46.16.30914 was repealed by 2010 c 161 § 438, effective July 1, 2011.

46.04.7051 We love our pets license plates. *(Effective July 1, 2011.)* "We love our pets license plates" means special license plates displaying a symbol or artwork recognizing an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay or neuter surgery on Washington state pets in order to reduce pet overpopulation. [2010 c 161 § 160.]

Reviser's note: This section was created without cognizance of RCW 46.04.705 (We love our pets license plates).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.710 Wheelchair conveyance. "Wheelchair conveyance" means any vehicle specially manufactured or designed for the transportation of a physically or medically impaired wheelchair-bound person. The vehicle may be a separate vehicle used in lieu of a wheelchair or a separate vehicle used for transporting the impaired person while occupying a wheelchair. The vehicle shall be equipped with a propulsion device capable of propelling the vehicle within a speed range established by the state patrol. The state patrol may approve and define as a wheelchair conveyance, a vehicle that fails to meet these specific criteria but is essentially similar in performance and application to vehicles that do meet these specific criteria. [1987 c 330 § 703; 1983 c 200 § 1.]

Power wheelchairs: RCW 46.04.415.

Wheelchair conveyances

licensing: RCW 46.16.640.

operator's license: RCW 46.20.109.

public roadways, operating on: RCW 46.61.730.

safety standards: RCW 46.37.610.

Additional notes found at www.leg.wa.gov

46.04.714 Wild on Washington license plates. *(Effective July 1, 2011.)* "Wild on Washington license plates" means special license plates that display a symbol or artwork symbolizing wildlife viewing in Washington state. [2010 c 161 § 161.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.04.900 Construction—Title applicable to state registered domestic partnerships—2009 c 521. For the purposes of this title, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 112.]

Chapter 46.08 RCW GENERAL PROVISIONS

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46.08.010 State preempts licensing field. (Effective until July 1, 2011.) The provisions of this title relating to the certificate of ownership, certificate of license registration, vehicle license, vehicle license plates and vehicle operator's license shall be exclusive and no political subdivision of the state of Washington shall require or issue any licenses or certificates for the same or a similar purpose except as provided in *RCW 82.80.020, nor shall any city or town in this state impose a tax, license, or other fee upon vehicles operating exclusively between points outside of such city or town limits, and to points therein. [1990 c 42 § 207; 1961 c 12 § 46.08.010. Prior: 1937 c 188 § 75; RRS § 6312-75.]

*Reviser's note: RCW 82.80.020 was repealed by 2003 c 1 § 5, (Initiative Measure No. 776, approved November 5, 2002).

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

46.08.010 State preempts registration and licensing fields. (Effective July 1, 2011.) The provisions of this title relating to certificates of title, registration certificates, vehicle licenses, vehicle license plates, and drivers' licenses shall be exclusive and no political subdivision of the state of Washington shall require or issue any licenses or certificates for the same or a similar purpose, nor shall any city or town in this state impose a tax, license, or other fee upon vehicles operating exclusively between points outside of such city or town limits, and to points therein. [2010 c 161 § 1111; 1990 c 42 § 207; 1961 c 12 § 46.08.010. Prior: 1937 c 188 § 75; RRS § 6312-75.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

46.08.020 Precedence over local vehicle and traffic regulations. The provisions of this title relating to vehicles shall be applicable and uniform throughout this state and in all incorporated cities and towns and all political subdivisions therein and no local authority shall enact or enforce any law, ordinance, rule or regulation in conflict with the provisions of this title except and unless expressly authorized by law to do so and any laws, ordinances, rules or regulations in conflict with the provisions of this title are hereby declared to be invalid and of no effect. Local authorities may, however, adopt additional vehicle and traffic regulations which are not in conflict with the provisions of this title. [1961 c 12 § 46.08.020. Prior: 1937 c 189 § 2; RRS § 6360-2.]

46.08.030 Uniformity of application. The provisions of this title relating to the operation of vehicles shall be applicable and uniform upon all persons operating vehicles upon the public highways of this state, except as otherwise specifically provided. [1961 c 12 § 46.08.030. Prior: 1937 c 189 § 3; RRS § 6360-3.]

46.08.065 Publicly owned vehicles to be marked—Exceptions. (1) It is unlawful for any public officer having charge of any vehicle owned or controlled by any county, city, town, or public body in this state other than the state of Washington and used in public business to operate the same upon the public highways of this state unless and until there shall be displayed upon such automobile or other motor vehicle in letters of contrasting color not less than one and one-quarter inches in height in a conspicuous place on the right and left sides thereof, the name of such county, city, town, or other public body, together with the name of the department or office upon the business of which the said vehicle is used. This section shall not apply to vehicles of a sheriff's office, local police department, or any vehicles used by local peace officers under public authority for special undercover or confidential investigative purposes. This subsection shall not apply to: (a) Any municipal transit vehicle operated for purposes of providing public mass transportation; (b) any vehicle governed by the requirements of subsection (4) of this section; nor to (c) any motor vehicle on loan to a school district for driver training purposes. It shall be lawful and constitute compliance with the provisions of this section, however, for the governing body of the appropriate county, city, town, or public body other than the state of Washington or its agencies to adopt and use a distinctive insignia which shall be not less than six inches in diameter across its smallest dimension and which shall be displayed conspicuously on the right and left sides of the vehicle. Such insignia shall be in a color or colors contrasting with the vehicle to which applied for maximum visibility. The name of the public body owning or operating the vehicle shall also be included as part of or displayed above such approved insignia in colors contrasting with the vehicle in letters not less than one and one-quarter inches in height. Immediately below the lettering identifying the public entity and agency operating the vehicle or below an approved insignia shall appear the words "for official use only" in letters at least one inch high in a color contrasting with the color of the vehicle. The appropriate governing body may provide by rule or ordinance for marking of passenger motor vehicles as prescribed in subsection (2) of this section or for exceptions to the marking requirements for local governmental agencies for the same purposes and under the same circumstances as permitted for state agencies under subsection (3) of this section.

(2) Except as provided by subsections (3) and (4) of this section, passenger motor vehicles owned or controlled by the state of Washington, and purchased after July 1, 1989, must be plainly and conspicuously marked on the lower left-hand corner of the rear window with the name of the operating agency or institution or the words "state motor pool," as appropriate, the words "state of Washington — for official use only," and the seal of the state of Washington or the appropriate agency or institution insignia, approved by the department of general administration. Markings must be on a

transparent adhesive material and conform to the standards established by the department of general administration. For the purposes of this section, "passenger motor vehicles" means sedans, station wagons, vans, light trucks, or other motor vehicles under ten thousand pounds gross vehicle weight.

(3) Subsection (2) of this section shall not apply to vehicles used by the Washington state patrol for general undercover or confidential investigative purposes. Traffic control vehicles of the Washington state patrol may be exempted from the requirements of subsection (2) of this section at the discretion of the chief of the Washington state patrol. The department of general administration shall adopt general rules permitting other exceptions to the requirements of subsection (2) of this section for other vehicles used for law enforcement, confidential public health work, and public assistance fraud or support investigative purposes, for vehicles leased or rented by the state on a casual basis for a period of less than ninety days, and those provided for in *RCW 46.08.066(3). The exceptions in this subsection, subsection (4) of this section, and those provided for in *RCW 46.08.066(3) shall be the only exceptions permitted to the requirements of subsection (2) of this section.

(4) Any motorcycle, vehicle over 10,000 pounds gross vehicle weight, or other vehicle that for structural reasons cannot be marked as required by subsection (1) or (2) of this section that is owned or controlled by the state of Washington or by any county, city, town, or other public body in this state and used for public purposes on the public highways of this state shall be conspicuously marked in letters of a contrasting color with the words "State of Washington" or the name of such county, city, town, or other public body, together with the name of the department or office that owns or controls the vehicle.

(5) All motor vehicle markings required under the terms of this chapter shall be maintained in a legible condition at all times. [1998 c 111 § 4; 1989 c 57 § 9; 1975 1st ex.s. c 169 § 1; 1961 c 12 § 46.08.065. Prior: 1937 c 189 § 46; RRS § 6360-46. Formerly RCW 46.36.140.]

***Reviser's note:** RCW 46.08.066 was amended by 2010 c 161 § 211, deleting subsection (3), effective July 1, 2011.

Additional notes found at www.leg.wa.gov

46.08.066 Publicly owned vehicles—Confidential license plates—Issuance, rules governing. (Effective until July 1, 2011.) (1) Except as provided in subsection (3) of this section, the department of licensing is authorized to issue confidential motor vehicle license plates to units of local government and to agencies of the federal government for law enforcement purposes only.

(2) Except as provided in subsections (3) and (4) of this section the use of confidential plates on vehicles owned or operated by the state of Washington by any officer or employee thereof, shall be limited to confidential, investigative, or undercover work of state law enforcement agencies, confidential public health work, and confidential public assistance fraud or support investigations.

(3) Any state official elected on a statewide basis shall be provided on request with one set of confidential plates for use on official business. When necessary for the personal security of any other public officer, or public employee, the chief of

the Washington state patrol may recommend that the director issue confidential plates for use on an unmarked publicly owned or controlled vehicle of the appropriate governmental unit for the conduct of official business for the period of time that the personal security of such state official, public officer, or other public employee may require. The office of the state treasurer may use an unmarked state owned or controlled vehicle with confidential plates where required for the safe transportation of either state funds or negotiable securities to or from the office of the state treasurer.

(4) The director of licensing may issue rules and regulations governing applications for, and the use of, such plates by law enforcement and other public agencies. [1986 c 158 § 20; 1982 c 163 § 14; 1979 c 158 § 128; 1975 1st ex.s. c 169 § 2.]

Additional notes found at www.leg.wa.gov

46.08.066 Publicly owned vehicles—Confidential license plates—Issuance, rules governing. (Effective July 1, 2011.) (1) The department may issue confidential license plates to:

(a) Units of local government and agencies of the federal government for law enforcement purposes only;

(b) Any state official elected on a statewide basis for use on official business. Only one set of confidential license plates may be issued to these elected officials;

(c) Any other public officer or public employee for the personal security of the officer or employee when recommended by the chief of the Washington state patrol. These confidential license plates may only be used on an unmarked publicly owned or controlled vehicle of the employing government agency for the conduct of official business for the period of time that the personal security of the state official, public officer, or other public employee may require; and

(d) The office of the state treasurer. These confidential license plates may only be used on an unmarked state owned or controlled vehicle when required for the safe transportation of either state funds or negotiable securities to or from the office of the state treasurer.

(2) The use of confidential license plates on other vehicles owned or operated by the state of Washington by any officer or employee of the state is limited to confidential, investigative, or undercover work of state law enforcement agencies, confidential public health work, and confidential public assistance fraud or support investigations.

(3) The director may adopt rules governing applications for, and the use of, confidential license plates. [2010 c 161 § 211; 1986 c 158 § 20; 1982 c 163 § 14; 1979 c 158 § 128; 1975 1st ex.s. c 169 § 2.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.08.067 Publicly owned vehicles—Violations concerning marking and confidential license plates. A violation of any provision of RCW 46.08.065 as now or hereafter amended or of RCW 46.08.066 shall subject the public officer or employee committing such violation to disciplinary action by the appropriate appointing authority or employing agency. Such disciplinary action may include, but shall not

be limited to, suspension without pay or termination of employment in the case of repeated or continuing noncompliance. [1975 1st ex.s. c 169 § 3.]

46.08.068 Publicly owned vehicles—Marking not required, when. Any vehicle properly marked pursuant to statutory requirements in effect prior to September 8, 1975, need not be remarked to conform to the requirements of RCW 46.08.065 through 46.08.067 until July 1, 1977. [1975 1st ex.s. c 169 § 4.]

46.08.070 Nonresidents, application to. Subject to a compliance with the motor vehicle laws of the state and acceptance of the provisions of this title, nonresident owners and operators of vehicles hereby are granted the privilege of using the public highways of this state, and use of such public highways shall be deemed and construed to be an acceptance by such nonresident owners and operators of the provisions of this title. [1961 c 12 § 46.08.070. Prior: 1937 c 189 § 128; RRS § 6360-128.]

46.08.150 Control of traffic on capitol grounds. (Effective until July 1, 2011.) The director of general administration shall have power to devise and promulgate rules and regulations for the control of vehicular and pedestrian traffic and the parking of motor vehicles on the state capitol grounds. However, the monetary penalty for parking a motor vehicle without a valid special license plate or placard in a parking place reserved for physically disabled persons shall be the same as provided in RCW 46.16.381. Such rules and regulations shall be promulgated by publication in one issue of a newspaper published at the state capitol and shall be given such further publicity as the director may deem proper. [1995 c 384 § 2; 1961 c 12 § 46.08.150. Prior: 1955 c 285 § 21; 1947 c 11 § 1; Rem. Supp. 1947 § 7921-20.]

46.08.150 Control of traffic on capitol grounds. (Effective July 1, 2011.) The director of general administration shall have power to devise and promulgate rules and regulations for the control of vehicular and pedestrian traffic and the parking of motor vehicles on the state capitol grounds. However, the monetary penalty for parking a motor vehicle without a valid special license plate or placard in a parking place reserved for persons with physical disabilities shall be the same as provided in RCW 46.19.050. Such rules and regulations shall be promulgated by publication in one issue of a newspaper published at the state capitol and shall be given such further publicity as the director may deem proper. [2010 c 161 § 1112; 2010 c 161 § 212; 1995 c 384 § 2; 1961 c 12 § 46.08.150. Prior: 1955 c 285 § 21; 1947 c 11 § 1; Rem. Supp. 1947 § 7921-20.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.08.160 Control of traffic on capitol grounds—Enforcing officer. The chief of the Washington state patrol shall be the chief enforcing officer to assure the proper enforcement of such rules and regulations. [1961 c 12 § (2010 Ed.)

46.08.160. Prior: 1947 c 11 § 2; Rem. Supp. 1947 § 7921-21.]

46.08.170 Control of traffic on capitol grounds—Violations, traffic infractions, misdemeanors—Jurisdiction. (1) Except as provided in subsection (2) of this section, any violation of a rule or regulation prescribed under RCW 46.08.150 is a traffic infraction, and the district courts of Thurston county shall have jurisdiction over such offenses: **PROVIDED,** That violation of a rule or regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction.

(2) Violation of such a rule or regulation equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. [2003 c 53 § 232; 1987 c 202 § 213; 1979 ex.s. c 136 § 40; 1963 c 158 § 2; 1961 c 12 § 46.08.170. Prior: 1947 c 11 § 3; Rem. Supp. 1947 § 7921-22.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Intent—1987 c 202: See note following RCW 2.04.190.

Additional notes found at www.leg.wa.gov

46.08.172 Parking rental fees—Establishment. The director of the department of general administration shall establish equitable and consistent parking rental fees for the capitol campus and may, if requested by agencies, establish equitable and consistent parking rental fees for agencies off the capitol campus, to be charged to employees, visitors, clients, service providers, and others, that reflect the legislature's intent to reduce state subsidization of parking or to meet the commute trip reduction goals established in RCW 70.94.527. All fees shall take into account the market rate of comparable privately owned rental parking, as determined by the director. However, parking rental fees are not to exceed the local market rate of comparable privately owned rental parking.

The director may delegate the responsibility for the collection of parking fees to other agencies of state government when cost-effective. [1995 c 215 § 4; 1993 c 394 § 4. Prior: 1991 sp.s. c 31 § 12; 1991 sp.s. c 13 § 41; 1988 ex.s. c 2 § 901; 1985 c 57 § 59; 1984 c 258 § 323; 1963 c 158 § 1.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

Intent—1984 c 258: See note following RCW 3.34.130.

Fee deposition: RCW 43.01.225.

Additional notes found at www.leg.wa.gov

46.08.175 Golf cart zones. (1) The legislative authority of a city or county may by ordinance or resolution create a golf cart zone, for the purposes of permitting the incidental operation of golf carts, as defined in RCW 46.04.1945, upon a street or highway of this state having a speed limit of twenty-five miles per hour or less.

(2) Every person operating a golf cart as authorized under this section is granted all rights and is subject to all duties applicable to the driver of a vehicle under chapter 46.61 RCW.

(3) Every person operating a golf cart as authorized under this section must be at least sixteen years of age and

must have completed a driver education course or have previous experience driving as a licensed driver.

(4) A person who has a revoked license under RCW 46.20.285 may not operate a golf cart as authorized under this section.

(5) The legislative authority of a city or county may prohibit any person from operating a golf cart as authorized under this section at any time from a half hour after sunset to a half hour before sunrise.

(6) The legislative authority of a city or county may require a decal or other identifying device to be displayed on golf carts authorized on the streets and highways of this state under this section. The city or county may charge a fee for the decal or other identifying device.

(7) The legislative authority of a city or county may prohibit the operation of golf carts in designated bicycle lanes that are within a golf cart zone.

(8) Golf carts must be equipped with reflectors, seat belts, and rearview mirrors when operated upon streets and highways as authorized under this section.

(9) A city or county that creates a golf cart zone under this section must clearly identify the zone by placing signage at the beginning and end of the golf cart zone on a street or road that is part of the golf cart zone. The signage must be in compliance with the department of transportation's manual on uniform traffic control devices for streets and highways.

(10) Accidents that involve golf carts operated upon streets and highways as authorized under this section must be recorded and tracked in compliance with chapter 46.52 RCW. The accident report must indicate that a golf cart operating within a golf cart zone is involved in the accident. [2010 c 217 § 4.]

46.08.190 Jurisdiction of judges of district, municipal, and superior court. Every district and municipal court judge shall have concurrent jurisdiction with superior court judges of the state for all violations of the provisions of this title, except the trial of felony charges on the merits, and may impose any punishment provided therefor. [1995 c 136 § 1; 1984 c 258 § 136; 1961 c 12 § 46.08.190. Prior: 1955 c 393 § 4.]

Additional notes found at www.leg.wa.gov

Chapter 46.09 RCW

OFF-ROAD AND NONHIGHWAY VEHICLES

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46.09.010 Application of chapter—Permission necessary to enter upon private lands. (Effective until July 1, 2011.) The provisions of this chapter shall apply to all lands in this state. Nothing in this chapter, RCW 79A.35.040, 79A.35.070, 79A.35.090, 79A.35.110, and 79A.35.120 shall be deemed to grant to any person the right or authority to enter upon private property without permission of the property owner. [2005 c 213 § 2; 1972 ex.s. c 153 § 2; 1971 ex.s. c 47 § 6.]

Findings—Construction—2005 c 213: "The legislature finds that off-road recreational vehicles (ORVs) provide opportunities for a wide variety of outdoor recreation activities. The legislature further finds that the limited amount of ORV recreation areas presents a challenge for ORV recreational users, natural resource land managers, and private landowners. The legislature further finds that many nonhighway roads provide opportunities for ORV use and that these opportunities may reduce conflicts between users and facilitate responsible ORV recreation. However, restrictions intended for motor vehicles may prevent ORV use on certain roads, including forest service roads. Therefore, the legislature finds that local, state, and federal jurisdictions should be given the flexibility to allow ORV use on nonhighway roads they own and manage or for which they are authorized to allow public ORV use under an easement granted by the owner. Nothing in this act authorizes trespass on private property." [2005 c 213 § 1.]

Effective date—2005 c 213: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state gov-

ernment and its existing public institutions, and takes effect July 1, 2005." [2005 c 213 § 9.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.020 Definitions. (Effective until July 1, 2011.)

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

(1) "Advisory committee" means the nonhighway and off-road vehicle activities advisory committee established in RCW 46.09.280.

(2) "Board" means the recreation and conservation funding board established in RCW 79A.25.110.

(3) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling off-road vehicles at wholesale or retail in this state.

(4) "Department" means the department of licensing.

(5) "Highway," for the purpose of this chapter only, means the entire width between the boundary lines of every roadway publicly maintained by the state department of transportation or any county or city with funding from the motor vehicle fund. A highway is generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles.

(6) "Motorized vehicle" means a vehicle that derives motive power from an internal combustion engine.

(7) "Nonhighway road" means any road owned or managed by a public agency or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for (a) original construction or reconstruction in the last twenty-five years; or (b) maintenance in the last four years.

(8) "Nonhighway road recreation facilities" means recreational facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonhighway road recreational users.

(9) "Nonhighway road recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonhighway road recreational purposes, including, but not limited to, hunting, fishing, camping, sightseeing, wildlife viewing, picnicking, driving for pleasure, kayaking/canoeing, and gathering berries, firewood, mushrooms, and other natural products.

(10) "Nonhighway vehicle" means any motorized vehicle including an ORV when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain.

Nonhighway vehicle does not include:

(a) Any vehicle designed primarily for travel on, over, or in the water;

(b) Snowmobiles or any military vehicles; or

(c) Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.36 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

(11) "Nonmotorized recreational facilities" means recreational trails and facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonmotorized recreational users.

(12) "Nonmotorized recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonmotorized recreational purposes including, but not limited to, walking, hiking, backpacking,

climbing, cross-country skiing, snowshoeing, mountain biking, horseback riding, and pack animal activities.

(13) "Off-road vehicle" or "ORV" means any nonstreet licensed vehicle when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain. Such vehicles include, but are not limited to, all-terrain vehicles, motorcycles, four-wheel drive vehicles, and dune buggies.

(14) "Operator" means each person who operates, or is in physical control of, any nonhighway vehicle.

(15) "Organized competitive event" means any competition, advertised in advance through written notice to organized clubs or published in local newspapers, sponsored by recognized clubs, and conducted at a predetermined time and place.

(16) "ORV recreation facilities" include, but are not limited to, ORV trails, trailheads, campgrounds, ORV sports parks, and ORV use areas, designated for ORV use by the managing authority that are intended primarily for ORV recreational users.

(17) "ORV recreational user" means a person whose purpose for consuming fuel on nonhighway roads or off-road is primarily for ORV recreational purposes, including but not limited to riding an all-terrain vehicle, motorcycling, or driving a four-wheel drive vehicle or dune buggy.

(18) "ORV sports park" means a facility designed to accommodate competitive ORV recreational uses including, but not limited to, motocross racing, four-wheel drive competitions, and flat track racing. Use of ORV sports parks can be competitive or noncompetitive in nature.

(19) "ORV trail" means a multiple-use corridor designated by the managing authority and maintained for recreational use by motorized vehicles.

(20) "ORV use permit" means a permit issued for operation of an off-road vehicle under this chapter.

(21) "Owner" means the person other than the lienholder, having an interest in or title to a nonhighway vehicle, and entitled to the use or possession thereof.

(22) "Person" means any individual, firm, partnership, association, or corporation. [2007 c 241 § 13; 2004 c 105 § 1; 1986 c 206 § 1; 1979 c 158 § 129; 1977 ex.s. c 220 § 1; 1972 ex.s. c 153 § 3; 1971 ex.s. c 47 § 7.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.030 Use permits—Issuance—Fees. (Effective until July 1, 2011.) The department shall provide for the issuance of use permits for off-road vehicles and may appoint agents for collecting fees and issuing permits. The department shall charge each applicant for registration the actual cost of the decal. The department shall make available replacement decals for a fee equivalent to the actual cost of the decals. The provisions of RCW 46.01.130 and 46.01.140 apply to the issuance of use permits for off-road vehicles as they do to the issuance of vehicle licenses, the appointment of agents and the collection of application fees. [1990 c 250 § 23; 1986 c 206 § 2; 1977 ex.s. c 220 § 2; 1972 ex.s. c 153 § 4; 1971 ex.s. c 47 § 8.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.040 Use permit prerequisite to operation. (Effective until July 1, 2011.) Except as provided in this chapter, no person shall operate any off-road vehicle within this state after January 1, 1978, unless the off-road vehicle has been assigned an ORV use permit and displays a current ORV tag in accordance with the provisions of this chapter: PROVIDED, That registration and display of an unexpired ATV use permit shall be deemed to have complied with this section. [1977 ex.s. c 220 § 3; 1972 ex.s. c 153 § 5; 1971 ex.s. c 47 § 9.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

46.09.050 Vehicles exempted from ORV use permits and tags. (Effective until July 1, 2011.) ORV use permits and ORV tags shall be required under the provisions of this chapter except for the following:

(1) Off-road vehicles owned and operated by the United States, another state, or a political subdivision thereof.

(2) Off-road vehicles owned and operated by this state, or by any municipality or political subdivision thereof.

(3) Off-road vehicles operated on agricultural lands owned or leased by the ORV owner or operator.

(4) Off-road vehicles owned by a resident of another state that have a valid ORV permit or vehicle license issued in accordance with the laws of the other state. This exemption shall apply only to the extent that a similar exemption or privilege is granted under the laws of that state.

(5) Off-road vehicles while being used for search and rescue purposes under the authority or direction of an appropriate search and rescue or law enforcement agency.

(6) Vehicles which are licensed pursuant to chapter 46.16 RCW or in the case of nonresidents, vehicles which are validly licensed for operation over public highways in the jurisdiction of the owner's residence. [2004 c 105 § 9; 1986 c 206 § 3; 1977 ex.s. c 220 § 4; 1972 ex.s. c 153 § 6; 1971 ex.s. c 47 § 10.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.070 Application for ORV use permit. (Effective until July 1, 2011.) (1) Application for annual or temporary ORV use permits shall be made to the department or its authorized agent in such manner and upon such forms as the department shall prescribe and shall state the name and address of each owner of the off-road vehicle.

(2) An application for an annual permit shall be signed by at least one owner, and shall be accompanied by a fee of eighteen dollars. Upon receipt of the annual permit application and the application fee, the off-road vehicle shall be assigned a use permit number tag or decal, which shall be affixed to the off-road vehicle in a manner prescribed by the department. The annual permit is valid for a period of one year and is renewable each year in such manner as the department may prescribe for an additional period of one year upon payment of a renewal fee of eighteen dollars.

Any person acquiring an off-road vehicle for which an annual permit has been issued who desires to continue to use

the permit must, within fifteen days of the acquisition of the off-road vehicle, make application to the department or its authorized agent for transfer of the permit, and the application shall be accompanied by a transfer fee of five dollars.

(3) A temporary use permit is valid for sixty days. Application for a temporary permit shall be accompanied by a fee of seven dollars. The permit shall be carried on the vehicle at all times during its operation in the state.

(4) Except as provided in RCW 46.09.050, any out-of-state operator of an off-road vehicle shall, when operating in this state, comply with this chapter, and if an ORV use permit is required under this chapter, the operator shall obtain an annual or temporary permit and tag. [2004 c 106 § 1; 2002 c 352 § 1; 1997 c 241 § 1; 1986 c 206 § 4; 1977 ex.s. c 220 § 6; 1972 ex.s. c 153 § 8; 1971 ex.s. c 47 § 12.]

Effective date—2004 c 106 § 1: "Section 1 of this act takes effect with registrations that are due or become due November 1, 2004, or later." [2004 c 106 § 2.]

Effective dates—2002 c 352: "Sections 7, 9, and 28 of this act are effective with registrations that are due or will become due September 1, 2002, and thereafter. Section 26 of this act takes effect October 1, 2002. The remainder of this act takes effect July 1, 2002." [2002 c 352 § 30.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.080 ORV dealers—Permits—Fees—Number plates—Title application—Violations. (Effective until July 1, 2011.) (1) Each dealer of off-road vehicles in this state who does not have a current "dealer's plate" for vehicle use pursuant to chapter 46.70 RCW shall obtain an ORV dealer permit from the department in such manner and upon such forms as the department shall prescribe. Upon receipt of an application for an ORV dealer permit and the fee under subsection (2) of this section, the dealer shall be registered and an ORV dealer permit number assigned.

(2) The fee for ORV dealer permits shall be twenty-five dollars per year, which covers all of the off-road vehicles owned by a dealer and not rented. Off-road vehicles rented on a regular, commercial basis by a dealer shall have separate use permits.

(3) Upon the issuance of an ORV dealer permit each dealer may purchase, at a cost to be determined by the department, ORV dealer number plates of a size and color to be determined by the department, that contain the dealer ORV permit number assigned to the dealer. Each off-road vehicle operated by a dealer, dealer representative, or prospective customer for the purposes of testing or demonstration shall display such number plates assigned pursuant to the dealer permit provisions in chapter 46.70 RCW or this section, in a manner prescribed by the department.

(4) No dealer, dealer representative, or prospective customer shall use such number plates for any purpose other than the purpose prescribed in subsection (3) of this section.

(5) ORV dealer permit numbers shall be nontransferable.

(6) It is unlawful for any dealer to sell any off-road vehicle at wholesale or retail or to test or demonstrate any off-road vehicle within the state unless he or she has a motor vehicle dealers' license pursuant to chapter 46.70 RCW or an ORV dealer permit number in accordance with this section.

(7) When an ORV is sold by a dealer, the dealer shall apply for title in the purchaser's name within fifteen days fol-

lowing the sale. [2010 c 8 § 9002; 1990 c 250 § 24; 1986 c 206 § 5; 1977 ex.s. c 220 § 7; 1972 ex.s. c 153 § 9; 1971 ex.s. c 47 § 13.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.085 Selling ORV without use permit. (Effective until July 1, 2011.) Except as provided in RCW 46.09.050, it is unlawful for any dealer to sell at retail an off-road vehicle without an ORV use permit required in RCW 46.09.040. [2004 c 105 § 10.]

46.09.110 Disposition of ORV moneys. (Effective until July 1, 2011.) The moneys collected by the department under this chapter shall be distributed from time to time but at least once a year in the following manner:

The department shall retain enough money to cover expenses incurred in the administration of this chapter: PROVIDED, That such retention shall never exceed eighteen percent of fees collected.

The remaining moneys shall be distributed for ORV recreation facilities by the board in accordance with RCW 46.09.170(2)(d)(ii)(A). [2007 c 241 § 14; 2004 c 105 § 2; 1986 c 206 § 6; 1985 c 57 § 60; 1977 ex.s. c 220 § 9; 1972 ex.s. c 153 § 11; 1971 ex.s. c 47 § 16.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.115 Authorized and prohibited uses. (Effective until July 1, 2011.) (1) Except as otherwise provided in this section, it is lawful to operate an off-road vehicle upon:

(a) A nonhighway road and in parking areas serving designated off-road vehicle areas if the state, federal, local, or private authority responsible for the management of the nonhighway road authorizes the use of off-road vehicles; and

(b) A street, road, or highway as authorized under RCW 46.09.180.

(2) Operations of an off-road vehicle on a nonhighway road, or on a street, road, or highway as authorized under RCW 46.09.180, under this section is exempt from licensing requirements of RCW 46.16.010 and vehicle lighting and equipment requirements of chapter 46.37 RCW.

(3) It is unlawful to operate an off-road vehicle upon a private nonhighway road if the road owner has not authorized the use of off-road vehicles.

(4) Nothing in this section authorizes trespass on private property.

(5) The provisions of RCW 4.24.210(5) shall apply to public landowners who allow members of the public to use public facilities accessed by a highway, street, or nonhighway road for recreational off-road vehicle use. [2006 c 212 § 2; 2005 c 213 § 4.]

Findings—Construction—Effective date—2005 c 213: See notes following RCW 46.09.010.

46.09.117 Operation by persons under thirteen. (Effective until July 1, 2011.) (1) Except as specified in subsection (2) of this section, no person under thirteen years of

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age may operate an off-road vehicle on or across a highway or nonhighway road in this state.

(2) Persons under thirteen years of age may operate an off-road vehicle on a nonhighway road designated for off-road vehicle use under the direct supervision of a person eighteen years of age or older possessing a valid license to operate a motor vehicle under chapter 46.20 RCW. [2005 c 213 § 5.]

Findings—Construction—Effective date—2005 c 213: See notes following RCW 46.09.010.

46.09.120 Operating violations—Exceptions. (Effective until July 1, 2011.) (1) Except as provided in subsection (4) of this section, it is a traffic infraction for any person to operate any nonhighway vehicle:

(a) In such a manner as to endanger the property of another;

(b) On lands not owned by the operator or owner of the nonhighway vehicle without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others regardless of ownership;

(c) On lands not owned by the operator or owner of the nonhighway vehicle without an adequate braking device or when otherwise required for the safety of others regardless of ownership;

(d) Without a spark arrester approved by the department of natural resources;

(e) Without an adequate, and operating, muffling device which effectively limits vehicle noise to no more than eighty-six decibels on the "A" scale at fifty feet as measured by the Society of Automotive Engineers (SAE) test procedure J 331a, except that a maximum noise level of one hundred and five decibels on the "A" scale at a distance of twenty inches from the exhaust outlet shall be an acceptable substitute in lieu of the Society of Automotive Engineers test procedure J 331a when measured:

(i) At a forty-five degree angle at a distance of twenty inches from the exhaust outlet;

(ii) With the vehicle stationary and the engine running at a steady speed equal to one-half of the manufacturer's maximum allowable ("red line") engine speed or where the manufacturer's maximum allowable engine speed is not known the test speed in revolutions per minute calculated as sixty percent of the speed at which maximum horsepower is developed; and

(iii) With the microphone placed ten inches from the side of the vehicle, one-half way between the lowest part of the vehicle body and the ground plane, and in the same lateral plane as the rearmost exhaust outlet where the outlet of the exhaust pipe is under the vehicle;

(f) On lands not owned by the operator or owner of the nonhighway vehicle upon the shoulder or inside bank or slope of any nonhighway road or highway, or upon the median of any divided highway;

(g) On lands not owned by the operator or owner of the nonhighway vehicle in any area or in such a manner so as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage, or destroy trees, growing crops, or other vegetation;

(h) On lands not owned by the operator or owner of the nonhighway vehicle or on any nonhighway road or trail, when these are restricted to pedestrian or animal travel;

(i) On any public lands in violation of rules and regulations of the agency administering such lands; and

(j) On a private nonhighway road in violation of RCW 46.09.115(3).

(2) It is a misdemeanor for any person to operate any nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance.

(3)(a) Except for an off-road vehicle equipped with seat belts and roll bars or an enclosed passenger compartment, it is a traffic infraction for any person to operate or ride an off-road vehicle on a nonhighway road without wearing upon his or her head a motorcycle helmet fastened securely while in motion. For purposes of this section, "motorcycle helmet" has the same meaning as provided in RCW 46.37.530.

(b) Subsection (3)(a) of this section does not apply to an off-road vehicle operator operating on his or her own land.

(c) Subsection (3)(a) of this section does not apply to an off-road vehicle operator operating on agricultural lands owned or leased by the off-road vehicle operator or the operator's employer.

(4) It is not a traffic infraction to operate an off-road vehicle on a street, road, or highway as authorized under RCW 46.09.180. [2006 c 212 § 3; 2005 c 213 § 3; 2003 c 377 § 1; 1979 ex.s. c 136 § 41; 1977 ex.s. c 220 § 10; 1972 ex.s. c 153 § 12; 1971 ex.s. c 47 § 17.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Findings—Construction—Effective date—2005 c 213: See notes following RCW 46.09.010.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.130 Additional violations—Penalty. (Effective until July 1, 2011.) (1) No person may operate a nonhighway vehicle in such a way as to endanger human life.

(2) No person shall operate a nonhighway vehicle in such a way as to run down or harass any wildlife or animal, nor carry, transport, or convey any loaded weapon in or upon, nor hunt from, any nonhighway vehicle except by permit issued by the director of fish and wildlife under RCW 77.32.237: PROVIDED, That it shall not be unlawful to carry, transport, or convey a loaded pistol in or upon a nonhighway vehicle if the person complies with the terms and conditions of chapter 9.41 RCW.

(3) For the purposes of this section, "hunt" means any effort to kill, injure, capture, or purposely disturb a wild animal or bird.

(4) Violation of this section is a gross misdemeanor. [2004 c 105 § 4; (2004 c 105 § 3 expired July 1, 2004); 2003 c 53 § 233; 1994 c 264 § 35; 1989 c 297 § 3; 1986 c 206 § 7; 1977 ex.s. c 220 § 11; 1971 ex.s. c 47 § 18.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Expiration dates—Effective dates—2004 c 105 §§ 3-6: "(1) Section 3 of this act expires July 1, 2004.

(2) Section 4 of this act takes effect July 1, 2004.

(3) Section 5 of this act expires June 30, 2005.

(4) Section 6 of this act takes effect June 30, 2005." [2004 c 105 § 11.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

46.09.140 Accident reports. (Effective until July 1, 2011.) The operator of any nonhighway vehicle involved in any accident resulting in injury to or death of any person, or property damage to another to an apparent extent equal to or greater than the minimum amount established by rule adopted by the chief of the Washington state patrol in accordance with chapter 46.52 RCW, or a person acting for the operator shall submit such reports as are required under chapter 46.52 RCW, and the provisions of chapter 46.52 RCW applies to the reports when submitted. [1990 c 250 § 25; 1977 ex.s. c 220 § 12; 1971 ex.s. c 47 § 19.]

Additional notes found at www.leg.wa.gov

46.09.150 Motor vehicle fuel excise taxes on fuel for nonhighway vehicles not refundable. (Effective until July 1, 2011.) Motor vehicle fuel excise taxes paid on fuel used and purchased for providing the motive power for nonhighway vehicles shall not be refundable in accordance with the provisions of RCW 82.36.280 as it now exists or is hereafter amended. [1977 ex.s. c 220 § 13; 1974 ex.s. c 144 § 1; 1972 ex.s. c 153 § 13; 1971 ex.s. c 47 § 20.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

46.09.165 Nonhighway and off-road vehicle activities program account. (Effective until July 1, 2011.) The nonhighway and off-road vehicle activities program account is created in the state treasury. Moneys in this account are subject to legislative appropriation. The recreation and conservation funding board shall administer the account for purposes specified in this chapter and shall hold it separate and apart from all other money, funds, and accounts of the board. Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and any moneys made available to the state of Washington by the federal government for outdoor recreation may be deposited into the account. [2007 c 241 § 15; 1995 c 166 § 11.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

46.09.170 Refunds from motor vehicle fund—Distribution—Use. (Effective until July 1, 2011.) (1) From time to time, but at least once each year, the state treasurer shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter 82.36 RCW, based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (c) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-three cents per gallon of motor vehicle fuel beginning July 1, 2011, and thereafter, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090.

(2) The treasurer shall place these funds in the general fund as follows:

(a) Thirty-six percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of natural resources solely for acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities, and information programs and maintenance of nonhighway roads;

(b) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and the maintenance of nonhighway roads;

(c) Two percent shall be credited to the ORV and nonhighway vehicle account and administered by the parks and recreation commission solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities; and

(d) Fifty-eight and one-half percent shall be credited to the nonhighway and off-road vehicle activities program account to be administered by the board for planning, acquisition, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and for education, information, and law enforcement programs. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than thirty percent may be expended for education, information, and law enforcement programs under this chapter;

(ii) Not less than seventy percent may be expended for ORV, nonmotorized, and nonhighway road recreation facilities. Except as provided in (d)(iii) of this subsection, of this amount:

(A) Not less than thirty percent, together with the funds the board receives under *RCW 46.09.110, may be expended for ORV recreation facilities;

(B) Not less than thirty percent may be expended for nonmotorized recreation facilities. Funds expended under this subsection (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation facilities funds; and

(C) Not less than thirty percent may be expended for nonhighway road recreation facilities;

(iii) The board may waive the minimum percentage cited in (d)(ii) of this subsection due to insufficient requests for funds or projects that score low in the board's project evaluation. Funds remaining after such a waiver must be allocated in accordance with board policy.

(3) On a yearly basis an agency may not, except as provided in *RCW 46.09.110, expend more than ten percent of the funds it receives under this chapter for general administration expenses incurred in carrying out this chapter.

(4) During the 2009-2011 fiscal biennium, the legislature may appropriate such amounts as reflect the excess fund balance in the NOVA account to the department of natural resources to install consistent off-road vehicle signage at department-managed recreation sites, and to implement the recreation opportunities on department-managed lands in the Reiter block and Ahtanum state forest, and to the state parks and recreation commission. The legislature finds that the appropriation of funds from the NOVA account during the 2009-2011 fiscal biennium for maintenance and operation of

state parks or to improve accessibility for boaters and off-road vehicle users at state parks will benefit boaters and off-road vehicle users and others who use nonhighway and nonmotorized recreational facilities. The appropriations under this subsection are not required to follow the specific distribution specified in subsection (2) of this section. [2010 1st sp.s. c 37 § 936. Prior: 2009 c 564 § 944; 2009 c 187 § 2; prior: 2007 c 522 § 953; 2007 c 241 § 16; 2004 c 105 § 6; (2004 c 105 § 5 expired June 30, 2005); prior: (2003 1st sp.s. c 26 § 920 expired June 30, 2005); 2003 1st sp.s. c 25 § 922; 2003 c 361 § 407; 1995 c 166 § 9; 1994 c 264 § 36; 1990 c 42 § 115; 1988 c 36 § 25; 1986 c 206 § 8; 1979 c 158 § 130; 1977 ex.s. c 220 § 14; 1975 1st ex.s. c 34 § 1; 1974 ex.s. c 144 § 3; 1972 ex.s. c 153 § 15; 1971 ex.s. c 47 § 22.]

*Reviser's note: RCW 46.09.110 was recodified as RCW 46.68.045 pursuant to 2010 c 161 § 1230, effective July 1, 2011.

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Effective date—2009 c 564: See note following RCW 2.68.020.

Severability—Effective date—2007 c 522: See notes following RCW 15.64.050.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Expiration dates—Effective dates—2004 c 105 §§ 3-6: See note following RCW 46.09.130.

Expiration date—Severability—Effective dates—2003 1st sp.s. c 26: See notes following RCW 43.135.045.

Severability—Effective date—2003 1st sp.s. c 25: See note following RCW 19.28.351.

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.180 Regulation by local political subdivisions or state agencies. (Effective until July 1, 2011.) Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets, roads, or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter. However, the legislative body of a city with a population of less than three thousand persons may, by ordinance, designate a street or highway within its boundaries to be suitable for use by off-road vehicles. The legislative body of a county may, by ordinance, designate a road or highway within its boundaries to be suitable for use by off-road vehicles if the road or highway is a direct connection between a city with a population of less than three thousand persons and an off-road vehicle recreation facility. [2006 c 212 § 4; 1977 ex.s. c 220 § 15; 1971 ex.s. c 47 § 23.]

46.09.190 General penalty—Civil liability. (Effective until July 1, 2011.) (1) Except as provided in RCW 46.09.120(2) and 46.09.130 as now or hereafter amended, violation of the provisions of this chapter is a traffic infrac-

tion for which a penalty of not less than twenty-five dollars may be imposed.

(2) In addition to the penalties provided in subsection (1) of this section, the owner and/or the operator of any nonhighway vehicle shall be liable for any damage to property including damage to trees, shrubs, or growing crops injured as the result of travel by the nonhighway vehicle. The owner of such property may recover from the person responsible three times the amount of damage. [1979 ex.s. c 136 § 42; 1977 ex.s. c 220 § 16; 1972 ex.s. c 153 § 16; 1971 ex.s. c 47 § 24.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.200 Enforcement. (Effective until July 1, 2011.)

The provisions of this chapter shall be enforced by all persons having the authority to enforce any of the laws of this state, including, without limitation, officers of the state patrol, county sheriffs and their deputies, all municipal law enforcement officers within their respective jurisdictions, fish and wildlife officers, state park rangers, and those employees of the department of natural resources designated by the commissioner of public lands under RCW *43.30.310, 76.04.035, and 76.04.045. [2001 c 253 § 3; 1986 c 100 § 52; 1971 ex.s. c 47 § 25.]

*Reviser's note: RCW 43.30.310 was recodified as RCW 43.12.065 pursuant to 2003 c 334 § 127.

46.09.240 Administration and distribution of ORV moneys. (Effective until July 1, 2011.) (1) After deducting administrative expenses and the expense of any programs conducted under this chapter, the board shall, at least once each year, distribute the funds it receives under RCW 46.09.110 and 46.09.170 to state agencies, counties, municipalities, federal agencies, nonprofit ORV organizations, and Indian tribes. Funds distributed under this section to nonprofit ORV organizations may be spent only on projects or activities that benefit ORV recreation on lands once publicly owned that come into private ownership in a federally approved land exchange completed between January 1, 1998, and January 1, 2005.

(2) The board shall adopt rules governing applications for funds administered by the recreation and conservation office under this chapter and shall determine the amount of money distributed to each applicant. Agencies receiving funds under this chapter for capital purposes shall consider the possibility of contracting with the state parks and recreation commission, the department of natural resources, or other federal, state, and local agencies to employ the youth development and conservation corps or other youth crews in completing the project.

(3) The board shall require each applicant for acquisition or development funds under this section to comply with the requirements of either the state environmental policy act, chapter 43.21C RCW, or the national environmental policy act (42 U.S.C. Sec. 4321 et seq.). [2007 c 241 § 17; 2004 c 105 § 7; 1998 c 144 § 1; 1991 c 363 § 122; 1986 c 206 § 9; 1977 ex.s. c 220 § 17.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

[Title 46 RCW—page 38]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Additional notes found at www.leg.wa.gov

46.09.250 Statewide plan. (Effective until July 1, 2011.) The board shall maintain a statewide plan which shall be updated at least once every third biennium and shall be used by all participating agencies to guide distribution and expenditure of funds under this chapter. [2007 c 241 § 18; 1986 c 206 § 11; 1977 ex.s. c 220 § 18.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

46.09.280 Nonhighway and off-road vehicle activities advisory committee. (Effective until July 1, 2011.) (1) The board shall establish the nonhighway and off-road vehicle activities advisory committee to provide advice regarding the administration of this chapter. The committee consists of governmental representatives, land managers, and a proportional representation of persons with recreational experience in areas identified in the most recent fuel use study, including but not limited to people with ORV, hiking, equestrian, mountain biking, hunting, fishing, and wildlife viewing experience.

(2) After the advisory committee has made recommendations regarding the expenditure of the fuel tax revenue portion of the nonhighway and off-road vehicle account moneys, the advisory committee's ORV and mountain biking recreationists, governmental representatives, and land managers will make recommendations regarding the expenditure of funds received under RCW 46.09.110.

(3) At least once a year, the board, the department of natural resources, the department of fish and wildlife, and the state parks and recreation commission shall report to the nonhighway and off-road vehicle activities advisory committee on the expenditures of funds received under RCW 46.09.110 and 46.09.170 and must proactively seek the advisory committee's advice regarding proposed expenditures.

(4) The advisory committee shall advise these agencies regarding the allocation of funds received under RCW 46.09.170 to ensure that overall expenditures reflect consideration of the results of the most recent fuel use study. [2007 c 241 § 19; 2004 c 105 § 8; 2003 c 185 § 1; 1986 c 206 § 13.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

GENERAL PROVISIONS

46.09.300 Application of chapter—Permission necessary to enter upon private lands. (Effective July 1, 2011.) The provisions of this chapter shall apply to all lands in this state. Nothing in this chapter, RCW 79A.35.040, 79A.35.070, 79A.35.090, 79A.35.110, and 79A.35.120 shall be deemed to grant to any person the right or authority to enter upon private property without permission of the property owner. [2005 c 213 § 2; 1972 ex.s. c 153 § 2; 1971 ex.s. c 47 § 6. Formerly RCW 46.09.010.]

Findings—Construction—2005 c 213: "The legislature finds that off-road recreational vehicles (ORVs) provide opportunities for a wide variety

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of outdoor recreation activities. The legislature further finds that the limited amount of ORV recreation areas presents a challenge for ORV recreational users, natural resource land managers, and private landowners. The legislature further finds that many nonhighway roads provide opportunities for ORV use and that these opportunities may reduce conflicts between users and facilitate responsible ORV recreation. However, restrictions intended for motor vehicles may prevent ORV use on certain roads, including forest service roads. Therefore, the legislature finds that local, state, and federal jurisdictions should be given the flexibility to allow ORV use on nonhighway roads they own and manage or for which they are authorized to allow public ORV use under an easement granted by the owner. Nothing in this act authorizes trespass on private property." [2005 c 213 § 1.]

Effective date—2005 c 213: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005." [2005 c 213 § 9.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.310 Definitions. (Effective July 1, 2011.) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory committee" means the nonhighway and off-road vehicle activities advisory committee established in RCW 46.09.340.

(2) "Board" means the recreation and conservation funding board established in RCW 79A.25.110.

(3) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling off-road vehicles at wholesale or retail in this state.

(4) "Highway," for the purpose of this chapter only, means the entire width between the boundary lines of every roadway publicly maintained by the state department of transportation or any county or city with funding from the motor vehicle fund. A highway is generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles.

(5) "Nonhighway road" means any road owned or managed by a public agency or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for (a) original construction or reconstruction in the last twenty-five years; or (b) maintenance in the last four years.

(6) "Nonhighway road recreation facilities" means recreational facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonhighway road recreational users.

(7) "Nonhighway road recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonhighway road recreational purposes, including, but not limited to, hunting, fishing, camping, sightseeing, wildlife viewing, picnicking, driving for pleasure, kayaking/canoeing, and gathering berries, firewood, mushrooms, and other natural products.

(8) "Nonhighway vehicle" means any motorized vehicle including an ORV when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain.

Nonhighway vehicle does not include:

(a) Any vehicle designed primarily for travel on, over, or in the water;

(b) Snowmobiles or any military vehicles; or

(c) Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.36 RCW while an

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exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

(9) "Nonmotorized recreational facilities" means recreational trails and facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonmotorized recreational users.

(10) "Nonmotorized recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonmotorized recreational purposes including, but not limited to, walking, hiking, backpacking, climbing, cross-country skiing, snowshoeing, mountain biking, horseback riding, and pack animal activities.

(11) "Organized competitive event" means any competition, advertised in advance through written notice to organized clubs or published in local newspapers, sponsored by recognized clubs, and conducted at a predetermined time and place.

(12) "ORV recreation facilities" include, but are not limited to, ORV trails, trailheads, campgrounds, ORV sports parks, and ORV use areas, designated for ORV use by the managing authority that are intended primarily for ORV recreational users.

(13) "ORV recreational user" means a person whose purpose for consuming fuel on nonhighway roads or off-road is primarily for ORV recreational purposes, including but not limited to riding an all-terrain vehicle, motorcycling, or driving a four-wheel drive vehicle or dune buggy.

(14) "ORV sports park" means a facility designed to accommodate competitive ORV recreational uses including, but not limited to, motocross racing, four-wheel drive competitions, and flat track racing. Use of ORV sports parks can be competitive or noncompetitive in nature.

(15) "ORV trail" means a multiple-use corridor designated by the managing authority and maintained for recreational use by motorized vehicles. [2010 c 161 § 213; 2007 c 241 § 13; 2004 c 105 § 1; 1986 c 206 § 1; 1979 c 158 § 129; 1977 ex.s. c 220 § 1; 1972 ex.s. c 153 § 3; 1971 ex.s. c 47 § 7. Formerly RCW 46.09.020.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.320 Certificates of title. (Effective July 1, 2011.) The department shall issue a certificate of title to the owner of an off-road vehicle. The owner shall pay the fee established under RCW 46.17.100. Issuance of the certificate of title does not qualify the vehicle for registration under *chapter 46.16 RCW. [2010 c 161 § 214.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.09.330 Off-road vehicle dealers—Licenses—Fee—License plates—Title application upon sale—Viola-

tion. (Effective July 1, 2011.) (1) Each dealer of off-road vehicles in this state shall obtain either a miscellaneous vehicle dealer license as defined in RCW 46.70.011 or an off-road vehicle dealer license from the department in a manner prescribed by the department. Upon receipt of an application for an off-road vehicle dealer license and the fee described under subsection (2) of this section, the dealer is licensed and an off-road vehicle dealer license number must be assigned.

(2) The annual fee for an off-road vehicle dealer license is twenty-five dollars, which covers all of the off-road vehicles owned by a dealer and not rented. Off-road vehicles rented on a regular, commercial basis by a dealer must have separate registrations.

(3) Upon the issuance of an off-road vehicle dealer license, each dealer may purchase, at a cost to be determined by the department, off-road vehicle dealer license plates of a size and color to be determined by the department. The off-road vehicle dealer license plates must contain the off-road vehicle dealer license number assigned to the dealer. Each off-road vehicle operated by a dealer, dealer representative, or prospective customer for the purposes of testing or demonstration shall display dealer license plates assigned by the department.

(4) A dealer, dealer representative, or prospective customer may only use dealer license plates for the purposes prescribed in subsection (3) of this section.

(5) Off-road vehicle dealer license numbers are non-transferable.

(6) It is unlawful for any dealer to sell any off-road vehicle at wholesale or retail or to test or demonstrate any off-road vehicle within the state unless the dealer has either a miscellaneous vehicle dealer license as defined in RCW 46.70.011 or an off-road vehicle dealer license as required under this section.

(7) When an off-road vehicle is sold by a dealer, the dealer shall apply for a certificate of title in the purchaser's name within fifteen days following the sale.

(8) Except as provided in RCW 46.09.420, it is unlawful for any dealer to sell at retail an off-road vehicle without registration required in RCW 46.09.440. [2010 c 161 § 220; 2010 c 8 § 9002; 1990 c 250 § 24; 1986 c 206 § 5; 1977 ex.s. c 220 § 7; 1972 ex.s. c 153 § 9; 1971 ex.s. c 47 § 13. Formerly RCW 46.09.080.]

Reviser's note: RCW 46.09.080 was amended twice during the 2010 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.340 Nonhighway and off-road vehicle activities advisory committee. (Effective July 1, 2011.) (1) The board shall establish the nonhighway and off-road vehicle activities advisory committee to provide advice regarding the administration of this chapter. The committee consists of governmental representatives, land managers, and a proportional representation of persons with recreational experience in areas identified in the most recent fuel use study, including

but not limited to people with off-road vehicle, hiking, equestrian, mountain biking, hunting, fishing, and wildlife viewing experience.

(2) After the advisory committee has made recommendations regarding the expenditure of the fuel tax revenue portion of the nonhighway and off-road vehicle account moneys, the advisory committee's off-road vehicle and mountain biking recreationists, governmental representatives, and land managers will make recommendations regarding the expenditure of funds received under RCW 46.68.045.

(3) At least once a year, the board, the department of natural resources, the department of fish and wildlife, and the state parks and recreation commission shall report to the nonhighway and off-road vehicle activities advisory committee on the expenditures of funds received under RCW 46.68.045 and 46.09.520 and must proactively seek the advisory committee's advice regarding proposed expenditures.

(4) The advisory committee shall advise these agencies regarding the allocation of funds received under RCW 46.09.520 to ensure that overall expenditures reflect consideration of the results of the most recent fuel use study. [2010 c 161 § 224; 2007 c 241 § 19; 2004 c 105 § 8; 2003 c 185 § 1; 1986 c 206 § 13. Formerly RCW 46.09.280.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

46.09.350 Accident reports. (Effective July 1, 2011.) The operator of any nonhighway vehicle involved in any accident resulting in injury to or death of any person, or property damage to another to an apparent extent equal to or greater than the minimum amount established by rule adopted by the chief of the Washington state patrol in accordance with chapter 46.52 RCW, or a person acting for the operator shall submit such reports as are required under chapter 46.52 RCW, and the provisions of chapter 46.52 RCW applies to the reports when submitted. [1990 c 250 § 25; 1977 ex.s. c 220 § 12; 1971 ex.s. c 47 § 19. Formerly RCW 46.09.140.]

Additional notes found at www.leg.wa.gov

46.09.360 Regulation by local political subdivisions or state agencies. (Effective July 1, 2011.) Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets, roads, or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter. However, the legislative body of a city with a population of less than three thousand persons may, by ordinance, designate a street or highway within its boundaries to be suitable for use by off-road vehicles. The legislative body of a county may, by ordinance, designate a road or highway within its boundaries to be suitable for use by off-road vehicles if the road or highway is a direct connection between a city with a population of less than three thousand persons and

an off-road vehicle recreation facility. [2006 c 212 § 4; 1977 ex.s. c 220 § 15; 1971 ex.s. c 47 § 23. Formerly RCW 46.09.180.]

46.09.370 Statewide plan. (Effective July 1, 2011.)

The board shall maintain a statewide plan which shall be updated at least once every third biennium and shall be used by all participating agencies to guide distribution and expenditure of funds under this chapter. [2007 c 241 § 18; 1986 c 206 § 11; 1977 ex.s. c 220 § 18. Formerly RCW 46.09.250.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

46.09.380 Enforcement. (Effective July 1, 2011.) The provisions of this chapter shall be enforced by all persons having the authority to enforce any of the laws of this state, including, without limitation, officers of the state patrol, county sheriffs and their deputies, all municipal law enforcement officers within their respective jurisdictions, fish and wildlife officers, state park rangers, and those employees of the department of natural resources designated by the commissioner of public lands under RCW *43.30.310, 76.04.035, and 76.04.045. [2001 c 253 § 3; 1986 c 100 § 52; 1971 ex.s. c 47 § 25. Formerly RCW 46.09.200.]

***Reviser's note:** RCW 43.30.310 was recodified as RCW 43.12.065 pursuant to 2003 c 334 § 127.

REGISTRATIONS AND USE PERMITS

46.09.400 Issuance—Decals—Fees. (Effective July 1, 2011.) The department shall:

(1) Issue registrations and temporary ORV use permits for off-road vehicles;

(2) Issue decals for off-road vehicles. The decals serve the same function as license plates for vehicles registered under *chapter 46.16 RCW; and

(3) Charge a fee for each decal covering the actual cost of the decal. [2010 c 161 § 215; 1990 c 250 § 23; 1986 c 206 § 2; 1977 ex.s. c 220 § 2; 1972 ex.s. c 153 § 4; 1971 ex.s. c 47 § 8. Formerly RCW 46.09.030.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.410 Registrations—Original and renewal application—Requirements—Decals—Out-of-state operators. (Effective July 1, 2011.) (1) The application for an original ORV registration has the same requirements as described for original vehicle registrations in RCW 46.16A.040 and must be accompanied by the annual off-road vehicle license fee required under RCW 46.17.350, in addition to any other fees or taxes due for the application.

(2) The application for renewal of an ORV registration has the same requirements as described for the renewal of

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vehicle registrations in RCW 46.16A.110 and must be accompanied by the annual off-road vehicle license fee required under RCW 46.17.350, in addition to any other fees or taxes due for the application.

(3) The annual ORV registration is valid for one year and may be renewed each subsequent year as prescribed by the department.

(4) A person who acquires an off-road vehicle that has an ORV registration must:

(a) Apply to the department, county auditor or other agent, or subagent appointed by the director for a transfer of the ORV registration within fifteen days of taking possession of the off-road vehicle; and

(b) Pay the ORV registration transfer fee required under RCW 46.17.410, in addition to any other fees or taxes due at the time of application.

(5) The department shall issue an ORV registration, decals, and tabs upon receipt of:

(a) A properly completed application for an original ORV registration; and

(b) The payment of all fees and taxes due at the time of application.

(6) The ORV registration must be carried on the vehicle for which it was issued at all times during its operation in this state.

(7) Off-road vehicle decals must be affixed to the off-road vehicle in a manner prescribed by the department.

(8) Unless exempt under RCW 46.09.420, any out-of-state operator of an off-road vehicle, when operating in this state, must comply with this chapter. If an ORV registration is required under this chapter, the out-of-state operator must obtain an ORV registration and decal or a temporary ORV use permit. [2010 c 161 § 218; 2004 c 106 § 1; 2002 c 352 § 1; 1997 c 241 § 1; 1986 c 206 § 4; 1977 ex.s. c 220 § 6; 1972 ex.s. c 153 § 8; 1971 ex.s. c 47 § 12. Formerly RCW 46.09.070.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2004 c 106 § 1: "Section 1 of this act takes effect with registrations that are due or become due November 1, 2004, or later." [2004 c 106 § 2.]

Effective dates—2002 c 352: "Sections 7, 9, and 28 of this act are effective with registrations that are due or will become due September 1, 2002, and thereafter. Section 26 of this act takes effect October 1, 2002. The remainder of this act takes effect July 1, 2002." [2002 c 352 § 30.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.420 Registrations and decals—Exemptions. (Effective July 1, 2011.) ORV registrations and decals are required under this chapter except for the following:

(1) Off-road vehicles owned and operated by the United States, another state, or a political subdivision of the United States or another state.

(2) Off-road vehicles owned and operated by this state, a municipality, or a political subdivision of this state or the municipality.

(3) Off-road vehicles operated on agricultural lands owned or leased by the off-road vehicle owner or operator.

(4) Off-road vehicles owned by a resident of another state that have a valid ORV use permit or vehicle registration

issued in accordance with the laws of the other state. This exemption applies only to the extent that a similar exemption or privilege is granted under the laws of that state.

(5) Off-road vehicles while being used for search and rescue purposes under the authority or direction of an appropriate search and rescue or law enforcement agency.

(6) Vehicles registered under *chapter 46.16 RCW or, in the case of nonresidents, vehicles validly registered for operation over public highways in the jurisdiction of the owner's residence. [2010 c 161 § 217; 2004 c 105 § 9; 1986 c 206 § 3; 1977 ex.s. c 220 § 4; 1972 ex.s. c 153 § 6; 1971 ex.s. c 47 § 10. Formerly RCW 46.09.050.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.430 Use permits—Application requirements. (Effective July 1, 2011.) (1) The application for a temporary ORV use permit must be made by the owner or the owner's authorized representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department. The application must contain:

(a) The name and address of each owner of the off-road vehicle; and

(b) Other information that the department may require.

(2) The owner or the owner's authorized representative shall sign the application for a temporary ORV use permit.

(3) The application for a temporary ORV use permit must be accompanied by the temporary ORV use permit fee required under RCW 46.17.400, in addition to any other fees or taxes due for the application.

(4) A temporary ORV use permit:

(a) Is valid for sixty days; and

(b) Must be carried on the vehicle for which it was issued at all times during its operation in this state. [2010 c 161 § 219.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.09.440 Prerequisite to operation. (Effective July 1, 2011.) Except as provided in this chapter, a person shall not operate an off-road vehicle within this state unless the off-road vehicle has been assigned an ORV registration or temporary ORV use permit and displays current decals and tabs as required under this chapter. [2010 c 161 § 216; 1977 ex.s. c 220 § 3; 1972 ex.s. c 153 § 5; 1971 ex.s. c 47 § 9. Formerly RCW 46.09.040.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

USES AND VIOLATIONS

46.09.450 Authorized and prohibited uses. (Effective July 1, 2011.) (1) Except as otherwise provided in this section, it is lawful to operate an off-road vehicle upon:

(a) A nonhighway road and in parking areas serving designated off-road vehicle areas if the state, federal, local, or private authority responsible for the management of the nonhighway road authorizes the use of off-road vehicles; and

(b) A street, road, or highway as authorized under RCW 46.09.360.

(2) Operations of an off-road vehicle on a nonhighway road, or on a street, road, or highway as authorized under RCW 46.09.360, under this section is exempt from registration requirements of *chapter 46.16 RCW and vehicle lighting and equipment requirements of chapter 46.37 RCW.

(3) It is unlawful to operate an off-road vehicle upon a private nonhighway road if the road owner has not authorized the use of off-road vehicles.

(4) Nothing in this section authorizes trespass on private property.

(5) The provisions of RCW 4.24.210(5) shall apply to public landowners who allow members of the public to use public facilities accessed by a highway, street, or nonhighway road for recreational off-road vehicle use. [2010 c 161 § 221; 2006 c 212 § 2; 2005 c 213 § 4. Formerly RCW 46.09.115.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Findings—Construction—Effective date—2005 c 213: See notes following RCW 46.09.300.

46.09.460 Operation by persons under thirteen. (Effective July 1, 2011.) (1) Except as specified in subsection (2) of this section, no person under thirteen years of age may operate an off-road vehicle on or across a highway or nonhighway road in this state.

(2) Persons under thirteen years of age may operate an off-road vehicle on a nonhighway road designated for off-road vehicle use under the direct supervision of a person eighteen years of age or older possessing a valid license to operate a motor vehicle under chapter 46.20 RCW. [2005 c 213 § 5. Formerly RCW 46.09.117.]

Findings—Construction—Effective date—2005 c 213: See notes following RCW 46.09.300.

46.09.470 Operating violations—Exceptions. (Effective July 1, 2011.) (1) Except as provided in subsection (4) of this section, it is a traffic infraction for any person to operate any nonhighway vehicle:

(a) In such a manner as to endanger the property of another;

(b) On lands not owned by the operator or owner of the nonhighway vehicle without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others regardless of ownership;

(c) On lands not owned by the operator or owner of the nonhighway vehicle without an adequate braking device or when otherwise required for the safety of others regardless of ownership;

(d) Without a spark arrester approved by the department of natural resources;

(e) Without an adequate, and operating, muffling device which effectively limits vehicle noise to no more than eighty-six decibels on the "A" scale at fifty feet as measured by the Society of Automotive Engineers (SAE) test procedure J 331a, except that a maximum noise level of one hundred and five decibels on the "A" scale at a distance of twenty inches from the exhaust outlet shall be an acceptable substitute in lieu of the Society of Automotive Engineers test procedure J 331a when measured:

(i) At a forty-five degree angle at a distance of twenty inches from the exhaust outlet;

(ii) With the vehicle stationary and the engine running at a steady speed equal to one-half of the manufacturer's maximum allowable ("red line") engine speed or where the manufacturer's maximum allowable engine speed is not known the test speed in revolutions per minute calculated as sixty percent of the speed at which maximum horsepower is developed; and

(iii) With the microphone placed ten inches from the side of the vehicle, one-half way between the lowest part of the vehicle body and the ground plane, and in the same lateral plane as the rearmost exhaust outlet where the outlet of the exhaust pipe is under the vehicle;

(f) On lands not owned by the operator or owner of the nonhighway vehicle upon the shoulder or inside bank or slope of any nonhighway road or highway, or upon the median of any divided highway;

(g) On lands not owned by the operator or owner of the nonhighway vehicle in any area or in such a manner so as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage, or destroy trees, growing crops, or other vegetation;

(h) On lands not owned by the operator or owner of the nonhighway vehicle or on any nonhighway road or trail, when these are restricted to pedestrian or animal travel;

(i) On any public lands in violation of rules and regulations of the agency administering such lands; and

(j) On a private nonhighway road in violation of *RCW 46.09.115(3).

(2) It is a misdemeanor for any person to operate any nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance.

(3)(a) Except for an off-road vehicle equipped with seat belts and roll bars or an enclosed passenger compartment, it is a traffic infraction for any person to operate or ride an off-road vehicle on a nonhighway road without wearing upon his or her head a motorcycle helmet fastened securely while in motion. For purposes of this section, "motorcycle helmet" has the same meaning as provided in RCW 46.37.530.

(b) Subsection (3)(a) of this section does not apply to an off-road vehicle operator operating on his or her own land.

(c) Subsection (3)(a) of this section does not apply to an off-road vehicle operator operating on agricultural lands owned or leased by the off-road vehicle operator or the operator's employer.

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(4) It is not a traffic infraction to operate an off-road vehicle on a street, road, or highway as authorized under **RCW 46.09.180. [2006 c 212 § 3; 2005 c 213 § 3; 2003 c 377 § 1; 1979 ex.s. c 136 § 41; 1977 ex.s. c 220 § 10; 1972 ex.s. c 153 § 12; 1971 ex.s. c 47 § 17. Formerly RCW 46.09.120.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Reviser's note: *(1) RCW 46.09.115 was recodified as RCW 46.09.450 pursuant to 2010 c 161 § 1204, effective July 1, 2011.

** (2) RCW 46.09.180 was recodified as RCW 46.09.360 pursuant to 2010 c 161 § 1202, effective July 1, 2011.

Findings—Construction—Effective date—2005 c 213: See notes following RCW 46.09.300.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.480 Additional violations—Penalty. (Effective July 1, 2011.) (1) No person may operate a nonhighway vehicle in such a way as to endanger human life.

(2) No person shall operate a nonhighway vehicle in such a way as to run down or harass any wildlife or animal, nor carry, transport, or convey any loaded weapon in or upon, nor hunt from, any nonhighway vehicle except by permit issued by the director of fish and wildlife under RCW 77.32.237: PROVIDED, That it shall not be unlawful to carry, transport, or convey a loaded pistol in or upon a nonhighway vehicle if the person complies with the terms and conditions of chapter 9.41 RCW.

(3) For the purposes of this section, "hunt" means any effort to kill, injure, capture, or purposely disturb a wild animal or bird.

(4) Violation of this section is a gross misdemeanor. [2004 c 105 § 4; (2004 c 105 § 3 expired July 1, 2004); 2003 c 53 § 233; 1994 c 264 § 35; 1989 c 297 § 3; 1986 c 206 § 7; 1977 ex.s. c 220 § 11; 1971 ex.s. c 47 § 18. Formerly RCW 46.09.130.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Expiration dates—Effective dates—2004 c 105 §§ 3-6: "(1) Section 3 of this act expires July 1, 2004.

(2) Section 4 of this act takes effect July 1, 2004.

(3) Section 5 of this act expires June 30, 2005.

(4) Section 6 of this act takes effect June 30, 2005." [2004 c 105 § 11.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

46.09.490 General penalty—Civil liability. (Effective July 1, 2011.) (1) Except as provided in *RCW 46.09.120(2) and 46.09.130 as now or hereafter amended, violation of the provisions of this chapter is a traffic infraction for which a penalty of not less than twenty-five dollars may be imposed.

(2) In addition to the penalties provided in subsection (1) of this section, the owner and/or the operator of any nonhighway vehicle shall be liable for any damage to property including damage to trees, shrubs, or growing crops injured as the result of travel by the nonhighway vehicle. The owner of such property may recover from the person responsible three times the amount of damage. [1979 ex.s. c 136 § 42; 1977 ex.s. c 220 § 16; 1972 ex.s. c 153 § 16; 1971 ex.s. c 47 § 24. Formerly RCW 46.09.190.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

***Reviser's note:** RCW 46.09.120 and 46.09.130 were recodified as RCW 46.09.470 and 46.09.480, respectively, pursuant to 2010 c 161 § 1204, effective July 1, 2011.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

REVENUE

46.09.500 Motor vehicle fuel excise taxes on fuel for nonhighway vehicles not refundable. (Effective July 1, 2011.) Motor vehicle fuel excise taxes paid on fuel used and purchased for providing the motive power for nonhighway vehicles shall not be refundable in accordance with the provisions of RCW 82.36.280 as it now exists or is hereafter amended. [1977 ex.s. c 220 § 13; 1974 ex.s. c 144 § 1; 1972 ex.s. c 153 § 13; 1971 ex.s. c 47 § 20. Formerly RCW 46.09.150.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

46.09.510 Nonhighway and off-road vehicle activities program account. (Effective July 1, 2011.) The nonhighway and off-road vehicle activities program account is created in the state treasury. Moneys in this account are subject to legislative appropriation. The recreation and conservation funding board shall administer the account for purposes specified in this chapter and shall hold it separate and apart from all other money, funds, and accounts of the board. Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and any moneys made available to the state of Washington by the federal government for outdoor recreation may be deposited into the account. [2007 c 241 § 15; 1995 c 166 § 11. Formerly RCW 46.09.165.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

46.09.520 Refunds from motor vehicle fund—Distribution—Use. (Effective July 1, 2011.) (1) From time to time, but at least once each year, the state treasurer shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter 82.36 RCW, based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (c) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-three cents per gallon of motor vehicle fuel beginning July 1, 2011, and thereafter, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090.

(2) The treasurer shall place these funds in the general fund as follows:

(a) Thirty-six percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of natural resources solely for acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities, and information programs and maintenance of nonhighway roads;

(b) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and the maintenance of nonhighway roads;

(c) Two percent shall be credited to the ORV and nonhighway vehicle account and administered by the parks and recreation commission solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities; and

(d) Fifty-eight and one-half percent shall be credited to the nonhighway and off-road vehicle activities program account to be administered by the board for planning, acquisition, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and for education, information, and law enforcement programs. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than thirty percent may be expended for education, information, and law enforcement programs under this chapter;

(ii) Not less than seventy percent may be expended for ORV, nonmotorized, and nonhighway road recreation facilities. Except as provided in (d)(iii) of this subsection, of this amount:

(A) Not less than thirty percent, together with the funds the board receives under RCW 46.68.045, may be expended for ORV recreation facilities;

(B) Not less than thirty percent may be expended for nonmotorized recreation facilities. Funds expended under this subsection (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation facilities funds; and

(C) Not less than thirty percent may be expended for nonhighway road recreation facilities;

(iii) The board may waive the minimum percentage cited in (d)(ii) of this subsection due to insufficient requests for funds or projects that score low in the board's project evaluation. Funds remaining after such a waiver must be allocated in accordance with board policy.

(3) On a yearly basis an agency may not, except as provided in RCW 46.68.045, expend more than ten percent of the funds it receives under this chapter for general administration expenses incurred in carrying out this chapter.

(4) During the 2009-2011 fiscal biennium, the legislature may appropriate such amounts as reflect the excess fund balance in the NOVA account to the department of natural resources to install consistent off-road vehicle signage at department-managed recreation sites, and to implement the recreation opportunities on department-managed lands in the Reiter block and Ahtanum state forest, and to the state parks and recreation commission. The legislature finds that the appropriation of funds from the NOVA account during the 2009-2011 fiscal biennium for maintenance and operation of state parks or to improve accessibility for boaters and off-road vehicle users at state parks will benefit boaters and off-road vehicle users and others who use nonhighway and nonmotorized recreational facilities. The appropriations under this subsection are not required to follow the specific distribution specified in subsection (2) of this section. [2010 1st sp.s. c 37 § 936; 2010 c 161 § 222. Prior: 2009 c 564 § 944;

2009 c 187 § 2; prior: 2007 c 522 § 953; 2007 c 241 § 16; 2004 c 105 § 6; (2004 c 105 § 5 expired June 30, 2005); prior: (2003 1st sp.s. c 26 § 920 expired June 30, 2005); 2003 1st sp.s. c 25 § 922; 2003 c 361 § 407; 1995 c 166 § 9; 1994 c 264 § 36; 1990 c 42 § 115; 1988 c 36 § 25; 1986 c 206 § 8; 1979 c 158 § 130; 1977 ex.s. c 220 § 14; 1975 1st ex.s. c 34 § 1; 1974 ex.s. c 144 § 3; 1972 ex.s. c 153 § 15; 1971 ex.s. c 47 § 22. Formerly RCW 46.09.170.]

Reviser's note: This section was amended by 2010 c 161 § 222 and by 2010 1st sp.s. c 37 § 936, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2009 c 564: See note following RCW 2.68.020.

Severability—Effective date—2007 c 522: See notes following RCW 15.64.050.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Expiration dates—Effective dates—2004 c 105 §§ 3-6: See note following RCW 46.09.480.

Expiration date—Severability—Effective dates—2003 1st sp.s. c 26: See notes following RCW 43.135.045.

Severability—Effective date—2003 1st sp.s. c 25: See note following RCW 19.28.351.

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.09.530 Administration and distribution of off-road vehicle moneys. (Effective July 1, 2011.) (1) After deducting administrative expenses and the expense of any programs conducted under this chapter, the board shall, at least once each year, distribute the funds it receives under RCW 46.68.045 and 46.09.520 to state agencies, counties, municipalities, federal agencies, nonprofit off-road vehicle organizations, and Indian tribes. Funds distributed under this section to nonprofit off-road vehicle organizations may be spent only on projects or activities that benefit off-road vehicle recreation on lands once publicly owned that come into private ownership in a federally approved land exchange completed between January 1, 1998, and January 1, 2005.

(2) The board shall adopt rules governing applications for funds administered by the recreation and conservation office under this chapter and shall determine the amount of money distributed to each applicant. Agencies receiving funds under this chapter for capital purposes shall consider the possibility of contracting with the state parks and recreation commission, the department of natural resources, or other federal, state, and local agencies to employ the youth development and conservation corps or other youth crews in completing the project.

(3) The board shall require each applicant for acquisition or development funds under this section to comply with the requirements of either the state environmental policy act,

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chapter 43.21C RCW, or the national environmental policy act (42 U.S.C. Sec. 4321 et seq.). [2010 c 161 § 223; 2007 c 241 § 17; 2004 c 105 § 7; 1998 c 144 § 1; 1991 c 363 § 122; 1986 c 206 § 9; 1977 ex.s. c 220 § 17. Formerly RCW 46.09.240.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Additional notes found at www.leg.wa.gov

46.09.900 Severability—1971 ex.s. c 47. If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1971 amendatory act, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 47 § 26.]

Chapter 46.10 RCW

SNOWMOBILES

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46.10.010 Definitions. (Effective until July 1, 2011.)

As used in this chapter the words and phrases in this section shall have the designated meanings unless a different meaning is expressly provided or the context otherwise clearly indicated.

(1) "Person" shall mean any individual, firm, partnership, association, or corporation.

(2) "Snowmobile" shall mean any self-propelled vehicle capable of traveling over snow or ice, which utilizes as its means of propulsion an endless belt tread, or cleats, or any combination of these or other similar means of contact with the surface upon which it is operated, and which is steered wholly or in part by skis or sled type runners, and which is not otherwise registered as, or subject to the motor vehicle excise tax in the state of Washington.

(3) "Vintage snowmobile" means a snowmobile manufactured at least thirty years ago.

(4) "All terrain vehicle" shall mean any self-propelled vehicle other than a snowmobile, capable of cross-country travel on or immediately over land, water, snow, ice, marsh, swampland, and other natural terrain, including, but not limited to, four-wheel vehicles, amphibious vehicles, ground effect or air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind; except any vehicle designed primarily for travel on, over, or in the water, farm vehicles, or any military or law enforcement vehicles.

(5) "Owner" shall mean the person, other than a lienholder, having the property in or title to a snowmobile or all terrain vehicle, and entitled to the use or possession thereof.

(6) "Operator" means each person who operates, or is in physical control of, any snowmobile or all terrain vehicle.

(7) "Public roadway" shall mean the entire width of the right-of-way of any road or street designed and ordinarily used for travel or parking of motor vehicles, which is controlled by a public authority other than the Washington state

department of transportation, and which is open as a matter of right to the general public for ordinary vehicular traffic.

(8) "Highways" shall mean the entire width of the right-of-way of all primary and secondary state highways, including all portions of the interstate highway system.

(9) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling snowmobiles or all terrain vehicles at wholesale or retail in this state.

(10) "Department" shall mean the department of licensing.

(11) "Director" shall mean the director of the department of licensing.

(12) "Commission" shall mean the Washington state parks and recreation commission.

(13) "Hunt" shall mean any effort to kill, injure, capture, or disturb a wild animal or wild bird.

(14) "Committee" means the Washington state parks and recreation commission snowmobile advisory committee. [2005 c 235 § 1; 1979 ex.s. c 182 § 1; 1979 c 158 § 131; 1971 ex.s. c 29 § 1.]

Application—2005 c 235: "This act applies to registrations due or to become due on October 1, 2005, and thereafter." [2005 c 235 § 4.]

46.10.020 Operation of snowmobile without registration prohibited. (Effective until July 1, 2011.) (1) Except as provided in this chapter, a person may not operate any snowmobile within this state unless such snowmobile has been registered in accordance with the provisions of this chapter.

(2) A registration number shall be assigned, without payment of a fee, to snowmobiles owned by the state of Washington or its political subdivisions, and the assigned registration number shall be displayed upon each snowmobile in such manner as provided by rules adopted by the department. [2008 c 52 § 1; 2005 c 235 § 2; 1982 c 17 § 1; 1979 ex.s. c 182 § 3; 1971 ex.s. c 29 § 2.]

Application—2005 c 235: See note following RCW 46.10.010.

46.10.030 Ownership or operation of snowmobile without registration prohibited—Exceptions. (Effective until July 1, 2011.) No registration shall be required under the provisions of this chapter for the following described snowmobiles:

(1) Snowmobiles owned and operated by the United States, another state, or a political subdivision thereof.

(2) A snowmobile owned by a resident of another state or Canadian province if that snowmobile is registered in accordance with the laws of the state or province in which its owner resides, but only to the extent that a similar exemption or privilege is granted under the laws of that state or province for snowmobiles registered in this state: PROVIDED, That any snowmobile which is validly registered in another state or province and which is physically located in this state for a period of more than fifteen consecutive days shall be subject to registration under the provisions of this chapter. [1986 c 16 § 1; 1979 ex.s. c 182 § 4; 1975 1st ex.s. c 181 § 1; 1971 ex.s. c 29 § 3.]

46.10.040 Application for registration—Annual fees—Registration number—Term—Renewal—Trans-

fer—Nonresident permit—Decals. (Effective until July 1, 2011.) (1) Application for registration shall be made to the department in the manner and upon forms the department prescribes, and shall state the name and address of each owner of the snowmobile to be registered, and shall be signed by at least one such owner, and shall be accompanied by an annual registration fee as described in (a) of this subsection.

(a) The annual registration fee for snowmobiles manufactured less than thirty years is thirty dollars. The annual registration fee for vintage snowmobiles is twelve dollars. The department shall design, in cooperation with the commission, a distinct registration decal which shall be issued to vintage snowmobiles upon payment of the annual registration fee.

(b) Upon receipt of the application and the application fee, the snowmobile shall be registered and a registration number assigned, which shall be affixed to the snowmobile in a manner provided in RCW 46.10.070.

(2) The registration provided in this section shall be valid for a period of one year. At the end of the period of registration, every owner of a snowmobile in this state shall renew his or her registration in the manner the department prescribes, for an additional period of one year, upon payment of the annual registration fee.

(3) Any person acquiring a snowmobile already validly registered under the provisions of this chapter must, within ten days of the acquisition or purchase of the snowmobile, make application to the department for transfer of the registration, and the application shall be accompanied by a transfer fee of five dollars.

(4) A snowmobile owned by a resident of another state or Canadian province where registration is not required by law may be issued a nonresident registration permit valid for not more than sixty days. Application for the permit shall state the name and address of each owner of the snowmobile to be registered and shall be signed by at least one owner and shall be accompanied by a registration fee of five dollars. The registration permit shall be carried on the vehicle at all times during its operation in this state.

(5) The registration fees provided in this section shall be in lieu of any personal property or excise tax heretofore imposed on snowmobiles by this state or any political subdivision thereof, and no city, county, or other municipality, and no state agency shall hereafter impose any other registration or license fee on any snowmobile in this state.

(6) The department shall make available a pair of uniform decals consistent with the provisions of RCW 46.10.070. In addition to the registration fee provided in this section the department shall charge each applicant for registration the actual cost of the decal. The department shall make available replacement decals for a fee equivalent to the actual cost of the decals. [2008 c 52 § 2; 2005 c 235 § 3; 2002 c 352 § 2; 2001 2nd sp.s. c 7 § 918; 1997 c 241 § 2; 1996 c 164 § 1; 1986 c 16 § 2; 1982 c 17 § 2; 1979 ex.s. c 182 § 5; 1973 1st ex.s. c 128 § 1; 1972 ex.s. c 153 § 20; 1971 ex.s. c 29 § 4.]

Application—2005 c 235: See note following RCW 46.10.010.

Effective dates—2002 c 352: See note following RCW 46.09.070.

Severability—Effective date—2001 2nd sp.s. c 7: See notes following RCW 43.320.110.

(2010 Ed.)

Purpose—Policy statement as to certain state lands—1972 ex.s. c 153: See RCW 79A.35.070.

46.10.043 Registration or transfer of registration pursuant to sale by dealer—Temporary registration. (Effective until July 1, 2011.) Each snowmobile dealer registered pursuant to the provisions of RCW 46.10.050 shall register the snowmobile or, in the event the snowmobile is currently registered, transfer the registration to the new owner prior to delivering the snowmobile to that new owner subsequent to the sale thereof by the dealer. Applications for registration and transfer of registration of snowmobiles shall be made to agents of the department authorized as such in accordance with RCW 46.01.140 and 46.01.150 as now or hereafter amended.

All registrations for snowmobiles must be valid for the current registration period prior to the transfer of any registration, including assignment to a dealer. Upon the sale of a snowmobile by a dealer, the dealer may issue a temporary registration as provided by rules adopted by the department. [1982 c 17 § 3; 1979 ex.s. c 182 § 6; 1975 1st ex.s. c 181 § 4.]

46.10.050 Snowmobile dealers' registration—Fee—Dealer number plates, use—Sale or demonstration unlawful without registration. (Effective until July 1, 2011.) (1) Each dealer of snowmobiles in this state shall register with the department in such manner and upon such forms as the department shall prescribe. Upon receipt of a dealer's application for registration and the registration fee provided for in subsection (2) of this section, such dealer shall be registered and a registration number assigned.

(2) The registration fee for dealers shall be twenty-five dollars per year, and such fee shall cover all of the snowmobiles offered by a dealer for sale and not rented on a regular, commercial basis: PROVIDED, That snowmobiles rented on a regular commercial basis by a dealer shall be registered separately under the provisions of RCW 46.10.020, 46.10.040, 46.10.060, and 46.10.070.

(3) Upon registration each dealer may purchase, at a cost to be determined by the department, dealer number plates of a size and color to be determined by the department, which shall contain the registration number assigned to that dealer. Each snowmobile operated by a dealer, dealer representative, or prospective customer for the purposes of demonstration or testing shall display such number plates in a clearly visible manner.

(4) No person other than a dealer, dealer representative, or prospective customer shall display a dealer number plate, and no dealer, dealer representative, or prospective customer shall use a dealer's number plate for any purpose other than the purposes described in subsection (3) of this section.

(5) Dealer registration numbers are nontransferable.

(6) It is unlawful for any dealer to sell any snowmobile at wholesale or retail, or to test or demonstrate any snowmobile, within the state, unless registered in accordance with the provisions of this section. [1990 c 250 § 26; 1982 c 17 § 5; 1971 ex.s. c 29 § 5.]

Additional notes found at www.leg.wa.gov

46.10.055 Denial, suspension, or revocation of dealer registration or assessment of monetary civil penalty,

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when. (*Effective until July 1, 2011.*) The director may by order deny, suspend, or revoke the registration of any snowmobile dealer or, in lieu thereof or in addition thereto, may by order assess monetary civil penalties not to exceed five hundred dollars per violation, if the director finds that the order is in the public interest and that the applicant or registrant, or any partner, officer, director, or owner of ten percent of the assets of the firm, or any employee or agent:

- (1) Has failed to comply with the applicable provisions of this chapter or any rules adopted under this chapter; or
- (2) Has failed to pay any monetary civil penalty assessed by the director under this section within ten days after the assessment becomes final. [1982 c 17 § 4.]

46.10.060 Registration number permanent—Certificate of registration, date tags. (*Effective until July 1, 2011.*) The registration number assigned to a snowmobile in this state at the time of its original registration shall remain with that snowmobile until the vehicle is destroyed, abandoned, or permanently removed from this state, or until changed or terminated by the department. The department shall, upon assignment of such registration number, issue and deliver to the owner a certificate of registration, in such form as the department shall prescribe. The certificate of registration shall not be valid unless signed by the person who signed the application for registration.

At the time of the original registration, and at the time of each subsequent renewal thereof, the department shall issue to the registrant a date tag or tags indicating the validity of the current registration and the expiration date thereof, which validating date, tag, or tags shall be affixed to the snowmobile in such manner as the department may prescribe. Notwithstanding the fact that a snowmobile has been assigned a registration number, it shall not be considered as validly registered within the meaning of this section unless a validating date tag and current registration certificate has been issued. [1971 ex.s. c 29 § 6.]

46.10.070 Affixing and displaying registration number. (*Effective until July 1, 2011.*) The registration number assigned to each snowmobile shall be permanently affixed to and displayed upon each snowmobile in such manner as provided by rules adopted by the department, and shall be maintained in a legible condition; except dealer number plates as provided for in RCW 46.10.050 may be temporarily affixed. [1973 1st ex.s. c 128 § 2; 1972 ex.s. c 153 § 21; 1971 ex.s. c 29 § 7.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

46.10.075 Snowmobile account—Deposits—Appropriations, use. (*Effective until July 1, 2011.*) There is created a snowmobile account within the state treasury. Snowmobile registration fees, monetary civil penalties from snowmobile dealers, and snowmobile fuel tax moneys collected under this chapter and in excess of the amounts fixed for the administration of the registration and fuel tax provisions of this chapter shall be deposited in the snowmobile account and shall be appropriated only to the state parks and recreation commission for the administration and coordination of this

chapter. [1991 sp.s. c 13 § 9; 1985 c 57 § 61; 1982 c 17 § 6; 1979 ex.s. c 182 § 7.]

Additional notes found at www.leg.wa.gov

46.10.080 Distribution of snowmobile registration fees, civil penalties, and fuel tax moneys. (*Effective until July 1, 2011.*) The moneys collected by the department as snowmobile registration fees, monetary civil penalties from snowmobile dealers, and fuel tax moneys placed in the snowmobile account shall be distributed in the following manner:

(1) Actual expenses not to exceed three percent for each year shall be retained by the department to cover expenses incurred in the administration of the registration and fuel tax provisions of this chapter.

(2) The remainder of such funds each year shall be remitted to the state treasurer to be deposited in the snowmobile account of the general fund and shall be appropriated only to the commission to be expended for snowmobile purposes. Such purposes may include but not necessarily be limited to the administration, acquisition, development, operation, and maintenance of snowmobile facilities and development and implementation of snowmobile safety, enforcement, and education programs.

(3) Nothing in this section is intended to discourage any public agency in this state from developing and implementing snowmobile programs. The commission is authorized to make grants to public agencies and to contract with any public or private agency or person for the purpose of developing and implementing snowmobile programs, provided that the programs are not inconsistent with the rules adopted by the commission. [1982 c 17 § 7; 1979 ex.s. c 182 § 8; 1975 1st ex.s. c 181 § 2; 1973 1st ex.s. c 128 § 3; 1972 ex.s. c 153 § 22; 1971 ex.s. c 29 § 8.]

Purpose—Including policy statement as to certain state lands—1972 ex.s. c 153: See RCW 79A.35.070.

46.10.090 Operating violations. (*Effective until July 1, 2011.*) (1) It is a traffic infraction for any person to operate any snowmobile:

(a) At a rate of speed greater than reasonable and prudent under the existing conditions.

(b) In a manner so as to endanger the property of another.

(c) Without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others.

(d) Without an adequate braking device which may be operated either by hand or foot.

(e) Without an adequate and operating muffling device which shall effectively blend the exhaust and motor noise in such a manner so as to preclude excessive or unusual noise, and, (i) on snowmobiles manufactured on or before January 4, 1973, which shall effectively limit such noise at a level of eighty-six decibels, or below, on the "A" scale at fifty feet, and (ii) on snowmobiles manufactured after January 4, 1973, which shall effectively limit such noise at a level of eighty-two decibels, or below, on the "A" scale at fifty feet, and (iii) on snowmobiles manufactured after January 1, 1975, which shall effectively limit such noise at a level of seventy-eight decibels, or below, as measured on the "A" scale at a distance of fifty feet, under testing procedures as established by the department of ecology; except snowmobiles used in orga-

nized racing events in an area designated for that purpose may use a bypass or cutout device. This section shall not affect the power of the department of ecology to adopt noise performance standards for snowmobiles. Noise performance standards adopted or to be adopted by the department of ecology shall be in addition to the standards contained in this section, but the department's standards shall supersede this section to the extent of any inconsistency.

(f) Upon the paved portion or upon the shoulder or inside bank or slope of any public roadway or highway, or upon the median of any divided highway, except as provided in RCW 46.10.100 and 46.10.110.

(g) In any area or in such a manner so as to expose the underlying soil or vegetation, or to injure, damage, or destroy trees or growing crops.

(h) Without a current registration decal affixed thereon, if not exempted under RCW 46.10.030 as now or hereafter amended.

(2) It is a misdemeanor for any person to operate any snowmobile so as to endanger the person of another or while under the influence of intoxicating liquor or narcotics or habit-forming drugs. [1980 c 148 § 1. Prior: 1979 ex.s. c 182 § 10; 1979 ex.s. c 136 § 43; 1975 1st ex.s. c 181 § 5; 1971 ex.s. c 29 § 9.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Additional notes found at www.leg.wa.gov

46.10.100 Crossing public roadways and highways lawful, when. (Effective until July 1, 2011.) It shall be lawful to drive or operate a snowmobile across public roadways and highways other than limited access highways when:

The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; and

The snowmobile is brought to a complete stop before entering the public roadway or highway; and

The operator of the snowmobile yields the right-of-way to motor vehicles using the public roadway or highway; and

The crossing is made at a place which is greater than one hundred feet from any public roadway or highway intersection. [1971 ex.s. c 29 § 10.]

46.10.110 Operating upon public road or highway lawful, when. (Effective until July 1, 2011.) Notwithstanding the provisions of RCW 46.10.100, it shall be lawful to operate a snowmobile upon a public roadway or highway:

Where such roadway or highway is completely covered with snow or ice and has been closed by the responsible governing body to motor vehicle traffic during the winter months; or

When the responsible governing body gives notice that such roadway or highway is open to snowmobiles or all-terrain vehicle use; or

In an emergency during the period of time when and at locations where snow upon the roadway or highway renders such impassible to travel by automobile; or

When traveling along a designated snowmobile trail. [1972 ex.s. c 153 § 23; 1971 ex.s. c 29 § 11.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

(2010 Ed.)

46.10.120 Restrictions on age of operators—Qualifications. (Effective until July 1, 2011.) No person under twelve years of age shall operate a snowmobile on or across a public roadway or highway in this state, and no person between the ages of twelve and sixteen years of age shall operate a snowmobile on or across a public road or highway in this state unless he or she has taken a snowmobile safety education course and been certified as qualified to operate a snowmobile by an instructor designated by the commission as qualified to conduct such a course and issue such a certificate, and he or she has on his or her person at the time he or she is operating a snowmobile evidence of such certification: PROVIDED, That persons under sixteen years of age who have not been certified as qualified snowmobile operators may operate a snowmobile under the direct supervision of a qualified snowmobile operator. [2010 c 8 § 9003; 1972 ex.s. c 153 § 24; 1971 ex.s. c 29 § 12.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

46.10.130 Additional violations—Penalty. (Effective until July 1, 2011.) (1) No person shall operate a snowmobile in such a way as to endanger human life.

(2) No person shall operate a snowmobile in such a way as to run down or harass deer, elk, or any wildlife, or any domestic animal, nor shall any person carry any loaded weapon upon, nor hunt from, any snowmobile except by permit issued by the director of fish and wildlife under RCW 77.32.237.

(3) Any person violating this section is guilty of a gross misdemeanor. [2003 c 53 § 234; 1994 c 264 § 37; 1989 c 297 § 4; 1979 ex.s. c 182 § 11; 1971 ex.s. c 29 § 13.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.10.140 Accident reports. (Effective until July 1, 2011.) The operator of any snowmobile involved in any accident resulting in injury to or death of any person, or property damage to an apparent extent equal to or greater than the minimum amount established by rule adopted by the Washington state patrol in accordance with chapter 46.52 RCW, or a person acting for the operator, or the owner of the snowmobile having knowledge of the accident, if the operator of the snowmobile is unknown, shall submit such reports as are required under chapter 46.52 RCW, and the provisions of chapter 46.52 RCW applies to the reports when submitted. [1990 c 250 § 27; 1971 ex.s. c 29 § 14.]

Additional notes found at www.leg.wa.gov

46.10.150 Refund of snowmobile fuel tax to snowmobile account. (Effective until July 1, 2011.) From time to time, but at least once each biennium, the director shall request the state treasurer to refund from the motor vehicle fund amounts which have been determined to be a tax on snowmobile fuel, and the treasurer shall refund such amounts determined under RCW 46.10.170, and place them in the snowmobile account in the general fund. [1994 c 262 § 3; 1979 ex.s. c 182 § 12; 1975 1st ex.s. c 181 § 3; 1973 1st ex.s. c 128 § 4; 1971 ex.s. c 29 § 15.]

[Title 46 RCW—page 49]

46.10.160 Snowmobile fuel excise tax nonrefundable. (*Effective until July 1, 2011.*) Motor vehicle fuel used and purchased for providing the motive power for snowmobiles shall be considered a nonhighway use of fuel, but persons so purchasing and using motor vehicle fuel shall not be entitled to a refund of the motor vehicle fuel excise tax paid in accordance with the provisions of RCW 82.36.280 as it now exists or is hereafter amended. [1971 ex.s. c 29 § 16.]

46.10.170 Amount of snowmobile fuel tax paid as motor vehicle fuel tax. (*Effective until July 1, 2011.*) From time to time, but at least once each four years, the department shall determine the amount of moneys paid to it as motor vehicle fuel tax that is tax on snowmobile fuel. Such determination shall use one hundred thirty-five gallons as the average yearly fuel usage per snowmobile, the number of registered snowmobiles during the calendar year under determination, and a fuel tax rate of: (1) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (2) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (3) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; (4) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and (5) twenty-three cents per gallon of motor vehicle fuel beginning July 1, 2011, and thereafter. [2003 c 361 § 408; 1994 c 262 § 4; 1993 c 54 § 7; 1990 c 42 § 117; 1979 ex.s. c 182 § 13; 1971 ex.s. c 29 § 17.]

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

46.10.180 Regulation by political subdivisions, state agencies. (*Effective until July 1, 2011.*) Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of snowmobiles on public lands, waters, and other properties under its jurisdiction, and on streets or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not inconsistent with the provisions of this chapter; and provided further that no such city, county, or other political subdivision of this state, nor any state agency, may adopt a regulation or ordinance which imposes a special fee for the use of public lands or waters by snowmobiles, or for the use of any access thereto which is owned by or under the jurisdiction of either the United States, this state, or any such city, county, or other political subdivision. [1971 ex.s. c 29 § 18.]

46.10.185 Local authorities may provide for safety and convenience. (*Effective until July 1, 2011.*) Notwithstanding any other provisions of this chapter, the local governing body may provide for the safety and convenience of snowmobiles and snowmobile operators. Such provisions may include, but shall not necessarily be limited to, the clearing of areas for parking automobiles, the construction and maintenance of rest areas, and the designation and develop-

ment of given areas for snowmobile use. [1972 ex.s. c 153 § 25.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

46.10.190 Violations as traffic infractions—Exceptions—Civil liability. (*Effective until July 1, 2011.*) (1) Except as provided in RCW 46.10.090(2), 46.10.055, and 46.10.130, any violation of the provisions of this chapter is a traffic infraction: PROVIDED, That the penalty for failing to display a valid registration decal under RCW 46.10.090 as now or hereafter amended shall be a fine of forty dollars and such fine shall be remitted to the general fund of the governmental unit, which personnel issued the citation, for expenditure solely for snowmobile law enforcement.

(2) In addition to the penalties provided in RCW 46.10.090 and subsection (1) of this section, the operator and/or the owner of any snowmobile used with the permission of the owner shall be liable for three times the amount of any damage to trees, shrubs, growing crops, or other property injured as the result of travel by such snowmobile over the property involved. [1982 c 17 § 8; 1980 c 148 § 2. Prior: 1979 ex.s. c 182 § 14; 1979 ex.s. c 136 § 44; 1975 1st ex.s. c 181 § 6; 1971 ex.s. c 29 § 19.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.10.200 Enforcement. (*Effective until July 1, 2011.*) The provisions of this chapter shall be enforced by all persons having the authority to enforce any of the laws of this state, including, without limitation, officers of the state patrol, county sheriffs and their deputies, all municipal law enforcement officers within their respective jurisdictions, fish and wildlife officers, state park rangers, and those employees of the department of natural resources designated by the commissioner of public lands under *RCW 43.30.310, as having police powers to enforce the laws of this state. [2001 c 253 § 4; 1980 c 78 § 131; 1971 ex.s. c 29 § 20.]

***Reviser's note:** RCW 43.30.310 was recodified as RCW 43.12.065 pursuant to 2003 c 334 § 127.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

46.10.210 Administration. (*Effective until July 1, 2011.*) With the exception of the registration and licensing provisions, this chapter shall be administered by the Washington state parks and recreation commission. The department shall consult with the commission prior to adopting rules to carry out its duties under this chapter. After consultation with the committee, the commission shall adopt such rules as may be necessary to carry out its duties under this chapter. Nothing in this chapter is intended to discourage experimental or pilot programs which could enhance snowmobile safety or recreational snowmobiling. [1979 ex.s. c 182 § 15; 1973 1st ex.s. c 128 § 5.]

46.10.220 Snowmobile advisory committee. (*Effective until July 1, 2011.*) (1) There is created in the Washington state parks and recreation commission a snowmobile advisory committee to advise the commission regarding the administration of this chapter.

(2) The purpose of the committee is to assist and advise the commission in the planned development of snowmobile facilities and programs.

(3) The committee shall consist of:

(a) Six interested snowmobilers, appointed by the commission; each such member shall be a resident of one of the six geographical areas throughout this state where snowmobile activity occurs, as defined by the commission;

(b) Three representatives of the nonsnowmobiling public, appointed by the commission; and

(c) One representative of the department of natural resources, one representative of the department of fish and wildlife, and one representative of the Washington state association of counties; each of whom shall be appointed by the director of such department or association.

(4) Terms of the members appointed under subsection (3)(a) and (b) of this section shall commence on October 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term: PROVIDED, That the first such members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(5) Members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Expenditures under this subsection shall be from the snowmobile account created by *RCW 46.10.075.

(6) The committee may meet at times and places fixed by the committee. The committee shall meet not less than twice each year and additionally as required by the committee chair or by majority vote of the committee. One of the meetings shall be coincident with a meeting of the commission at which the committee shall provide a report to the commission. The chair of the committee shall be chosen under procedures adopted by the committee from those members appointed under subsection (3)(a) and (b) of this section.

(7) The Washington state parks and recreation commission shall serve as recording secretary to the committee. A representative of the department of licensing shall serve as an ex officio member of the committee and shall be notified of all meetings of the committee. The recording secretary and the ex officio member shall be nonvoting members.

(8) The committee shall adopt procedures to govern its proceedings. [2010 c 8 § 9004; 1994 c 264 § 38; 1989 c 175 § 110; 1988 c 36 § 26; 1987 c 330 § 1201. Prior: 1986 c 270 § 9; 1986 c 16 § 3; 1983 c 139 § 1; 1979 ex.s. c 182 § 2.]

*Reviser's note: RCW 46.10.075 was recodified as RCW 46.68.350 pursuant to 2010 c 161 § 1230, effective July 1, 2011.

Additional notes found at www.leg.wa.gov

GENERAL PROVISIONS

46.10.300 Definitions. (*Effective July 1, 2011.*) The following definitions apply throughout this chapter unless the context clearly requires otherwise.

(1) "All terrain vehicle" means any self-propelled vehicle other than a snowmobile, capable of cross-country travel on or immediately over land, water, snow, ice, marsh, swampland, and other natural terrain, including, but not lim-

(2010 Ed.)

ited to, four-wheel vehicles, amphibious vehicles, ground effect or air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind; except any vehicle designed primarily for travel on, over, or in the water, farm vehicles, or any military or law enforcement vehicles.

(2) "Commission" means the Washington state parks and recreation commission.

(3) "Committee" means the Washington state parks and recreation commission snowmobile advisory committee.

(4) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling snowmobiles or all terrain vehicles at wholesale or retail in this state.

(5) "Highway" means the entire width of the right-of-way of a primary and secondary state highway, including any portion of the interstate highway system.

(6) "Hunt" means any effort to kill, injure, capture, or disturb a wild animal or wild bird.

(7) "Public roadway" means the entire width of the right-of-way of any road or street designed and ordinarily used for travel or parking of motor vehicles, which is controlled by a public authority other than the Washington state department of transportation, and which is open as a matter of right to the general public for ordinary vehicular traffic. [2010 c 161 § 225; 2005 c 235 § 1; 1979 ex.s. c 182 § 1; 1979 c 158 § 131; 1971 ex.s. c 29 § 1. Formerly RCW 46.10.010.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Application—2005 c 235: "This act applies to registrations due or to become due on October 1, 2005, and thereafter." [2005 c 235 § 4.]

46.10.310 Registration prerequisite to operation. (*Effective July 1, 2011.*) (1) Except as provided in this chapter, a person may not operate a snowmobile within this state unless the snowmobile has been registered as required under this chapter.

(2) Snowmobile decals must be assigned, without the payment of a fee, to snowmobiles owned by the state of Washington or its political subdivisions. The snowmobile decals must be displayed upon each snowmobile in accordance with rules adopted by the department. [2010 c 161 § 226; 2008 c 52 § 1; 2005 c 235 § 2; 1982 c 17 § 1; 1979 ex.s. c 182 § 3; 1971 ex.s. c 29 § 2. Formerly RCW 46.10.020.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Application—2005 c 235: See note following RCW 46.10.300.

46.10.320 Snowmobile advisory committee. (*Effective July 1, 2011.*) (1) There is created in the Washington state parks and recreation commission a snowmobile advisory committee to advise the commission regarding the administration of this chapter.

(2) The purpose of the committee is to assist and advise the commission in the planned development of snowmobile facilities and programs.

(3) The committee shall consist of:

(a) Six interested snowmobilers, appointed by the commission; each such member shall be a resident of one of the six geographical areas throughout this state where snowmobile activity occurs, as defined by the commission;

(b) Three representatives of the nonsnowmobiling public, appointed by the commission; and

(c) One representative of the department of natural resources, one representative of the department of fish and wildlife, and one representative of the Washington state association of counties; each of whom shall be appointed by the director of such department or association.

(4) Terms of the members appointed under subsection (3)(a) and (b) of this section shall commence on October 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term: PROVIDED, That the first such members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(5) Members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Expenditures under this subsection shall be from the snowmobile account created by RCW 46.68.350.

(6) The committee may meet at times and places fixed by the committee. The committee shall meet not less than twice each year and additionally as required by the committee chair or by majority vote of the committee. One of the meetings shall be coincident with a meeting of the commission at which the committee shall provide a report to the commission. The chair of the committee shall be chosen under procedures adopted by the committee from those members appointed under subsection (3)(a) and (b) of this section.

(7) The Washington state parks and recreation commission shall serve as recording secretary to the committee. A representative of the department of licensing shall serve as an ex officio member of the committee and shall be notified of all meetings of the committee. The recording secretary and the ex officio member shall be nonvoting members.

(8) The committee shall adopt procedures to govern its proceedings. [2010 c 161 § 235; 2010 c 8 § 9004; 1994 c 264 § 38; 1989 c 175 § 110; 1988 c 36 § 26; 1987 c 330 § 1201. Prior: 1986 c 270 § 9; 1986 c 16 § 3; 1983 c 139 § 1; 1979 ex.s. c 182 § 2. Formerly RCW 46.10.220.]

Reviser's note: This section was amended by 2010 c 161 § 235 and by 2010 c 8 § 9004, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.10.330 Accident reports. (Effective July 1, 2011.) The operator of any snowmobile involved in any accident resulting in injury to or death of any person, or property damage to an apparent extent equal to or greater than the minimum amount established by rule adopted by the Washington state patrol in accordance with chapter 46.52 RCW, or a person acting for the operator, or the owner of the snowmobile

having knowledge of the accident, if the operator of the snowmobile is unknown, shall submit such reports as are required under chapter 46.52 RCW, and the provisions of chapter 46.52 RCW applies to the reports when submitted. [1990 c 250 § 27; 1971 ex.s. c 29 § 14. Formerly RCW 46.10.140.]

Additional notes found at www.leg.wa.gov

46.10.340 Regulation by political subdivisions or state agencies. (Effective July 1, 2011.) Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of snowmobiles on public lands, waters, and other properties under its jurisdiction, and on streets or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not inconsistent with the provisions of this chapter; and provided further that no such city, county, or other political subdivision of this state, nor any state agency, may adopt a regulation or ordinance which imposes a special fee for the use of public lands or waters by snowmobiles, or for the use of any access thereto which is owned by or under the jurisdiction of either the United States, this state, or any such city, county, or other political subdivision. [1971 ex.s. c 29 § 18. Formerly RCW 46.10.180.]

46.10.350 Local authorities—Safety and convenience. (Effective July 1, 2011.) Notwithstanding any other provisions of this chapter, the local governing body may provide for the safety and convenience of snowmobiles and snowmobile operators. Such provisions may include, but shall not necessarily be limited to, the clearing of areas for parking automobiles, the construction and maintenance of rest areas, and the designation and development of given areas for snowmobile use. [1972 ex.s. c 153 § 25. Formerly RCW 46.10.185.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

46.10.360 Enforcement. (Effective July 1, 2011.) The provisions of this chapter shall be enforced by all persons having the authority to enforce any of the laws of this state, including, without limitation, officers of the state patrol, county sheriffs and their deputies, all municipal law enforcement officers within their respective jurisdictions, fish and wildlife officers, state park rangers, and those employees of the department of natural resources designated by the commissioner of public lands under *RCW 43.30.310, as having police powers to enforce the laws of this state. [2001 c 253 § 4; 1980 c 78 § 131; 1971 ex.s. c 29 § 20. Formerly RCW 46.10.200.]

***Reviser's note:** RCW 43.30.310 was recodified as RCW 43.12.065 pursuant to 2003 c 334 § 127.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

46.10.370 Administration. (Effective July 1, 2011.) With the exception of the registration and licensing provisions, this chapter shall be administered by the Washington state parks and recreation commission. The department shall consult with the commission prior to adopting rules to carry

out its duties under this chapter. After consultation with the committee, the commission shall adopt such rules as may be necessary to carry out its duties under this chapter. Nothing in this chapter is intended to discourage experimental or pilot programs which could enhance snowmobile safety or recreational snowmobiling. [1979 ex.s. c 182 § 15; 1973 1st ex.s. c 128 § 5. Formerly RCW 46.10.210.]

REGISTRATION AND PERMITS

46.10.400 Registration—Application—Renewal—Requirements—Decals. (Effective July 1, 2011.) (1) The application for an original snowmobile registration has the same requirements as described for original vehicle registrations in RCW 46.16A.040 and must be accompanied by the annual snowmobile registration fee required under RCW 46.17.350, in addition to any other fees and taxes due at the time of application.

(2) The application for renewal of a snowmobile registration has the same requirements as described for the renewal of vehicle registrations in RCW 46.16A.110 and must be accompanied by the annual snowmobile registration fee required under RCW 46.17.350, in addition to any other fees or taxes due at the time of application.

(3) The snowmobile registration is valid for one year and must be renewed each year thereafter as determined by the department.

(4) A person who acquires a snowmobile that has a valid snowmobile registration must:

(a) Apply to the department, county auditor or other agent, or subagent appointed by the director for a transfer of the snowmobile registration within ten days of taking possession of the snowmobile; and

(b) Pay the snowmobile registration transfer fee required under RCW 46.17.420, in addition to any other fees or taxes due at the time of application.

(5) The department shall issue a snowmobile registration and snowmobile decals upon receipt of:

(a) A properly completed application for an original snowmobile registration; and

(b) The payment of all fees and taxes due at the time of application.

(6) The snowmobile registration must be carried on the vehicle for which it was issued at all times during its operation in this state.

(7) Snowmobile decals must be affixed to the snowmobile as provided in RCW 46.10.440.

(8) Snowmobile registration fees provided in this section and in RCW 46.17.350 are in lieu of any personal property or excise tax imposed on snowmobiles by this state or any political subdivision. A state agency, city, county, or other municipality may not impose other registration fees on a snowmobile in this state. [2010 c 161 § 228; 2008 c 52 § 2; 2005 c 235 § 3; 2002 c 352 § 2; 2001 2nd sp.s. c 7 § 918; 1997 c 241 § 2; 1996 c 164 § 1; 1986 c 16 § 2; 1982 c 17 § 2; 1979 ex.s. c 182 § 5; 1973 1st ex.s. c 128 § 1; 1972 ex.s. c 153 § 20; 1971 ex.s. c 29 § 4. Formerly RCW 46.10.040.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Application—2005 c 235: See note following RCW 46.10.300.

(2010 Ed.)

Effective dates—2002 c 352: See note following RCW 46.09.410.

Severability—Effective date—2001 2nd sp.s. c 7: See notes following RCW 43.320.110.

Purpose—Policy statement as to certain state lands—1972 ex.s. c 153: See RCW 79A.35.070.

46.10.405 Registration—Valid before transfer. (Effective July 1, 2011.) A snowmobile registration must be valid for the current registration period before transfer of the registration, including assignment to a dealer. [2010 c 161 § 230; 1982 c 17 § 3; 1979 ex.s. c 182 § 6; 1975 1st ex.s. c 181 § 4. Formerly RCW 46.10.043.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.10.410 Registration—Exemptions. (Effective July 1, 2011.) Registration is not required under this chapter for the following snowmobiles:

(1) Snowmobiles owned and operated by the United States, another state, or a political subdivision thereof.

(2) A snowmobile owned by a resident of another state or Canadian province if that snowmobile is registered under the laws of the state or province in which its owner resides. This exemption applies only to the extent that a similar exemption or privilege is granted under the laws of that state or province. Any snowmobile that is validly registered in another state or province and that is physically located in this state for a period of more than fifteen consecutive days is subject to registration under this chapter. [2010 c 161 § 227; 1986 c 16 § 1; 1979 ex.s. c 182 § 4; 1975 1st ex.s. c 181 § 1; 1971 ex.s. c 29 § 3. Formerly RCW 46.10.030.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.10.420 Snowmobile dealer licenses—Fee—License plates—Violation—License application upon sale. (Effective July 1, 2011.) (1) Each dealer of snowmobiles in this state shall obtain a snowmobile dealer license from the department in a manner prescribed by the department. Upon receipt of an application for a snowmobile dealer's license and the fee provided in subsection (2) of this section, the dealer is licensed and a snowmobile dealer license number must be assigned.

(2) The annual license fee for a snowmobile dealer is twenty-five dollars, which covers all of the snowmobiles offered by a dealer for sale and not rented on a regular, commercial basis. Snowmobiles rented on a regular commercial basis by a snowmobile dealer must be registered separately under RCW 46.10.310, 46.10.400, 46.10.430, and 46.10.440.

(3) Upon the issuance of a snowmobile dealer license, a snowmobile dealer may purchase, at a cost to be determined by the department, snowmobile dealer license plates of a size and color to be determined by the department. The snowmobile dealer license plates must contain the snowmobile license number assigned to the dealer. Each snowmobile operated by a dealer, dealer representative, or prospective customer for the purposes of demonstration or testing shall display snowmobile dealer license plates in a clearly visible manner.

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(4) Only a dealer, dealer representative, or prospective customer may display a snowmobile dealer plate, and only a dealer, dealer representative, or prospective customer may use a snowmobile dealer's license plate for the purposes described in subsection (3) of this section.

(5) Snowmobile dealer licenses are nontransferable.

(6) It is unlawful for any snowmobile dealer to sell a snowmobile at wholesale or retail, or to test or demonstrate any snowmobile, within the state, unless the dealer has a snowmobile dealer license as required under this section.

(7) When a snowmobile is sold by a snowmobile dealer, the dealer:

(a) Shall apply for licensing in the purchaser's name within fifteen days following the sale; and

(b) May issue a temporary license as provided by rules adopted by the department. [2010 c 161 § 231; 1990 c 250 § 26; 1982 c 17 § 5; 1971 ex.s. c 29 § 5. Formerly RCW 46.10.050.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.10.430 Decals—Registration certificates—License tabs. (Effective July 1, 2011.) (1) Snowmobile decals assigned to a snowmobile in this state at the time of its original registration must remain with that snowmobile until the snowmobile is destroyed, abandoned, or permanently removed from this state, or until changed or terminated by the department.

(2) The department shall issue and deliver to the snowmobile owner upon proper application:

(a) A registration certificate, in a form as prescribed by the department. The registration certificate is not valid unless it is signed by the person who signed the application for registration; and

(b) License tabs showing the current expiration of the snowmobile registration. The license tabs must be affixed to the snowmobile as prescribed by the department.

(3) A snowmobile is not properly registered unless license tabs and a current registration certificate have been issued. [2010 c 161 § 233; 1971 ex.s. c 29 § 6. Formerly RCW 46.10.060.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.10.440 Decals—Affixing and displaying dealer license plates. (Effective July 1, 2011.) (1) Snowmobile decals assigned to each snowmobile must be:

(a) Permanently affixed to and displayed upon each snowmobile as provided by rules adopted by the department; and

(b) Maintained in a legible condition.

(2) Dealer number license plates as provided for in RCW 46.10.420 may be temporarily affixed.

(3) The department shall make available a pair of identical snowmobile decals consistent with subsection (1) of this section. The decals serve the same function as license plates for vehicles registered under *chapter 46.16 RCW. The department shall charge each applicant for an original regis-

tration the actual cost of the snowmobile decal. The department shall make available replacement snowmobile decals for a fee equivalent to the actual cost of the snowmobile decals. [2010 c 161 § 234; 1973 1st ex.s. c 128 § 2; 1972 ex.s. c 153 § 21; 1971 ex.s. c 29 § 7. Formerly RCW 46.10.070.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

46.10.450 Nonresident permits. (Effective July 1, 2011.) (1) The application for a nonresident temporary snowmobile permit must be made by the snowmobile owner or the owner's authorized representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department. The application must contain:

(a) The name and address of each owner of the snowmobile; and

(b) Other information the department may require.

(2) The snowmobile owner or the owner's authorized representative shall sign the application for a nonresident temporary snowmobile permit.

(3) The application for a nonresident temporary snowmobile permit must be accompanied by the nonresident temporary snowmobile permit fee required under RCW 46.17.400, in addition to any other fees or taxes due at the time of application.

(4) Nonresident temporary snowmobile permits:

(a) Are available for snowmobiles owned by residents of another state or Canadian province where registration is not required by law;

(b) Are valid for not more than sixty days; and

(c) Must be carried on the snowmobile at all times during its operation in this state. [2010 c 161 § 229.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

USES AND VIOLATIONS

46.10.460 Crossing public roadways and highways lawful, when. (Effective July 1, 2011.) It shall be lawful to drive or operate a snowmobile across public roadways and highways other than limited access highways when:

The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; and

The snowmobile is brought to a complete stop before entering the public roadway or highway; and

The operator of the snowmobile yields the right-of-way to motor vehicles using the public roadway or highway; and

The crossing is made at a place which is greater than one hundred feet from any public roadway or highway intersection. [1971 ex.s. c 29 § 10. Formerly RCW 46.10.100.]

46.10.470 Operating upon public road or highway lawful, when. (Effective July 1, 2011.) Notwithstanding the provisions of *RCW 46.10.100, it shall be lawful to operate a snowmobile upon a public roadway or highway:

Where such roadway or highway is completely covered with snow or ice and has been closed by the responsible governing body to motor vehicle traffic during the winter months; or

When the responsible governing body gives notice that such roadway or highway is open to snowmobiles or all-terrain vehicle use; or

In an emergency during the period of time when and at locations where snow upon the roadway or highway renders such impassible to travel by automobile; or

When traveling along a designated snowmobile trail. [1972 ex.s. c 153 § 23; 1971 ex.s. c 29 § 11. Formerly RCW 46.10.110.]

***Reviser's note:** RCW 46.10.100 was recodified as RCW 46.10.460 pursuant to 2010 c 161 § 1208, effective July 1, 2011.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

46.10.480 Restrictions on age of operators—Qualifications. (Effective July 1, 2011.) No person under twelve years of age shall operate a snowmobile on or across a public roadway or highway in this state, and no person between the ages of twelve and sixteen years of age shall operate a snowmobile on or across a public road or highway in this state unless he or she has taken a snowmobile safety education course and been certified as qualified to operate a snowmobile by an instructor designated by the commission as qualified to conduct such a course and issue such a certificate, and he or she has on his or her person at the time he or she is operating a snowmobile evidence of such certification: PROVIDED, That persons under sixteen years of age who have not been certified as qualified snowmobile operators may operate a snowmobile under the direct supervision of a qualified snowmobile operator. [2010 c 8 § 9003; 1972 ex.s. c 153 § 24; 1971 ex.s. c 29 § 12. Formerly RCW 46.10.120.]

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

46.10.485 Denial, suspension, or revocation of dealer license or assessment of monetary civil penalty. (Effective July 1, 2011.) The director may by order deny, suspend, or revoke the license of any snowmobile dealer or, in lieu thereof or in addition thereto, may by order assess monetary civil penalties not to exceed five hundred dollars per violation, if the director finds that the order is in the public interest and that the applicant or licensee, or any partner, officer, director, or owner of ten percent of the assets of the firm, or any employee or agent:

(1) Has failed to comply with the applicable provisions of this chapter or any rules adopted under this chapter; or

(2) Has failed to pay any monetary civil penalty assessed by the director under this section within ten days after the assessment becomes final. [2010 c 161 § 232; 1982 c 17 § 4. Formerly RCW 46.10.055.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

(2010 Ed.)

46.10.490 Operating violations. (Effective July 1, 2011.) (1) It is a traffic infraction for any person to operate any snowmobile:

(a) At a rate of speed greater than reasonable and prudent under the existing conditions.

(b) In a manner so as to endanger the property of another.

(c) Without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others.

(d) Without an adequate braking device which may be operated either by hand or foot.

(e) Without an adequate and operating muffling device which shall effectively blend the exhaust and motor noise in such a manner so as to preclude excessive or unusual noise, and, (i) on snowmobiles manufactured on or before January 4, 1973, which shall effectively limit such noise at a level of eighty-six decibels, or below, on the "A" scale at fifty feet, and (ii) on snowmobiles manufactured after January 4, 1973, which shall effectively limit such noise at a level of eighty-two decibels, or below, on the "A" scale at fifty feet, and (iii) on snowmobiles manufactured after January 1, 1975, which shall effectively limit such noise at a level of seventy-eight decibels, or below, as measured on the "A" scale at a distance of fifty feet, under testing procedures as established by the department of ecology; except snowmobiles used in organized racing events in an area designated for that purpose may use a bypass or cutout device. This section shall not affect the power of the department of ecology to adopt noise performance standards for snowmobiles. Noise performance standards adopted or to be adopted by the department of ecology shall be in addition to the standards contained in this section, but the department's standards shall supersede this section to the extent of any inconsistency.

(f) Upon the paved portion or upon the shoulder or inside bank or slope of any public roadway or highway, or upon the median of any divided highway, except as provided in *RCW 46.10.100 and 46.10.110.

(g) In any area or in such a manner so as to expose the underlying soil or vegetation, or to injure, damage, or destroy trees or growing crops.

(h) Without a current registration decal affixed thereon, if not exempted under **RCW 46.10.030 as now or hereafter amended.

(2) It is a misdemeanor for any person to operate any snowmobile so as to endanger the person of another or while under the influence of intoxicating liquor or narcotics or habit-forming drugs. [1980 c 148 § 1. Prior: 1979 ex.s. c 182 § 10; 1979 ex.s. c 136 § 43; 1975 1st ex.s. c 181 § 5; 1971 ex.s. c 29 § 9. Formerly RCW 46.10.090.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Reviser's note: *(1) RCW 46.10.100 and 46.10.110 were recodified as RCW 46.10.460 and 46.10.470, respectively, pursuant to 2010 c 161 § 1208, effective July 1, 2011.

** (2) RCW 46.10.030 was recodified as RCW 46.10.410 pursuant to 2010 c 161 § 1207, effective July 1, 2011.

Additional notes found at www.leg.wa.gov

46.10.495 Additional violations—Penalty. (Effective July 1, 2011.) (1) No person shall operate a snowmobile in such a way as to endanger human life.

(2) No person shall operate a snowmobile in such a way as to run down or harass deer, elk, or any wildlife, or any domestic animal, nor shall any person carry any loaded weapon upon, nor hunt from, any snowmobile except by permit issued by the director of fish and wildlife under RCW 77.32.237.

(3) Any person violating this section is guilty of a gross misdemeanor. [2003 c 53 § 234; 1994 c 264 § 37; 1989 c 297 § 4; 1979 ex.s. c 182 § 11; 1971 ex.s. c 29 § 13. Formerly RCW 46.10.130.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.10.500 Violations as traffic infractions—Exceptions—Civil liability. (Effective July 1, 2011.) (1) Except as provided in *RCW 46.10.090(2), 46.10.055, and 46.10.130, any violation of the provisions of this chapter is a traffic infraction: PROVIDED, That the penalty for failing to display a valid registration decal under *RCW 46.10.090 as now or hereafter amended shall be a fine of forty dollars and such fine shall be remitted to the general fund of the governmental unit, which personnel issued the citation, for expenditure solely for snowmobile law enforcement.

(2) In addition to the penalties provided in *RCW 46.10.090 and subsection (1) of this section, the operator and/or the owner of any snowmobile used with the permission of the owner shall be liable for three times the amount of any damage to trees, shrubs, growing crops, or other property injured as the result of travel by such snowmobile over the property involved. [1982 c 17 § 8; 1980 c 148 § 2. Prior: 1979 ex.s. c 182 § 14; 1979 ex.s. c 136 § 44; 1975 1st ex.s. c 181 § 6; 1971 ex.s. c 29 § 19. Formerly RCW 46.10.190.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

*Reviser's note: RCW 46.10.090, 46.10.055, and 46.10.130 were recodified as RCW 46.10.490, 46.10.485, and 46.10.495, respectively, pursuant to 2010 c 161 § 1208, effective July 1, 2011.

Additional notes found at www.leg.wa.gov

REVENUE

46.10.510 Refund of snowmobile fuel tax to snowmobile account. (Effective July 1, 2011.) From time to time, but at least once each biennium, the director shall request the state treasurer to refund from the motor vehicle fund amounts which have been determined to be a tax on snowmobile fuel, and the treasurer shall refund such amounts determined under *RCW 46.10.170, and place them in the snowmobile account in the general fund. [1994 c 262 § 3; 1979 ex.s. c 182 § 12; 1975 1st ex.s. c 181 § 3; 1973 1st ex.s. c 128 § 4; 1971 ex.s. c 29 § 15. Formerly RCW 46.10.150.]

*Reviser's note: RCW 46.10.170 was recodified as RCW 46.10.530 pursuant to 2010 c 161 § 1209, effective July 1, 2011.

46.10.520 Snowmobile fuel excise tax nonrefundable. (Effective July 1, 2011.) Motor vehicle fuel used and purchased for providing the motive power for snowmobiles shall be considered a nonhighway use of fuel, but persons so purchasing and using motor vehicle fuel shall not be entitled to a refund of the motor vehicle fuel excise tax paid in accordance

with the provisions of RCW 82.36.280 as it now exists or is hereafter amended. [1971 ex.s. c 29 § 16. Formerly RCW 46.10.160.]

46.10.530 Amount of snowmobile fuel tax paid as motor vehicle fuel tax. (Effective July 1, 2011.) From time to time, but at least once each four years, the department shall determine the amount of moneys paid to it as motor vehicle fuel tax that is tax on snowmobile fuel. Such determination shall use one hundred thirty-five gallons as the average yearly fuel usage per snowmobile, the number of registered snowmobiles during the calendar year under determination, and a fuel tax rate of: (1) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (2) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (3) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; (4) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and (5) twenty-three cents per gallon of motor vehicle fuel beginning July 1, 2011, and thereafter. [2003 c 361 § 408; 1994 c 262 § 4; 1993 c 54 § 7; 1990 c 42 § 117; 1979 ex.s. c 182 § 13; 1971 ex.s. c 29 § 17. Formerly RCW 46.10.170.]

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

46.10.900 Severability—1971 ex.s. c 29. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 29 § 21.]

46.10.910 Short title. This chapter may be known and cited as the "Snowmobile act". [1971 ex.s. c 29 § 22.]

Chapter 46.12 RCW

CERTIFICATES OF TITLE

(Formerly: Certificates of ownership and registration)

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46.12.005 Definitions. (Effective until July 1, 2011.)

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

(1) The words "delivery," "notice," "send," and "security interest" have the same meaning as these terms are defined in RCW 62A.1-201; the word "secured party" has the same meaning as this term is defined in RCW 62A.9A-102.

(2) "Salvage vehicle" means a vehicle whose certificate of ownership has been surrendered to the department under RCW 46.12.070 due to the vehicle's destruction or declaration as a total loss or for which there is documentation indicating that the vehicle has been declared salvage or has been damaged to the extent that the owner, an insurer, or other person acting on behalf of the owner, has determined that the cost of parts and labor plus the salvage value has made it uneconomical to repair the vehicle. The term does not include a motor vehicle having a model year designation of a calendar year that is at least six years before the calendar year in which the vehicle was wrecked, destroyed, or damaged, unless, after June 13, 2002, and immediately before the vehicle was wrecked, destroyed, or damaged, the vehicle had a retail fair market value of at least the then market value threshold amount and has a model year designation of a calendar year not more than twenty years before the calendar year in which the vehicle was wrecked, destroyed, or damaged. "Market value threshold amount" means six thousand five hundred dollars or such greater amount as is then in effect by rule of the department in accordance with this section. If, for any year beginning with 2002, the Consumer Price Index for All Urban Consumers, compiled by the Bureau of Labor Statistics, United States Department of Labor, or its successor, for the West Region, in the expenditure category "used cars and trucks," shows an increase in the annual average for that year compared to that of the year immediately prior, the department shall, by rule, increase the then market value threshold amount by the same percentage as the percentage increase of the annual average, with the increase of the market value threshold amount to be effective on July 1st of the year immediately after the year with the increase of the annual average. However, the market value

threshold amount may not be increased if the amount of the increase would be less than fifty dollars, and each increase of the market value threshold amount will be rounded to the nearest ten dollars. If an increase in the market value threshold amount is not made because the increase would be less than fifty dollars, the unmade increase will be carried forward and added to later year calculations of increase until the unmade increase is included in an increase made to the market value threshold amount. [2002 c 245 § 1; 1996 c 26 § 1; 1967 c 140 § 5.]

Additional notes found at www.leg.wa.gov

46.12.010 Certificates required to operate and sell vehicles—Manufacturers or dealers, security interest, how perfected. (*Effective until July 1, 2011.*) It shall be unlawful for any person to operate any vehicle in this state under a certificate of license registration of this state without securing and having in full force and effect a certificate of ownership therefor that contains the name of the registered owner exactly as it appears on the certificate of license registration and it shall further be unlawful for any person to sell or transfer any vehicle without complying with all the provisions of this chapter relating to certificates of ownership and license registration of vehicles: PROVIDED, No certificate of title need be obtained for a vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing and demonstration, or a vehicle used by a manufacturer solely for testing: PROVIDED, That a security interest in a vehicle held as inventory by a manufacturer or dealer shall be perfected in accordance with *RCW 62A.9-302(1) and no endorsement on the certificate of title shall be necessary for perfection: AND PROVIDED FURTHER, That nothing in this title shall be construed to prevent any person entitled thereto from securing a certificate of ownership upon a vehicle without securing a certificate of license registration and vehicle license plates, when, in the judgment of the director of licensing, it is proper to do so. [1997 c 241 § 3; 1979 c 158 § 132; 1975 c 25 § 6; 1967 c 140 § 1; 1967 c 32 § 6; 1961 c 12 § 46.12.010. Prior: 1937 c 188 § 2; RRS § 6312-2.]

*Reviser's note: Article 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see Article 62A.9A RCW.

Definitions: RCW 46.12.005.

Additional notes found at www.leg.wa.gov

46.12.020 Prerequisite to issuance of vehicle license and plates. (*Effective until July 1, 2011.*) No vehicle license number plates or certificate of license registration, whether original issues or duplicates, may be issued or furnished by the department unless the applicant, at the same time, makes satisfactory application for a certificate of ownership or presents satisfactory evidence that such a certificate of ownership covering the vehicle has been previously issued. [1989 c 337 § 22. Prior: 1987 c 388 § 9; 1987 c 244 § 1; 1985 c 424 § 1; 1975 c 25 § 7; 1967 c 32 § 7; 1961 c 12 § 46.12.020; prior: 1947 c 164 § 1, part; 1937 c 188 § 3, part; Rem. Supp. 1947 § 6312-2, part.]

Allowing unauthorized person to drive, penalty: RCW 46.16.011.

Notice of liability insurance requirement: RCW 46.16.212.

Additional notes found at www.leg.wa.gov

46.12.030 Certificate of ownership—Application—Contents—Examination of vehicle. (*Effective until July 1, 2011.*) (1) The application for a certificate of ownership shall be upon a form furnished or approved by the department and shall contain:

(a) A full description of the vehicle, which shall contain the proper vehicle identification number, the number of miles indicated on the odometer at the time of delivery of the vehicle, and any distinguishing marks of identification;

(b) The name and address of the person who is to be the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party;

(c) Such other information as the department may require.

(2) The department may in any instance, in addition to the information required on the application, require additional information and a physical examination of the vehicle or of any class of vehicles, or either.

(3)(a) A physical examination of the vehicle is mandatory if (i) it has been rebuilt after surrender of the certificate of ownership to the department under RCW 46.12.070 due to the vehicle's destruction or declaration as a total loss and (ii) it is not retained by the registered owner at the time of the vehicle's destruction or declaration as a total loss. The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the title and registration certificate. The inspection must be made by a member of the Washington state patrol or other person authorized by the department to make such inspections.

(b)(i) A physical examination of the vehicle is mandatory if the vehicle was declared totaled or salvage under the laws of this state, or the vehicle is presented with documents from another state showing the vehicle was totaled or salvage and has not been reissued a valid registration from that state after the declaration of total loss or salvage.

(ii) The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the original documents supporting the vehicle purchase or ownership.

(iii) A Washington state patrol VIN specialist must ensure that all major component parts used for the reconstruction of a salvage or rebuildable vehicle were obtained legally. Original invoices for new and used parts must be from a vendor that is registered with the department of revenue for the collection of retail sales or use taxes or comparable agency in the jurisdiction where the major component parts were purchased. The invoices must include the name and address of the business, a description of the part or parts sold, the date of sale, and the amount of sale to include all taxes paid unless exempted by the department of revenue or comparable agency in the jurisdiction where the major component parts were purchased. Original invoices for used parts must be from a vehicle wrecker licensed under chapter 46.80 RCW or a comparable business in the jurisdiction outside Washington state where the major component part was purchased. If the parts or components were purchased from a private individual, the private individual must have title to the vehicle the parts were taken from, except as provided by RCW 46.04.3815, and the bill of sale for the parts must be

notarized. The bills of sale must include the names and addresses of the sellers and purchasers, a description of the vehicle, the part or parts being sold, including the make, model, year, and identification or serial number, that date of sale, and the purchase price of the vehicle or part or parts. If the presenter is unable to provide an acceptable release of interest or proof of ownership for a vehicle or major component part as described above, an inspection must be completed for ownership-in-doubt purposes as prescribed by WAC 308-56A-210.

(iv) A vehicle presented for inspection must have all damaged major component parts replaced or repaired to meet RCW and WAC requirements before inspection of the salvage vehicle by the Washington state patrol.

(4) To the extent that the Washington state patrol has a backlog of vehicle inspections that it is to perform under this section, chapter 420, Laws of 2007 shall not be construed to reduce the vehicle inspection workload of the Washington state patrol.

(5) Rebuilt or salvage vehicles licensed in Washington must meet the requirements found under chapter 46.37 RCW to be driven upon public roadways.

(6) The application shall be subscribed by the person applying to be the registered owner and be sworn to by that applicant in the manner described by RCW 9A.72.085. The department shall retain the application in either the original, computer, or photostatic form. [2007 c 420 § 1; 2005 c 173 § 1; 2004 c 188 § 1; 2001 c 125 § 1. Prior: 1995 c 274 § 1; 1995 c 256 § 23; 1990 c 238 § 1; 1975 c 25 § 8; 1974 ex.s. c 128 § 1; 1972 ex.s. c 99 § 2; 1967 c 32 § 8; 1961 c 12 § 46.12.030; prior: 1947 c 164 § 1, part; 1937 c 188 § 3, part; Rem. Supp. 1947 § 6312-2, part.]

Effective date—2001 c 125: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 125 § 5.]

Notice of liability insurance requirement: RCW 46.16.212.

Additional notes found at www.leg.wa.gov

46.12.040 Certificate of ownership—Fees. (Effective until July 1, 2011.) (1) The application for an original certificate of ownership accompanied by a draft, money order, certified bank check, or cash for five dollars, together with the last preceding certificates or other satisfactory evidence of ownership, shall be forwarded to the director.

(2) The fee shall be in addition to any other fee for the license registration of the vehicle. The certificate of ownership shall not be required to be renewed annually, or at any other time, except as by law provided.

(3) In addition to the application fee and any other fee for the license registration of a vehicle, the department shall collect from the applicant a fee of fifteen dollars for vehicles previously registered in any other state or country. The proceeds from the fee shall be deposited in accordance with RCW 46.68.020. For vehicles requiring a physical examination, the inspection fee shall be sixty-five dollars, fifteen dollars of which shall be deposited into the state patrol highway account created under RCW 46.68.030, and the remainder of which shall be deposited in accordance with RCW 46.68.020. [2007 c 420 § 2; 2004 c 200 § 1; 2002 c 352 § 3; 2001 c 125 § 2; 1990 c 238 § 2; 1989 c 110 § 1; 1975 1st ex.s. c 138 § 1;

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1974 ex.s. c 128 § 2; 1961 c 12 § 46.12.040. Prior: 1951 c 269 § 1; 1947 c 164 § 1, part; 1937 c 188 § 3, part; Rem. Supp. 1947 § 6312-3, part.]

Effective date—2004 c 200: "This act takes effect July 1, 2004." [2004 c 200 § 4.]

Effective dates—2002 c 352: See note following RCW 46.09.070.

Effective date—2001 c 125: See note following RCW 46.12.030.

Additional notes found at www.leg.wa.gov

46.12.042 Emergency medical services fee. (Effective until July 1, 2011.) (1) Upon the retail sale or lease of any new or used motor vehicle by a vehicle dealer, the dealer shall collect from the consumer an emergency medical services fee of six dollars and fifty cents, two dollars and fifty cents of which shall be an administrative fee to be retained by the vehicle dealer. The remainder of the fee shall be forwarded with the required title application and all other fees to the department of licensing, or any of its authorized agents. The four-dollar fee collected in this section shall be deposited in the emergency medical services and trauma care system trust account created in RCW 70.168.040. The administrative fee charged by a dealer shall not be considered a violation of RCW 46.70.180(2).

(2) If a fee is not imposed under subsection (1) of this section, there is hereby imposed a fee of six dollars and fifty cents at the time of application for (a) an original title or transfer of title issued on any motor vehicle pursuant to this chapter or chapter 46.09 RCW, or (b) an original transaction or transfer of ownership transaction of a vehicle under chapter 46.10 RCW. The department of licensing or any of its authorized agents shall collect the fee when processing these transactions. The fee shall be transmitted to the emergency medical services and trauma care system trust account created in RCW 70.168.040.

(3) This section does not apply to a motor vehicle that has been declared a total loss by an insurer or self-insurer unless an application for certificate of ownership or license registration is made to the department of licensing after the declaration of total loss. [1997 c 331 § 5.]

Additional notes found at www.leg.wa.gov

46.12.045 Off-road vehicles, certificate of ownership for title purposes only. (Effective until July 1, 2011.) The department shall issue a certificate of ownership valid for title purposes only to the owner of an off-road vehicle as defined in RCW 46.09.020. The owner shall pay the fees established by RCW 46.12.040. Issuance of such certificate does not qualify the vehicle for licensing under chapter 46.16 RCW. [1986 c 186 § 4.]

46.12.047 Stolen vehicle check. (Effective until July 1, 2011.) The department shall institute software and systems modifications to enable a WACIC/NCIC stolen vehicle search of out-of-state vehicles as part of the title transaction. During the stolen vehicle search, if the information obtained indicates the vehicle is stolen, that information shall be immediately reported to the state patrol and the applicant shall not be issued a certificate of ownership for the vehicle. Vehicles for which the stolen vehicle check is negative shall be issued a certificate of ownership if the department is satis-

fied that all other requirements have been met. [2002 c 246 § 1; 2001 c 125 § 3.]

Effective date—2001 c 125: See note following RCW 46.12.030.

46.12.050 Issuance of certificates—Contents. (*Effective until July 1, 2011.*) The department, if satisfied from the statements upon the application that the applicant is the legal owner of the vehicle or otherwise entitled to have a certificate of ownership thereof in the applicant's name, shall issue an appropriate electronic record of ownership or a written certificate of ownership, over the director's signature, authenticated by seal, and if required, a new written certificate of license registration if certificate of license registration is required.

The certificates of ownership and the certificates of license registration shall contain upon the face thereof, the date of application, the registration number assigned to the registered owner and to the vehicle, the name and address of the registered owner and legal owner, the vehicle identification number, and such other description of the vehicle and facts as the department shall require, and in addition thereto, if the vehicle described in such certificates shall have ever been licensed and operated as an exempt vehicle or a taxicab, or if it has been rebuilt after becoming a salvage vehicle, such fact shall be clearly shown thereon.

All certificates of ownership of motor vehicles issued after April 30, 1990, shall reflect the odometer reading as provided by the odometer disclosure statement submitted with the title application involving a transfer of ownership.

A blank space shall be provided on the face of the certificate of license registration for the signature of the registered owner.

Upon issuance of the certificate of license registration and certificate of ownership and upon any reissue thereof, the department shall deliver the certificate of license registration to the registered owner and the certificate of ownership to the legal owner, or both to the person who is both the registered owner and legal owner. [1996 c 26 § 2; 1993 c 307 § 1; 1990 c 238 § 3; 1975 c 25 § 9; 1967 c 32 § 9; 1961 c 12 § 46.12.050. Prior: 1959 c 166 § 1; 1947 c 164 § 2; 1937 c 188 § 4; Rem. Supp. 1947 § 6312-4.]

Additional notes found at www.leg.wa.gov

46.12.055 Certificate of ownership—Manufactured homes. (*Effective until July 1, 2011.*) The certificate of ownership for a manufactured home may be eliminated or not issued when the manufactured home is registered pursuant to chapter 65.20 RCW. When the certificate of ownership is eliminated or not issued the application for license shall be recorded in the county property records of the county where the real property to which the home is affixed is located. All license fees and taxes applicable to mobile homes under this chapter are due and shall be collected prior to recording the ownership with the county auditor. [1989 c 343 § 19.]

Additional notes found at www.leg.wa.gov

46.12.060 Procedure when identification number altered or obliterated. (*Effective until July 1, 2011.*) Before the department shall issue a certificate of ownership, or reissue such a certificate, covering any vehicle, the identi-

fication number of which has been altered, removed, obliterated, defaced, omitted, or is otherwise absent, the registered owner of the vehicle shall file an application with the department, accompanied by a fee of five dollars, upon a form provided, and containing such facts and information as shall be required by the department for the assignment of a special number for such vehicle. Upon receipt of such application, the department, if satisfied the applicant is entitled to the assignment of an identification number, shall designate a special identification number for such vehicle, which shall be noted upon the application therefor, and likewise upon a suitable record of the authorization of the use thereof, to be kept by the department. This assigned identification number shall be placed or stamped in a conspicuous position upon the vehicle in such manner and form as may be prescribed by the department. Upon receipt by the department of an application for a certificate of ownership or application for reissue of such certificate and the required fee therefor, the department shall use such number as the numerical or alpha-numerical identification marks for the vehicle in any certificate of license registration or certificate of ownership that may thereafter be issued therefor. [2001 c 125 § 4; 1975 c 25 § 10; 1974 ex.s. c 36 § 1; 1961 c 12 § 46.12.060. Prior: 1959 c 166 § 3; prior: 1951 c 269 § 2; 1947 c 164 § 3(a); 1939 c 182 § 1(a); 1937 c 188 § 5(a); Rem. Supp. 1947 § 6312-5(a).]

Effective date—2001 c 125: See note following RCW 46.12.030.

Additional notes found at www.leg.wa.gov

46.12.070 Destruction of vehicle—Surrender of certificates, penalty—Notice of settlement by insurance company. (*Effective until July 1, 2011.*) (1) Upon the destruction of any vehicle issued a certificate of ownership under this chapter or a license registration under chapter 46.16 RCW, the registered owner and the legal owner shall forthwith and within fifteen days thereafter forward and surrender the certificate to the department, together with a statement of the reason for the surrender and the date and place of destruction. Failure to notify the department or the possession by any person of any such certificate for a vehicle so destroyed, after fifteen days following its destruction, is prima facie evidence of violation of the provisions of this chapter and constitutes a gross misdemeanor.

(2) Any insurance company settling an insurance claim on a vehicle that has been issued a certificate of ownership under this chapter or a certificate of license registration under chapter 46.16 RCW as a total loss, less salvage value, shall notify the department thereof within fifteen days after the settlement of the claim. Notification shall be provided regardless of where or in what jurisdiction the total loss occurred.

(3) For a motor vehicle having a model year designation at least six years before the calendar year of destruction, the notification to the department must include a statement of whether the retail fair market value of the motor vehicle immediately before the destruction was at least the then market value threshold amount as defined in RCW 46.12.005. [2003 c 53 § 235; 2002 c 245 § 2; 1990 c 250 § 28; 1961 c 12 § 46.12.070. Prior: 1959 c 166 § 4; prior: 1947 c 164 § 3(b); 1939 c 182 § 1(b); 1937 c 188 § 5(b); Rem. Supp. 1947 § 6312-5(b).]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

46.12.075 Rebuilt vehicles. (Effective until July 1, 2011.) (1) Effective January 1, 1997, the department shall issue a unique certificate of ownership and certificate of license registration, as required by chapter 46.16 RCW, for vehicles that are rebuilt after becoming a salvage vehicle. Each certificate shall conspicuously display across its front, a word indicating that the vehicle was rebuilt.

(2) Beginning January 1, 1997, upon inspection of a salvage vehicle that has been rebuilt under RCW 46.12.030, the state patrol shall securely affix or inscribe a marking at the driver's door latch pillar indicating that the vehicle has previously been destroyed or declared a total loss.

(3) It is a class C felony for a person to remove the marking prescribed in subsection (2) of this section.

(4) The department may adopt rules as necessary to implement this section. [1996 c 26 § 3; 1995 c 256 § 24.]

46.12.080 Procedure on installation of different motor—Penalty. (Effective until July 1, 2011.) Any person holding the certificate of ownership for a motorcycle or any vehicle registered by its motor number in which there has been installed a new or different motor than that with which it was issued certificates of ownership and license registration shall forthwith and within five days after such installation forward and surrender such certificates to the department, together with an application for issue of corrected certificates of ownership and license registration and a fee of five dollars, and a statement of the disposition of the former motor. The possession by any person of any such certificates for such vehicle in which a new or different motor has been installed, after five days following such installation, shall be prima facie evidence of a violation of the provisions of this chapter and shall constitute a misdemeanor. [2002 c 352 § 4; 1997 c 241 § 4; 1979 ex.s. c 113 § 1; 1961 c 12 § 46.12.080. Prior: 1959 c 166 § 5; prior: 1951 c 269 § 3; 1947 c 164 § 3(c); 1939 c 182 § 1(c); 1937 c 188 § 5(c); Rem. Supp. 1947 § 6312-5(c).]

Effective dates—2002 c 352: See note following RCW 46.09.070.

46.12.095 Requirements for perfecting security interest. (Effective until July 1, 2011.) A security interest in a vehicle other than one held as inventory by a manufacturer or a dealer and for which a certificate of ownership is required is perfected only by compliance with the requirements of RCW 46.12.103 under the circumstances provided for therein or by compliance with the requirements of this section:

(1) A security interest is perfected by the department's receipt of: (a) The existing certificate, if any, and (b) an application for a certificate of ownership containing the name and address of the secured party, and (c) tender of the required fee.

(2) A security interest is perfected as of the time of its creation if the secured party's name and address appear on the outstanding certificate of ownership; otherwise, as of the date on which the department has received the papers and fee required in subsection (1) of this section.

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(3) If a vehicle is subject to a security interest when brought into this state, perfection of the security interest is determined by the law of the jurisdiction where the vehicle was when the security interest was attached, subject to the following:

(a) If the security interest was perfected under the law of the jurisdiction where the vehicle was when the security interest was attached, the following rules apply:

(b) If the name of the secured party is shown on the existing certificate of ownership issued by that jurisdiction, the security interest continues perfected in this state. The name of the secured party shall be shown on the certificate of ownership issued for the vehicle by this state. The security interest continues perfected in this state upon the issuance of such ownership certificate.

(c) If the security interest was not perfected under the law of the jurisdiction where the vehicle was when the security interest was attached, it may be perfected in this state; in that case, perfection dates from the time of perfection in this state. [2000 c 250 § 9A-822; 1998 c 203 § 10; 1969 ex.s. c 170 § 16; 1967 c 140 § 6.]

Effective date—2000 c 250: See RCW 62A.9A-701.

Finding—1998 c 203: See note following RCW 46.55.105.

Definitions: RCW 46.12.005.

Additional notes found at www.leg.wa.gov

46.12.101 Transfer of ownership—Requirements—Penalty, exceptions. (Effective until July 1, 2011.) A transfer of ownership in a motor vehicle is perfected by compliance with the requirements of this section.

(1)(a) If an owner transfers his or her interest in a vehicle, other than by the creation, deletion, or change of a security interest, the owner shall, at the time of the delivery of the vehicle, execute an assignment to the transferee and provide an odometer disclosure statement under RCW 46.12.124 on the certificate of ownership or as the department otherwise prescribes, and cause the certificate and assignment to be transmitted to the transferee. The owner shall notify the department or its agents or subagents, in writing, on the appropriate form, of the date of the sale or transfer, the name and address of the owner and of the transferee, the transferee's driver's license number if available, and such description of the vehicle, including the vehicle identification number, as may be required in the appropriate form provided or approved for that purpose by the department. The report of sale will be deemed properly filed if all information required in this section is provided on the form and includes a department-authorized notation that the document was received by the department, its agents, or subagents on or before the fifth day after the sale of the vehicle, excluding Saturdays, Sundays, and state and federal holidays. Agents and subagents shall immediately electronically transmit the seller's report of sale to the department. Reports of sale processed and recorded by the department's agents or subagents may be subject to fees as specified in RCW 46.01.140 (4)(a) or (5)(b). By January 1, 2003, the department shall create a system enabling the seller of a vehicle to transmit the report of sale electronically. The system created by the department must immediately indicate on the department's vehicle record that a seller's report of sale has been filed.

(b) By January 1, 2008, the department shall provide instructions on release of interest forms that allow the seller of a vehicle to release his or her interest in a vehicle at the same time a financial institution, as defined in RCW 30.22.040, releases its lien on the vehicle.

(2) The requirements of subsection (1) of this section to provide an odometer disclosure statement apply to the transfer of vehicles held for lease when transferred to a lessee and then to the lessor at the end of the leasehold and to vehicles held in a fleet when transferred to a purchaser.

(3) Except as provided in RCW 46.70.122 the transferee shall within fifteen days after delivery to the transferee of the vehicle, execute the application for a new certificate of ownership in the same space provided therefor on the certificate or as the department prescribes, and cause the certificates and application to be transmitted to the department accompanied by a fee of five dollars in addition to any other fees required.

(4) Upon request of the owner or transferee, a secured party in possession of the certificate of ownership shall, unless the transfer was a breach of its security agreement, either deliver the certificate to the transferee for transmission to the department or, when the secured party receives the owner's assignment from the transferee, it shall transmit the transferee's application for a new certificate, the existing certificate, and the required fee to the department. Compliance with this section does not affect the rights of the secured party.

(5) If a security interest is reserved or created at the time of the transfer, the certificate of ownership shall be retained by or delivered to the person who becomes the secured party, and the parties shall comply with the provisions of RCW 46.12.170.

(6) If the purchaser or transferee fails or neglects to make application to transfer the certificate of ownership and license registration within fifteen days after the date of delivery of the vehicle, he or she shall on making application for transfer be assessed a twenty-five dollar penalty on the sixteenth day and two dollars additional for each day thereafter, but not to exceed one hundred dollars. The director may by rule establish conditions under which the penalty will not be assessed when an application for transfer is delayed for reasons beyond the control of the purchaser. Conditions for not assessing the penalty may be established for but not limited to delays caused by:

(a) The department requesting additional supporting documents;

(b) Extended hospitalization or illness of the purchaser;

(c) Failure of a legal owner to release his or her interest;

(d) Failure, negligence, or nonperformance of the department, auditor, or subagent;

(e) The transferee had no knowledge of the filing of the vehicle report of sale and signs an affidavit to the fact.

Failure or neglect to make application to transfer the certificate of ownership and license registration within forty-five days after the date of delivery of the vehicle is a misdemeanor and a continuing offense for each day during which the purchaser or transferee does not make application to transfer the certificate of ownership and license registration. Despite the continuing nature of this offense, it shall be considered a single offense, regardless of the number of days that have elapsed following the forty-five day time period.

(7) Upon receipt of an application for reissue or replacement of a certificate of ownership and transfer of license registration, accompanied by the endorsed certificate of ownership or other documentary evidence as is deemed necessary, the department shall, if the application is in order and if all provisions relating to the certificate of ownership and license registration have been complied with, issue new certificates of title and license registration as in the case of an original issue and shall transmit the fees together with an itemized detailed report to the state treasurer.

(8) Once each quarter the department shall report to the department of revenue a list of those vehicles for which a seller's report has been received but no transfer of title has taken place. [2008 c 316 § 1; 2007 c 96 § 1; 2006 c 291 § 2. Prior: 2004 c 223 § 1; 2004 c 200 § 2; 2003 c 264 § 7; 2002 c 279 § 1; 1998 c 203 § 11; 1991 c 339 § 19; 1990 c 238 § 4; 1987 c 127 § 1; 1984 c 39 § 1; 1972 ex.s. c 99 § 1; 1969 ex.s. c 281 § 38; 1969 ex.s. c 42 § 1; 1967 c 140 § 7.]

Effective date—2004 c 200: See note following RCW 46.12.040.

Finding—1998 c 203: See note following RCW 46.55.105.

Definitions: RCW 46.12.005.

Additional notes found at www.leg.wa.gov

46.12.102 Release of owner from liability—Requirements. (Effective until July 1, 2011.) (1) An owner who has made a bona fide sale or transfer of a vehicle and has delivered possession of it to a purchaser shall not by reason of any of the provisions of this title be deemed the owner of the vehicle so as to be subject to civil liability or criminal liability for the operation of the vehicle thereafter by another person when the owner has also fulfilled both of the following requirements:

(a) When the owner has made proper endorsement and delivery of the certificate of ownership and has delivered the certificate of registration as provided in this chapter;

(b) When the owner has delivered to the department either a properly filed report of sale that includes all of the information required in RCW 46.12.101(1) and is delivered to the department within five days of the sale of the vehicle excluding Saturdays, Sundays, and state and federal holidays, or appropriate documents for registration of the vehicle pursuant to the sale or transfer.

(2) An owner who has made a bona fide sale or transfer of a vehicle, has delivered possession of it to a purchaser, and has fulfilled the requirements of subsection (1)(a) and (b) of this section is relieved of liability and liability is transferred to the purchaser of the vehicle, for any traffic violation under this title, whether designated as a traffic infraction or classified as a criminal offense, that occurs after the date of the sale or transfer that is based on the vehicle's identification, including, but not limited to, parking infractions, high occupancy toll lane violations, and violations recorded by automated traffic safety cameras.

(3) When a registered tow truck operator submits an abandoned vehicle report to the department for a vehicle sold at an abandoned vehicle auction, any previous owner is relieved of civil or criminal liability for the operation of the vehicle from the date of sale thereafter, and liability is transferred to the purchaser of the vehicle as listed on the abandoned vehicle report.

(4) When a transferee had no knowledge of the filing of the vehicle report of sale, he or she is relieved of civil or criminal liability for the operation of the vehicle, and liability is transferred to the seller shown on the report of sale. [2006 c 291 § 3; 2005 c 331 § 1; 2002 c 279 § 2; 1984 c 39 § 2.]

46.12.103 Transitional ownership record. (*Effective until July 1, 2011.*) (1) The purpose of a transitional ownership record is to enable a security interest in a motor vehicle to be perfected in a timely manner when the certificate of ownership is not available at the time the security interest is created, and to provide for timely notification to security interest holders under chapter 46.55 RCW.

(2) A transitional ownership record is only acceptable as an ownership record for vehicles currently stored on the department's computer system and if the certificate of ownership or other authorized proof of ownership for the motor vehicle is not in the possession of the selling vehicle dealer or new security interest holder at the time the transitional ownership record is submitted to the department.

(3) A person shall submit the transitional ownership record to the department or to any of its agents or subagents. Agents and subagents shall immediately electronically transmit the transitional ownership records to the department. A transitional ownership document processed and recorded by an agent or subagent may be subject to fees as specified in RCW 46.01.140 (4)(a) or (5)(b).

(4) "Transitional ownership record" means a record containing all of the following information:

- (a) The date of sale;
- (b) The name and address of each owner of the vehicle;
- (c) The name and address of each security interest holder;
- (d) If there are multiple security interest holders, the priorities of interest if the security interest holders do not jointly hold a single security interest;
- (e) The vehicle identification number, the license plate number, if any, the year, make, and model of the vehicle;
- (f) The name of the selling dealer or security interest holder who is submitting the transitional ownership record; and

(g) The transferee's driver's license number, if available.

(5) The report of sale form prescribed or approved by the department under RCW 46.12.101 may be used by a vehicle dealer as the transitional ownership record.

(6) Compliance with the requirements of this section shall result in perfection of a security interest in the vehicle as of the date the department receives the transitional ownership record and any fee required under subsection (3) of this section. Within ten days of receipt of the certificate of ownership for the vehicle, or of written confirmation that only an electronic record of ownership exists or that the certificate of ownership has been lost or destroyed, the selling dealer or new security interest holder shall promptly submit the same to the department together with an application for a new certificate of ownership containing the name and address of the secured party and tender the required fee as provided in RCW 46.12.095(1). In the event a secured party fails to submit an application within the ten-day time period provided in this subsection (6), its security interest shall become unperfected,

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unless the security interest is perfected otherwise. [2000 c 250 § 9A-823; 1998 c 203 § 12.]

Effective date—2000 c 250: See RCW 62A.9A-701.

Finding—1998 c 203: See note following RCW 46.55.105.

46.12.105 Transfer of ownership of mobile home, county assessor notified—Evidence of taxes paid. (*Effective until July 1, 2011.*) When the ownership of a mobile home is transferred and the new owner thereof applies for a new certificate of ownership for such mobile home, the department of licensing or its agents, including county auditors, shall notify the county assessor of the county where such mobile home is located of the change in ownership including the name and address of the new owner and the name of the former owner. A certificate of ownership for a mobile home shall not be transferred or issued until the department has verified that any taxes due on the sale of the mobile home under *chapter 82.45 RCW and any other taxes due under chapter 84.52 RCW have been paid.

A copy of the real estate excise tax affidavit which has been stamped by the county treasurer shall be deemed sufficient evidence that the taxes due upon the sale of a used mobile home have been paid.

A copy of a treasurer certificate, which is prepared by the treasurer of the county in which the used mobile home is located and which states that all property taxes due upon the used mobile home being sold have been satisfied, shall be deemed sufficient evidence that the property taxes due have been paid. [1979 ex.s. c 266 § 5; 1979 c 158 § 133; 1971 ex.s. c 231 § 13.]

***Reviser's note:** This reference has been changed from chapter 28A.45 RCW to chapter 82.45 RCW in accordance with 1981 c 148 § 13 and 1981 c 93 § 2. See note following RCW 82.45.010.

Additional notes found at www.leg.wa.gov

46.12.124 Odometer disclosure statement. (*Effective until July 1, 2011.*) (1) The department shall require an odometer disclosure statement to accompany every application for a certificate of ownership, unless specifically exempted. If the certificate of ownership was issued after April 30, 1990, a secure odometer statement is required, unless specifically exempted. The statements shall include, at a minimum, the following:

- (a) The miles shown on the odometer at the time of transfer of ownership;
- (b) The date of transfer of ownership;
- (c) One of the following statements:
 - (i) The mileage reflected is actual to the best of transferor's knowledge;
 - (ii) The odometer reading exceeds the mechanical limits of the odometer to the best of the transferor's knowledge; or
 - (iii) The odometer reading is not the actual mileage;

If the odometer reading is under one hundred thousand miles, the only options that can be certified are "actual to the best of the transferor's knowledge" or "not the actual mileage." If the odometer reading is one hundred thousand miles or more, the options "actual to the best of the transferor's knowledge" or "not the actual mileage" cannot be used unless the odometer has six digit capability;

- (d) A complete description of the vehicle, including the:
 - (i) Model year;

(ii) Make;
 (iii) Series and body type (model);
 (iv) Vehicle identification number;
 (v) License plate number and state (optional);
 (e) The name, address, and signature of the transferor, in accordance with the following conditions:

(i) Only one registered owner is required to complete the odometer disclosure statement;

(ii) When the registered owner is a business, both the business name and a company representative's name must be shown on the odometer disclosure statement;

(f) The name and address of the transferee and the transferee's signature to acknowledge the transferor's information. If the transferee represents a company, both the company name and the agent's name must be shown on the odometer disclosure statement;

(g) A statement that the notice is required by the federal Truth in Mileage Act of 1986; and

(h) A statement that failure to complete the odometer disclosure statement or providing false information may result in fines or imprisonment or both.

(2) The transferee shall return a signed copy of the odometer disclosure statement to the transferor at the time of transfer of ownership.

(3) The following vehicles are not subject to the odometer disclosure requirement at the time of ownership transfer:

(a) A vehicle having a declared gross vehicle weight of more than sixteen thousand pounds;

(b) A vehicle that is not self-propelled;

(c) A vehicle that is ten years old or older;

(d) A vehicle sold directly by a manufacturer to a federal agency in conformity with contract specifications; or

(e) A new vehicle before its first retail sale. [1990 c 238 § 6.]

Additional notes found at www.leg.wa.gov

46.12.130 Assigned certificate of ownership to be filed by department—Transfer of interest in vehicle. (Effective until July 1, 2011.) Certificates of ownership when assigned and returned to the department, together with subsequently assigned reissues thereof, shall be retained by the department and appropriately filed and indexed so that at all times it will be possible to trace ownership to the vehicle designated therein:

(1) If the interest of an owner in a vehicle passes to another, other than by voluntary transfer, the transferee shall, except as provided in subsection (3) of this section, promptly mail or deliver to the department the last certificate of ownership if available, proof of transfer, and his or her application for a new certificate in the form the department prescribes.

(2) If the interest of the owner is terminated or the vehicle is sold under a security agreement by a secured party named in the certificate of ownership, the transferee shall promptly mail or deliver to the department the last certificate of ownership, his or her application for a new certificate in the form the department prescribes, and an affidavit made by or on the behalf of the secured party that the vehicle was repossessed and that the interest of the owner was lawfully terminated or sold pursuant to the terms of the security agreement.

(3) If the secured party succeeds to the interest of the owner and holds the vehicle for resale, he or she need not secure a new certificate of ownership but, upon transfer to another person, shall promptly mail or deliver to the transferee or to the department the certificate, affidavit and other documents (and articles) required to be sent to the department by the transferee. [2010 c 8 § 9005; 1967 c 140 § 3; 1961 c 12 § 46.12.130. Prior: 1959 c 166 § 11; prior: 1947 c 164 § 4(d); 1937 c 188 § 6(d); Rem. Supp. 1947 § 6312-6(d).]

Additional notes found at www.leg.wa.gov

46.12.151 Procedure when department unsatisfied as to ownership and security interests. (Effective until July 1, 2011.) If the department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the department may register the vehicle but shall either:

(1) Withhold issuance of a certificate of ownership for a period of three years or until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or

(2) As a condition of issuing a certificate of ownership, require the applicant to file with the department a bond for a period of three years in the form prescribed by the department and executed by the applicant. The bond shall be in an amount equal to one and one-half times the value of the vehicle as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of ownership of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. At the end of three years or prior thereto if the vehicle is no longer registered in this state or when satisfactory evidence of ownership is surrendered to the department, the owner may apply to the department for a replacement certificate of ownership without reference to the bond. [1990 c 250 § 30; 1967 c 140 § 9.]

Definitions: RCW 46.12.005.

Additional notes found at www.leg.wa.gov

46.12.160 Refusal or cancellation of certificate—Notice—Penalty for subsequent operation. (Effective until July 1, 2011.) If the department determines at any time that an applicant for certificate of ownership or for a certificate of license registration for a vehicle is not entitled thereto, the department may refuse to issue such certificate or to license the vehicle and may, for like reason, after notice, and in the exercise of discretion, cancel license registration already acquired or any outstanding certificate of ownership. Notice of cancellation may be accomplished by sending a notice by first-class mail using the last known address in department records for the registered or legal vehicle owner

or owners, and recording the transmittal on an affidavit of first-class mail. It shall then be unlawful for any person to remove, drive, or operate the vehicle until a proper certificate of ownership or license registration has been issued, and any person removing, driving, or operating such vehicle after the refusal of the department to issue certificates or the revocation thereof shall be guilty of a gross misdemeanor. [1994 c 262 § 5; 1975 c 25 § 12; 1961 c 12 § 46.12.160. Prior: 1959 c 166 § 14; prior: 1947 c 164 § 4(g); 1937 c 188 § 6(g); Rem. Supp. 1947 § 6312-6(g).]

46.12.170 Procedure when security interest is granted on vehicle. (Effective until July 1, 2011.) (1) If, after a certificate of ownership is issued, a security interest is granted on the vehicle described therein, the registered owner or secured party shall, within ten days thereafter, present an application to the department, to which shall be attached the certificate of ownership last issued covering the vehicle, or such other documentation as may be required by the department, which application shall be upon a form approved by the department and shall be accompanied by a fee of five dollars in addition to all other fees. The department, if satisfied that there should be a reissue of the certificate, shall note such change upon the vehicle records and issue to the secured party a new certificate of ownership.

(2) Whenever there is no outstanding secured obligation and no commitment to make advances and incur obligations or otherwise give value, the secured party must either:

(a) Assign the certificate of ownership to the debtor or the debtor's assignee or transferee, and transmit the certificate to the department with an accompanying fee of five dollars in addition to all other fees; or

(b) Assign the certificate of ownership to the debtor's assignee or transferee together with the debtor's or debtor's assignee's release of interest.

(3) Upon receipt of the certificate of ownership and the debtor's release of interest and required fees as provided in subsection (2)(a) of this section, the department shall issue a new certificate of ownership and transmit it to the registered owner.

(4) If the affected secured party fails to either assign the certificate of ownership to the debtor or the debtor's assignee or transferee or transmit the certificate of ownership to the department within ten days after proper demand, that secured party shall be liable to the debtor or the debtor's assignee or transferee for one hundred dollars, and in addition for any loss caused to the debtor or the debtor's assignee or transferee by such failure. [2007 c 96 § 2; 2002 c 352 § 5. Prior: 1997 c 432 § 5; 1997 c 241 § 5; 1994 c 262 § 6; 1979 ex.s. c 113 § 2; 1975 c 25 § 13; 1967 c 140 § 4; 1961 c 12 § 46.12.170; prior: 1951 c 269 § 4; 1947 c 164 § 5; 1939 c 182 § 2; 1937 c 188 § 7; Rem. Supp. 1947 § 6312-7.]

Effective dates—2002 c 352: See note following RCW 46.09.070.

Definitions: RCW 46.12.005.

Additional notes found at www.leg.wa.gov

46.12.181 Duplicate for lost, stolen, mutilated, etc., certificates. (Effective until July 1, 2011.) If a certificate of ownership is lost, stolen, mutilated, or destroyed or becomes illegible, the first priority secured party or, if none, the owner

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or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly make application for and may obtain a duplicate upon tender of five dollars in addition to all other fees and upon furnishing information satisfactory to the department. The duplicate certificate of ownership shall contain the legend, "duplicate." It shall be provided to the first priority secured party named in it or, if none, to the owner.

A person recovering an original certificate of ownership for which a duplicate has been issued shall promptly surrender the original certificate to the department. [2002 c 352 § 6; 1997 c 241 § 7; 1994 c 262 § 7; 1990 c 250 § 31; 1969 ex.s. c 170 § 1; 1967 c 140 § 8.]

Effective dates—2002 c 352: See note following RCW 46.09.070.

Definitions: RCW 46.12.005.

Additional notes found at www.leg.wa.gov

46.12.190 Legal owner not liable for acts of registered owner. (Effective until July 1, 2011.) The person, firm, copartnership, association or corporation to whom a certificate of ownership shall have been issued shall not thereby incur liability or be responsible for damage, or otherwise, resulting from any act or contract made by the registered owner or by any other person acting for, or by or under the authority of such registered owner. [1961 c 12 § 46.12.190. Prior: 1937 c 188 § 10, part; RRS § 6312-10, part.]

46.12.200 State or director not liable for acts in administering chapter. (Effective until July 1, 2011.) No suit or action shall ever be commenced or prosecuted against the director of licensing or the state of Washington by reason of any act done or omitted to be done in the administration of the duties and responsibilities imposed upon the director under this chapter. [1979 c 158 § 134; 1967 c 32 § 11; 1961 c 12 § 46.12.200. Prior: 1937 c 188 § 10, part; RRS § 6312-10, part.]

46.12.210 Penalty for false statements or illegal transfers. (Effective until July 1, 2011.) Any person who knowingly makes any false statement of a material fact, either in his or her application for the certificate of ownership or in any assignment thereof, or who with intent to procure or pass ownership to a vehicle which he or she knows or has reason to believe has been stolen, receives or transfers possession of the same from or to another or who has in his or her possession any vehicle which he or she knows or has reason to believe has been stolen, and who is not an officer of the law engaged at the time in the performance of his or her duty as such officer, is guilty of a class B felony and upon conviction shall be punished by a fine of not more than five thousand dollars or by imprisonment for not more than ten years, or both such fine and imprisonment. This provision shall not exclude any other offenses or penalties prescribed by any existing or future law for the larceny or unauthorized taking of a motor vehicle. [2003 c 53 § 236; 1961 c 12 § 46.12.210. Prior: 1937 c 188 § 12; RRS § 6312-12.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.12.215 Unlawful sale of certificate of ownership. (*Effective until July 1, 2011.*) It is a class C felony for a person to sell or convey a vehicle certificate of ownership except in conjunction with the sale or transfer of the vehicle for which the certificate was originally issued. [1995 c 256 § 1.]

46.12.220 Alteration or forgery—Penalty. (*Effective until July 1, 2011.*) Any person who alters or forges or causes to be altered or forged any certificate issued by the director pursuant to the provisions of this chapter, or any assignment thereof, or any release or notice of release of any encumbrance referred to therein, or who shall hold or use any such certificate or assignment, or release or notice of release, knowing the same to have been altered or forged, is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2003 c 53 § 237; 1967 c 32 § 12; 1961 c 12 § 46.12.220. Prior: 1937 c 188 § 13; RRS § 6312-13.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.12.230 Permit to licensed wrecker to junk vehicle—Fee. (*Effective until July 1, 2011.*) Any licensed wrecker in possession of a motor vehicle ten years old or older, and ownership of which or whose owner's residence is unknown, may apply to the department for a permit to junk or wreck such motor vehicle, or any part thereof. Upon such application, a permit may be issued by the department, upon receipt of a fee of one dollar, in a form to be prescribed by the department to authorize such wrecker to wreck or junk such vehicle, or any part thereof. [1975 c 25 § 14; 1967 c 32 § 13; 1961 c 12 § 46.12.230. Prior: 1957 c 273 § 12.]

46.12.240 Appeals to superior court from suspension, revocation, cancellation, or refusal of license or certificate. (*Effective until July 1, 2011.*) (1) The suspension, revocation, cancellation, or refusal by the director of any license or certificate provided for in chapters 46.12 and 46.16 RCW is conclusive unless the person whose license or certificate is suspended, revoked, canceled, or refused appeals to the superior court of Thurston county, or at his or her option to the superior court of the county of his or her residence, for the purpose of having the suspension, revocation, cancellation, or refusal of the license or certificate set aside. Notice of appeal must be filed within ten days after receipt of the notice of suspension, revocation, cancellation, or refusal. Upon the filing of the notice of appeal the court shall issue an order to the director to show cause why the license should not be granted or reinstated, which order shall be returnable not less than ten days after the date of service thereof upon the director. Service shall be in the manner prescribed for service of summons and complaint in other civil actions. Upon the hearing on the order to show cause, the court shall hear evidence concerning matters with reference to the suspension, revocation, cancellation, or refusal of the license or certificate and shall enter judgment either affirming or setting aside the suspension, revocation, cancellation, or refusal.

(2) This section does not apply to vehicle registration cancellations under *RCW 46.16.710 through 46.16.760. [2010 c 8 § 9006; 1987 c 388 § 8; 1965 ex.s. c 121 § 42; 1961 c 12 § 46.20.340. Prior: 1953 c 23 § 2; 1937 c 188 § 74; RRS § 6312-74. Formerly RCW 46.20.340.]

*Reviser's note: RCW 46.16.710 through 46.16.760 expired July 1, 1993.

Additional notes found at www.leg.wa.gov

46.12.250 Ownership of motor vehicle by person under eighteen prohibited—Exceptions. (*Effective until July 1, 2011.*) It shall be unlawful for any person under the age of eighteen to be the registered or legal owner of any motor vehicle: PROVIDED, That RCW 46.12.250 through 46.12.270 shall not apply to any person who is on active duty in the United States armed forces nor to any minor who is in effect emancipated: PROVIDED further, That RCW 46.12.250 through 46.12.270 shall not apply to any person who is the registered owner of a motor vehicle prior to August 11, 1969 or who became the registered or legal owner of a motor vehicle while a nonresident of this state. [1969 ex.s. c 125 § 1.]

46.12.260 Sale or transfer of motor vehicle ownership to person under eighteen prohibited. (*Effective until July 1, 2011.*) It shall be unlawful for any person to convey, sell or transfer the ownership of any motor vehicle to any person under the age of eighteen: PROVIDED, That this section shall not apply to a vendor if the minor provides the vendor with a certified copy of an original birth registration showing the minor to be over eighteen years of age. Such certified copy shall be transmitted to the department of licensing by the vendor with the application for title to said motor vehicle. [1979 c 158 § 135; 1969 ex.s. c 125 § 2.]

46.12.270 Penalty for violation of RCW 46.12.250 or 46.12.260. (*Effective until July 1, 2011.*) Any person violating RCW 46.12.250 or 46.12.260 or who transfers, sells, or encumbers an interest in a vehicle in violation of RCW 46.61.5058, with actual notice of the prohibition, is guilty of a misdemeanor and shall be punished by a fine of not more than two hundred fifty dollars or by imprisonment in a county jail for not more than ninety days. [1994 c 139 § 2; 1993 c 487 § 6; 1969 ex.s. c 125 § 3.]

46.12.280 Campers—Application to—Rules and regulations. (*Effective until July 1, 2011.*) The provisions of chapter 46.12 RCW concerning the registration and titling of vehicles, and the perfection of security interests therein shall apply to campers, as defined in RCW 46.04.085. In addition, the director of licensing shall have the power to adopt such rules and regulations he or she deems necessary to implement the registration and titling of campers and the perfection of security interests therein. [2010 c 8 § 9007; 1979 c 158 § 136; 1971 ex.s. c 231 § 6.]

Additional notes found at www.leg.wa.gov

46.12.290 Mobile or manufactured homes, application of chapter to—Rules. (*Effective until July 1, 2011.*) (1) The provisions of chapter 46.12 RCW insofar as they are not inconsistent with the provisions of chapter 231, Laws of 1971 ex. sess. or chapter 65.20 RCW apply to mobile or manufactured homes: PROVIDED, That RCW 46.12.080 and 46.12.250 through 46.12.270 shall not apply to mobile or manufactured homes.

(2) In order to transfer ownership of a mobile home, all registered owners of record must sign the title certificate releasing their ownership. If the mobile home was manufactured before June 15, 1976, the registered owner must sign an affidavit in the form prescribed by the department of licensing that notice was provided to the purchaser of the mobile home that failure of the mobile home to meet federal housing and urban development standards or failure of the mobile home to meet a fire and safety inspection by the department of labor and industries may result in denial by a local jurisdiction of a permit to site the mobile home.

(3) The director of licensing shall have the power to adopt such rules as necessary to implement the provisions of this chapter relating to mobile homes. [2005 c 399 § 4; 1993 c 154 § 2. Prior: 1989 c 343 § 20; 1989 c 337 § 4; 1981 c 304 § 2; 1979 c 158 § 137; 1971 ex.s. c 231 § 14.]

Additional notes found at www.leg.wa.gov

46.12.300 Serial numbers on vehicles, watercraft, campers, or parts—Buying, selling, etc., with numbers removed, altered, etc.—Penalty. (Effective until July 1, 2011.) Whoever knowingly buys, sells, receives, disposes of, conceals, or has knowingly in his or her possession any vehicle, watercraft, camper, or component part thereof, from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered, or destroyed for the purpose of concealment or misrepresenting the identity of the said vehicle, watercraft, camper, or component part thereof shall be guilty of a gross misdemeanor. [2010 c 8 § 9008; 1975-'76 2nd ex.s. c 91 § 1.]

Additional notes found at www.leg.wa.gov

46.12.310 Serial numbers—Seizure and impoundment of vehicles, etc.—Notice to interested persons—Release to owner, etc. (Effective until July 1, 2011.) (1) Any vehicle, watercraft, camper, or any component part thereof, from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered, obliterated, or destroyed, may be impounded and held by the seizing law enforcement agency for the purpose of conducting an investigation to determine the identity of the article or articles, and to determine whether it had been reported stolen.

(2) Within five days of the impounding of any vehicle, watercraft, camper, or component part thereof, the law enforcement agency seizing the article or articles shall send written notice of such impoundment by certified mail to all persons known to the agency as claiming an interest in the article or articles. The seizing agency shall exercise reasonable diligence in ascertaining the names and addresses of those persons claiming an interest in the article or articles. Such notice shall advise the person of the fact of seizure, the possible disposition of the article or articles, the requirement of filing a written claim requesting notification of potential disposition, and the right of the person to request a hearing to establish a claim of ownership. Within five days of receiving notice of other persons claiming an interest in the article or articles, the seizing agency shall send a like notice to each such person.

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(3) If reported as stolen, the seizing law enforcement agency shall promptly release such vehicle, watercraft, camper, or parts thereof as have been stolen, to the person who is the lawful owner or the lawful successor in interest, upon receiving proof that such person presently owns or has a lawful right to the possession of the article or articles. [1995 c 256 § 2; 1975-'76 2nd ex.s. c 91 § 2.]

Additional notes found at www.leg.wa.gov

46.12.320 Serial numbers—Disposition of vehicles, etc., authorized, when. (Effective until July 1, 2011.) Unless a claim of ownership to the article or articles is established pursuant to *RCW 46.12.330, the law enforcement agency seizing the vehicle, watercraft, camper, or component part thereof may dispose of them by destruction, by selling at public auction to the highest bidder, or by holding the article or articles for the official use of the agency, when:

(1) The true identity of the article or articles cannot be established by restoring the original manufacturer's serial number or other distinguishing numbers or identification marks or by any other means;

(2) After the true identity of the article or articles has been established, the seizing law enforcement agency cannot locate the person who is the lawful owner or if such lawful owner or his or her successor in interest fails to claim the article or articles within forty-five days after receiving notice from the seizing law enforcement agency that the article or articles is in its possession.

No disposition of the article or articles pursuant to this section shall be undertaken until at least sixty days have elapsed from the date of seizure and written notice of the right to a hearing to establish a claim of ownership pursuant to *RCW 46.12.330 and of the potential disposition of the article or articles shall have first been served upon the person who held possession or custody of the article when it was impounded and upon any other person who, prior to the final disposition of the article, has notified the seizing law enforcement agency in writing of a claim to ownership or lawful right to possession thereof. [2010 c 8 § 9009; 1975-'76 2nd ex.s. c 91 § 3.]

***Reviser's note:** RCW 46.12.330 was recodified as RCW 46.12.735 pursuant to 2010 c 161 § 1213, effective July 1, 2011.

Additional notes found at www.leg.wa.gov

46.12.330 Serial numbers—Hearing—Appeal—Removal to court—Release. (Effective until July 1, 2011.)

(1) Any person may submit a written request for a hearing to establish a claim of ownership or right to lawful possession of the vehicle, watercraft, camper, or component part thereof seized pursuant to this section.

(2) Upon receipt of a request for hearing, one shall be held before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW.

(3) Such hearing shall be held within a reasonable time after receipt of a request therefor. Reasonable investigative activities, including efforts to establish the identity of the article or articles and the identity of the person entitled to the lawful possession or custody of the article or articles shall be

considered in determining the reasonableness of the time within which a hearing must be held.

(4) The hearing and any appeal therefrom shall be conducted in accordance with Title 34 RCW.

(5) The burden of producing evidence shall be upon the person claiming to be the lawful owner or to have the lawful right of possession to the article or articles.

(6) Any person claiming ownership or right to possession of an article or articles subject to disposition under RCW 46.12.310 through 46.12.340 may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is two hundred dollars or more. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to judgment for costs and reasonable attorney's fees. For purposes of this section the seizing law enforcement agency shall not be considered a claimant.

(7) The seizing law enforcement agency shall promptly release the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof. [1981 c 67 § 27; 1975-'76 2nd ex.s. c 91 § 4.]

Additional notes found at www.leg.wa.gov

46.12.340 Serial numbers—Release of vehicle, etc. (Effective until July 1, 2011.) The seizing law enforcement agency may release the article or articles impounded pursuant to this section to the person claiming ownership without a hearing pursuant to RCW 46.12.330 when such law enforcement agency is satisfied after an appropriate investigation as to the claimant's right to lawful possession. If no hearing is contemplated as provided for in RCW 46.12.330 such release shall be within a reasonable time following seizure. Reasonable investigative activity, including efforts to establish the identity of the article or articles and the identity of the person entitled to lawful possession or custody of the article or articles shall be considered in determining the reasonableness of the time in which release must be made. [1975-'76 2nd ex.s. c 91 § 5.]

Additional notes found at www.leg.wa.gov

46.12.350 Assignment of new serial number. (Effective until July 1, 2011.) An identification number shall be assigned to any article impounded pursuant to RCW 46.12.310 in accordance with the rules promulgated by the department of licensing prior to:

(1) The release of the article from the custody of the seizing agency; or

(2) The use of the article by the seizing agency. [1979 c 158 § 138; 1975-'76 2nd ex.s. c 91 § 6.]

Additional notes found at www.leg.wa.gov

46.12.370 Lists of registered and legal owners of vehicles—Furnished for certain purposes—Penalty for unauthorized use. (Effective until July 1, 2011.) In addition to any other authority which it may have, the department of licensing may furnish lists of registered and legal owners of motor vehicles only for the purposes specified in this section to:

(1) The manufacturers of motor vehicles, or their authorized agents, to be used to enable those manufacturers to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. sec. 1382-1418), including amendments or additions thereto, respecting safety-related defects in motor vehicles;

(2) Any governmental agency of the United States or Canada, or political subdivisions thereof, to be used by it or by its authorized commercial agents or contractors only in connection with the enforcement of motor vehicle or traffic laws by, or programs related to traffic safety of, that government agency. Only such parts of the list as are required for completion of the work required of the agent or contractor shall be provided to such agent or contractor;

(3) A commercial parking company requiring the names and addresses of registered owners to notify them of outstanding parking violations. Subject to the disclosure agreement provisions of RCW 46.12.380 and the requirements of Executive Order 97-01, the department may provide only the parts of the list that are required for completion of the work required of the company;

(4) An authorized agent or contractor of the department, to be used only in connection with providing motor vehicle excise tax, licensing, title, and registration information to motor vehicle dealers;

(5) Any business regularly making loans to other persons to finance the purchase of motor vehicles, to be used to assist the person requesting the list to determine ownership of specific vehicles for the purpose of determining whether or not to provide such financing; or

(6) A company or its agents operating a toll facility under chapter 47.46 RCW or other applicable authority requiring the names, addresses, and vehicle information of motor vehicle registered owners to identify toll violators.

Where both a mailing address and residence address are recorded on the vehicle record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to requests for disclosure from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business.

If a list of registered and legal owners of motor vehicles is used for any purpose other than that authorized in this section, the manufacturer, governmental agency, commercial parking company, authorized agent, contractor, financial institution, toll facility operator, or their authorized agents or contractors responsible for the unauthorized disclosure or use will be denied further access to such information by the department of licensing. [2005 c 340 § 1; 2004 c 230 § 1. Prior: 1997 c 432 § 6; 1997 c 33 § 1; 1982 c 215 § 1.]

46.12.380 Disclosure of names and addresses of individual vehicle owners. (Effective until July 1, 2011.) (1) Notwithstanding the provisions of chapter 42.56 RCW, the name or address of an individual vehicle owner shall not be released by the department, county auditor, or agency or firm authorized by the department except under the following circumstances:

(a) The requesting party is a business entity that requests the information for use in the course of business;

(b) The request is a written request that is signed by the person requesting disclosure that contains the full legal name and address of the requesting party, that specifies the purpose for which the information will be used; and

(c) The requesting party enters into a disclosure agreement with the department in which the party promises that the party will use the information only for the purpose stated in the request for the information; and that the party does not intend to use, or facilitate the use of, the information for the purpose of making any unsolicited business contact with a person named in the disclosed information. The term "unsolicited business contact" means a contact that is intended to result in, or promote, the sale of any goods or services to a person named in the disclosed information. The term does not apply to situations where the requesting party and such person have been involved in a business transaction prior to the date of the disclosure request and where the request is made in connection with the transaction.

(2) Where both a mailing address and residence address are recorded on the vehicle record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to requests for disclosure from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business.

(3) The disclosing entity shall retain the request for disclosure for three years.

(4) Whenever the disclosing entity grants a request for information under this section by an attorney or private investigator, the disclosing entity shall provide notice to the vehicle owner, to whom the information applies, that the request has been granted. The notice also shall contain the name and address of the requesting party.

(5) Any person who is furnished vehicle owner information under this section shall be responsible for assuring that the information furnished is not used for a purpose contrary to the agreement between the person and the department.

(6) This section shall not apply to requests for information by governmental entities or requests that may be granted under any other provision of this title expressly authorizing the disclosure of the names or addresses of vehicle owners.

(7) This section shall not apply to title history information under RCW 19.118.170. [2005 c 340 § 2; 2005 c 274 § 304; 1995 c 254 § 10; 1990 c 232 § 2; 1987 c 299 § 1; 1984 c 241 § 2.]

Reviser's note: This section was amended by 2005 c 274 § 304 and by 2005 c 340 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Legislative finding and purpose—1990 c 232: "The legislature recognizes the extraordinary value of the vehicle title and registration records for law enforcement and commerce within the state. The legislature also recognizes that indiscriminate release of the vehicle owner information to be an infringement upon the rights of the owner and can subject owners to intrusions on their privacy. The purpose of this act is to limit the release of vehicle owners' names and addresses while maintaining the availability of the vehicle records for the purposes of law enforcement and commerce." [1990 c 232 § 1.]

Additional notes found at www.leg.wa.gov

46.12.390 Disclosure violations, penalties. (Effective until July 1, 2011.) (1) The department may review the activities of a person who receives vehicle record information to ensure compliance with the limitations imposed on the use of the information. The department shall suspend or revoke for up to five years the privilege of obtaining vehicle record information of a person found to be in violation of chapter 42.56 RCW, this chapter, or a disclosure agreement executed with the department.

(2) In addition to the penalty in subsection (1) of this section:

(a) The unauthorized disclosure of information from a department vehicle record; or

(b) The use of a false representation to obtain information from the department's vehicle records; or

(c) The use of information obtained from the department vehicle records for a purpose other than what is stated in the request for information or in the disclosure agreement executed with the department; or

(d) The sale or other distribution of any vehicle owner name or address to another person not disclosed in the request or disclosure agreement

is a gross misdemeanor punishable by a fine not to exceed ten thousand dollars, or by imprisonment in a county jail not to exceed one year, or by both such fine and imprisonment for each violation. [2005 c 274 § 305; 1990 c 232 § 3.]

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Legislative finding and purpose—1990 c 232: See note following RCW 46.12.380.

46.12.420 Street rod vehicles. (Effective until July 1, 2011.) The state patrol shall inspect a street rod vehicle and assign a vehicle identification number in accordance with this chapter.

A street rod vehicle shall be titled as the make and year of the vehicle as originally manufactured. The title shall be branded with the designation "street rod." [1996 c 225 § 6.]

Finding—1996 c 225: See note following RCW 46.04.125.

46.12.430 Parts cars. (Effective until July 1, 2011.) The owner of a parts car must possess proof of ownership for each such vehicle. [1996 c 225 § 7.]

Finding—1996 c 225: See note following RCW 46.04.125.

46.12.440 Kit vehicles—Application for certificate of ownership. (Effective until July 1, 2011.) The following procedures must be followed when applying for a certificate of ownership for a kit vehicle:

(1) The vehicle identification number (VIN) of a new vehicle kit and of a body kit will be taken from the manufacturer's certificate of origin belonging to that vehicle. If the VIN is not available, the Washington state patrol shall assign a VIN at the time of inspection.

(2) The department shall use the model year of a manufactured new vehicle kit and manufactured body kit as the year reflected on the manufacturer's certificate of origin.

(3) The make shall be listed as "KITV," and the series and body designation must describe a discrete vehicle model.

(4) Except for kit vehicles licensed under RCW 46.16.680(5), kit vehicles must comply with chapter 204-10

WAC. A kit vehicle is exempt from the welding requirements under WAC 204-10-022(8) if, upon application for a certificate of ownership, the owner furnishes documentation from the manufacturer of the vehicle frame that informs the owner that the welding on the frame was not completed by a certified welder and that the structural strength of the frame has not been certified by an engineer as meeting the applicable federal motor vehicle safety standards set under 49 C.F.R. Sec. 571.201, 571.214, 571.216, and 571.220 through 571.224, and the applicable SAE standards.

(5) The application for the certificate of ownership must be accompanied by the following documents:

(a) For a manufactured new vehicle kit, the manufacturer's certificate of origin or equivalent document;

(b)(i) For a manufactured body kit, the manufacturer's certificate of origin or equivalent document; (ii) for the frame, the title or a certified copy or equivalent document;

(c) Bills of sale or invoices for all major components used in the construction of the vehicle. The bills of sale must be notarized unless the vendor is registered with the department of revenue for the collection of retail sales or use tax. The bills of sale must include the names and addresses of the seller and purchaser, a description of the vehicle or part being sold, including the make, model, and identification or serial number, the date of sale, and the purchase price of the vehicle or part;

(d) A statement as defined in WAC 308-56A-150 by an authorized inspector of the Washington state patrol or other person authorized by the department of licensing verifying the vehicle identification number, and year and make when applicable;

(e) A completed declaration of value form (TD 420-737) to determine the value for excise tax if the purchase cost and year is unknown or incomplete.

(6) A Washington state patrol VIN inspector must ensure that all parts are documented by titles, notarized bills of sale, or business receipts such as obtained from a wrecking yard purchase. The bills of sale must contain the VIN of the vehicle the parts came from, or the yard number if from a wrecking yard.

(7) The department may not deny a certificate of ownership to an applicant who completes the requisite application, complies with this section, and pays the requisite titling fees and taxes. [2009 c 284 § 1; 1996 c 225 § 8.]

Finding—1996 c 225: See note following RCW 46.04.125.

46.12.450 Kit vehicles—Issuance of certificate of ownership or registration. (Effective until July 1, 2011.) The following documents are required for issuance of a certificate of ownership or registration for a kit vehicle:

(1) For a new vehicle kit or a manufactured body kit, the owner shall supply a manufacturer's certificate of origin or a factory invoice.

(2) For a manufactured body kit, proof of ownership for all major parts used in the construction of the vehicle is required.

(a) Major parts include:

(i) Frame;

(ii) Engine;

(iii) Axles;

(iv) Transmission;

(v) Any other parts that carry vehicle identification numbers.

(b) If the frame from a donor vehicle is used and the remainder of the donor vehicle is to be sold or destroyed, the title is required as an ownership document to the buyer. The agent or subagent may make a certified copy of the title for documentation of the frame for this transaction.

(3) Payment of use tax on the frame and all component parts used is required, unless proof of payment of the sales or use tax is submitted.

(4) A completed declaration of value form (TD 420-737) to determine the value of the vehicle for excise tax purposes is required if the purchase cost and year of purchase is unknown.

(5) An odometer disclosure statement is required on all originals and transfers of title for vehicles under ten years old, unless otherwise exempt by law. [1996 c 225 § 9.]

Finding—1996 c 225: See note following RCW 46.04.125.

46.12.500 Commercial vehicle—Compliance statement. (Effective until July 1, 2011.) When applicable, the certificate of registration must include a statement that the owner or entity operating a commercial vehicle must be in compliance with the requirements of the United States department of transportation federal motor carrier safety regulations contained in Title 49 C.F.R. Part 382, controlled substances and alcohol use and testing. [1999 c 351 § 4.]

Reviser's note: This section was directed to be codified in chapter 46.16 RCW, but placement in chapter 46.12 RCW appears to be more appropriate.

46.12.510 Donations for organ donation awareness. (Effective until July 1, 2011.) An applicant for a new or renewed registration for a vehicle required to be registered under this chapter or chapter 46.16 RCW may make a donation of one dollar or more to the organ and tissue donation awareness account to promote the donation of organs and tissues under the provisions of the uniform anatomical gift act, chapter 68.64 RCW. The department shall collect the donations and credit the donations to the organ and tissue donation awareness account, created in RCW 68.64.210. At least quarterly, the department shall transmit donations made to the organ and tissue donation awareness account to the foundation established for organ and tissue donation awareness purposes by the Washington state organ procurement organizations. All Washington state organ procurement organizations will have proportional access to these funds to conduct public education in their service areas. The donation of one or more dollars is voluntary and may be refused by the applicant. The department shall make available informational booklets or other informational sources on the importance of organ and tissue donations to applicants.

The department shall inquire of each applicant at the time the completed application is presented whether the applicant is interested in making a donation of one dollar or more and shall also specifically inform the applicant of the option for organ and tissue donations as required by RCW 46.20.113. The department shall also provide written information to each applicant volunteering to become an organ and tissue donor. The written information shall disclose that

the applicant's name shall be transmitted to the organ and tissue donor registry created in RCW 68.64.200, and that the applicant shall notify a Washington state organ procurement organization of any changes to the applicant's donor status.

All reasonable costs associated with the creation of the donation program created under this section must be paid proportionally or by other agreement by a Washington state organ procurement organization.

For the purposes of this section, "reasonable costs" and "Washington state organ procurement organization" have the same meaning as defined in RCW 68.64.010. [2008 c 139 § 26; 2003 c 94 § 6.]

Uniformity of application and construction—2008 c 139: See RCW 68.64.902.

Application—2003 c 94 § 6: "Section 6 of this act takes effect with registrations that are due or become due January 1, 2004, or later." [2003 c 94 § 8.]

Findings—2003 c 94: See note following RCW 68.64.200.

GENERAL PROVISIONS

46.12.520 Certificate required to operate and sell vehicle—Manufacturer or dealer testing—Security interest, how perfected. (Effective July 1, 2011.) (1) A person shall not:

(a) Operate a vehicle in this state with a registration certificate issued by the department without having a certificate of title for the vehicle that contains the name of the registered owner exactly as it appears on the registration certificate; or

(b) Sell or transfer a vehicle without complying with the provisions of this chapter relating to certificates of title and vehicle registration.

(2) A certificate of title does not need to be obtained for a vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing and demonstration, or for a vehicle used by a manufacturer or dealer solely for testing. A security interest in a vehicle held as inventory by a manufacturer or dealer must be perfected as described in chapter 62A.9A RCW. An endorsement is not required on certificates of title held by a manufacturer or dealer to perfect the security interest. A certificate of title may be issued for any vehicle without the vehicle needing to be registered. [2010 c 161 § 301; 1997 c 241 § 3; 1979 c 158 § 132; 1975 c 25 § 6; 1967 c 140 § 1; 1967 c 32 § 6; 1961 c 12 § 46.12.010. Prior: 1937 c 188 § 2; RRS § 6312-2. Formerly RCW 46.12.010.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.12.530 Application—Contents—Examination of vehicle. (Effective July 1, 2011.) (1) The application for a certificate of title of a vehicle must be made by the owner or owner's representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vehicle, including make, model, vehicle identification number, type of body, and the odometer reading at the time of delivery of the vehicle;

(b) The name and address of the person who is to be the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party; and

(c) Other information the department may require.

(2) The department may require additional information and a physical examination of the vehicle or of any class of vehicles, or either.

(3) The application for a certificate of title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under RCW 9A.72.085. The department shall keep the application in the original, computer, or photostatic form.

(4) The application for an original certificate of title must be accompanied by:

(a) A draft, money order, certified bank check, or cash for all fees and taxes due for the application for certificate of title; and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(5) Once issued, a certificate of title is not subject to renewal. [2010 c 161 § 302; 2007 c 420 § 1; 2005 c 173 § 1; 2004 c 188 § 1; 2001 c 125 § 1. Prior: 1995 c 274 § 1; 1995 c 256 § 23; 1990 c 238 § 1; 1975 c 25 § 8; 1974 ex.s. c 128 § 1; 1972 ex.s. c 99 § 2; 1967 c 32 § 8; 1961 c 12 § 46.12.030; prior: 1947 c 164 § 1, part; 1937 c 188 § 3, part; Rem. Supp. 1947 § 6312-2, part. Formerly RCW 46.12.030.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2001 c 125: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 125 § 5.]

Notice of liability insurance requirement: RCW 46.16A.130.

Additional notes found at www.leg.wa.gov

46.12.540 Issuance of certificates—Contents. (Effective July 1, 2011.) (1) The department shall issue an electronic record of ownership or a written certificate of title if the department is satisfied from the statements on the application that the applicant is the legal owner of the vehicle or otherwise entitled to have a certificate of title in the applicant's name.

(2) Each certificate of title issued by the department must contain:

(a) The date of application;

(b) The certificate of title number assigned to the vehicle;

(c) The name and address of the registered owner and legal owner;

(d) The vehicle identification number;

(e) The mileage reading, if required, as provided by the odometer disclosure statement submitted with the application involving a transfer of ownership;

(f) A notation that the recorded mileage is actual, not actual, or exceeds mechanical limits;

(g) A blank space on the face of the certificate of title for the signature of the registered owner;

(h) Information on whether the vehicle was ever registered and operated as an exempt vehicle or taxicab;

(i) A brand conspicuously shown across its front if indicating that the vehicle has been rebuilt after becoming a salvage vehicle;

(j) The director's signature and the seal of the department; and

(k) Any other description of the vehicle and facts the department may require.

(3) The department shall deliver the registration certificate to the registered owner and the certificate of title to the legal owner, or both to the person who is both the registered owner and legal owner. [2010 c 161 § 305; 1996 c 26 § 2; 1993 c 307 § 1; 1990 c 238 § 3; 1975 c 25 § 9; 1967 c 32 § 9; 1961 c 12 § 46.12.050. Prior: 1959 c 166 § 1; 1947 c 164 § 2; 1937 c 188 § 4; Rem. Supp. 1947 § 6312-4. Formerly RCW 46.12.050.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.12.550 Refusal or cancellation of certificate—Notice—Penalty for subsequent operation—Appeals. (Effective July 1, 2011.)

(1) The department may refuse to issue or may cancel a certificate of title at any time if the department determines that an applicant for a certificate of title is not entitled to a certificate of title. Notice of cancellation may be accomplished by sending a notice by first-class mail using the last known address in department records for the registered or legal owner or owners, and completing an affidavit of first-class mail. It is unlawful for any person to remove, drive, or operate the vehicle until a proper certificate of title has been issued. Any person removing, driving, or operating a vehicle after the refusal to issue or cancellation of the certificate of title is guilty of a gross misdemeanor.

(2)(a) The suspension of, revocation of, cancellation of, or refusal to issue a certificate of title or vehicle registration provided for in chapters 46.12 and *46.16 RCW by the director is conclusive unless the person whose registration or certificate is suspended, revoked, canceled, or refused appeals to the superior court of Thurston county or the person's county of residence.

(b) Notice of appeal must be filed within ten days after receipt of the notice of suspension, revocation, cancellation, or refusal. Upon the filing of the notice of appeal, the court shall issue an order to the director to show cause why the registration should not be granted or reinstated and return the order not less than ten days after the date of service of the notice to the director. Service must be in the manner as prescribed for the service of a summons and complaint in other civil actions.

(c) Upon the hearing on the order to show cause, the court shall hear evidence concerning matters with reference to the suspension, revocation, cancellation, or refusal of the registration or certificate and enter judgment either affirming or setting aside the suspension, revocation, cancellation, or refusal. [2010 c 161 § 315; 1994 c 262 § 5; 1975 c 25 § 12; 1961 c 12 § 46.12.160. Prior: 1959 c 166 § 14; prior: 1947 c 164 § 4(g); 1937 c 188 § 6(g); Rem. Supp. 1947 § 6312-6(g). Formerly RCW 46.12.160.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter

46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.12.560 Inspection by state patrol or other authorized inspector. (Effective July 1, 2011.)

(1)(a) Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to provide a certificate of vehicle inspection completed by the Washington state patrol or other authorized inspector if the vehicle:

(i) Was declared a total loss or salvage vehicle under the laws of this state;

(ii) Has been rebuilt after the certificate of title was returned to the department under RCW 46.12.600 and the vehicle was not kept by the registered owner at the time of the vehicle's destruction or declaration as a total loss; or

(iii) Is presented with documents from another state showing that the vehicle was a total loss or salvage vehicle and has not been reissued a valid registration certificate from that state after the declaration of total loss or salvage.

(b) A vehicle presented for inspection must have all damaged major component parts replaced or repaired to meet all requirements in law and rule before the Washington state patrol will inspect the vehicle. The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the certificate of title and registration certificate.

(c) A Washington state patrol vehicle identification number specialist must ensure that all major component parts used for the reconstruction of a salvage or rebuilt vehicle were obtained legally, and must securely attach a marking at the driver's door latch pillar indicating the vehicle was previously destroyed or declared a total loss. It is a class C felony for a person to remove the marking indicating that the vehicle was previously destroyed or declared a total loss.

(2) A person presenting a vehicle for inspection under subsection (1) of this section must provide original invoices for new and used parts from:

(a) A vendor that is registered with the department of revenue or a comparable agency in the jurisdiction where the major component parts were purchased for the collection of retail sales or use taxes. The invoices must include:

(i) The name and address of the business;

(ii) A description of the part or parts sold;

(iii) The date of sale; and

(iv) The amount of sale to include all taxes paid unless exempted by the department of revenue or a comparable agency in the jurisdiction where the major component parts were purchased;

(b) A vehicle wrecker licensed under chapter 46.80 RCW or a comparable business in the jurisdiction outside Washington state where the major component part was purchased; and

(c) Private individuals. The private individual must have the certificate of title to the vehicle where the parts were taken from unless the parts were obtained from a parts car, as defined in RCW 46.04.3815, owned by a collector. Bills of sale for parts must be notarized and include:

(i) The names and addresses of the sellers and purchasers;

(ii) A description of the vehicle and the part or parts being sold, including the make, model, year, and identification or serial number;

(iii) The date of sale; and

(iv) The purchase price of the vehicle part or parts.

(3) A person presenting a vehicle for inspection under this section who is unable to provide an acceptable release of interest or proof of ownership for a vehicle or major component part as described in this section shall apply for an ownership in doubt application described in RCW 46.12.680.

(4)(a) Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to provide a certificate of vehicle inspection completed by the Washington state patrol or other authorized inspector when the application is for a vehicle being titled for the first time as:

(i) Assembled;

(ii) Glider kit;

(iii) Homemade;

(iv) Kit vehicle;

(v) Street rod; or

(vi) Subject to ownership in doubt under RCW 46.12.680.

(b) The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the certificate of title and registration certificate.

(5)(a) Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to provide a certificate of vehicle inspection completed by the Washington state patrol when the application is for a vehicle with a vehicle identification number that has been:

(i) Altered;

(ii) Defaced;

(iii) Obliterated;

(iv) Omitted;

(v) Removed; or

(vi) Otherwise absent.

(b) The application must include payment of the fee required in RCW 46.17.135.

(c) The Washington state patrol shall assign a new vehicle identification number to the vehicle and place or stamp the new number in a conspicuous position on the vehicle.

(d) The department shall use the new vehicle identification number assigned by the Washington state patrol as the official vehicle identification number assigned to the vehicle.

(6) The department may adopt rules as necessary to implement this section. [2010 c 161 § 303.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.12.570 Stolen vehicle check. (Effective July 1, 2011.) The department shall institute software and systems modifications to enable a WACIC/NCIC stolen vehicle search of out-of-state vehicles as part of the application for a certificate of title transaction. During the stolen vehicle search, if the information obtained indicates the vehicle is

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stolen, the department shall immediately report that the vehicle is stolen to the Washington state patrol and the applicant must not be issued a certificate of title for the vehicle. Vehicles for which the stolen vehicle check is negative must be issued a certificate of title if the department is satisfied that all other requirements have been met. [2010 c 161 § 304; 2002 c 246 § 1; 2001 c 125 § 3. Formerly RCW 46.12.047.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2001 c 125: See note following RCW 46.12.530.

46.12.580 Duplicate for lost, stolen, mutilated, etc. certificate. (Effective July 1, 2011.) A legal owner or the legal owner's authorized representative may apply for a duplicate certificate of title if a certificate of title is lost, stolen, mutilated, or destroyed, or becomes illegible. The application for a duplicate certificate of title must include information required by the department and be accompanied by the fee required in RCW 46.17.100. The duplicate certificate of title must contain the word, "duplicate." It must be provided to the first priority secured party named in it or, if none, to the legal owner.

A person recovering a certificate of title for which a duplicate has been issued shall promptly return the certificate of title that has been recovered to the department. [2010 c 161 § 317; 2002 c 352 § 6; 1997 c 241 § 7; 1994 c 262 § 7; 1990 c 250 § 31; 1969 ex.s. c 170 § 1; 1967 c 140 § 8. Formerly RCW 46.12.181.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective dates—2002 c 352: See note following RCW 46.09.410.

Additional notes found at www.leg.wa.gov

46.12.590 Procedure on installation of new or different motor—Penalty. (Effective July 1, 2011.) (1) A person shall apply for a new certificate of title for any motor vehicle registered by its motor number when:

(a) A new or different motor has been installed; and

(b) The most recent certificate of title issued for the motor vehicle has recorded on it the previous motor number.

(2) The application for a new certificate of title required in subsection (1) of this section must:

(a) Be made within five days after installation of the new motor;

(b) Be made by the owner or owner's authorized representative to the department, county auditor or other agent, or subagent;

(c) Require the most recent certificate of title to be returned to the department;

(d) Include a statement of the disposition of the former motor; and

(e) Include the fee required under RCW 46.17.100 in addition to any other fee or tax required by law.

(3) A person who possesses a certificate of title that shows the previous motor number for a motor vehicle in which a new or different motor has been installed, after five days following the installation of the new motor, is in violation of this chapter. A violation of this section constitutes a misdemeanor. [2010 c 161 § 307; 2002 c 352 § 4; 1997 c 241

§ 4; 1979 ex.s. c 113 § 1; 1961 c 12 § 46.12.080. Prior: 1959 c 166 § 5; prior: 1951 c 269 § 3; 1947 c 164 § 3(c); 1939 c 182 § 1(c); 1937 c 188 § 5(c); Rem. Supp. 1947 § 6312-5(c). Formerly RCW 46.12.080.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective dates—2002 c 352: See note following RCW 46.09.410.

46.12.600 Destruction of vehicle—Surrender of certificate, penalty—Report of settlement by insurance company—Market value threshold. (Effective July 1, 2011.)

(1)(a) The registered owner or legal owner shall:

(i) Report the destruction of the vehicle issued a certificate of title or registration certificate to the department within fifteen days of its destruction; and

(ii) Submit the certificate of title or affidavit in lieu of title marked "DESTROYED." The registered owner's name, address, and the date of destruction must be clearly shown on the certificate of title or affidavit in lieu of title.

(b) It is a gross misdemeanor to fail to notify the department and be in possession of a certificate of title of a destroyed vehicle on the sixteenth day after the vehicle is destroyed and each day thereafter.

(2) The insurance company or self-insurer shall report the destruction or total loss of vehicles issued a certificate of title or registration certificate to the department within fifteen days after the settlement claim. The report must be submitted regardless of where or in what jurisdiction the total loss occurred. An insurer shall report total loss vehicles to the department in any of the following manners:

(a) Electronically through the department's online reporting system. An insurer choosing this option must immediately destroy ownership documents after filing the electronic report;

(b) Submitting the certificate of title or affidavit in lieu of title marked "DESTROYED." The insurer's name, address, and the date of loss must be clearly shown on the certificate of title or affidavit in lieu of title; or

(c) Submitting a properly completed total loss claim settlement form provided by the department.

(3) The registered owner, legal owner, or insurer reporting the destruction or total loss of a motor vehicle six years old or older must include a statement on whether the fair market value of the motor vehicle immediately before its destruction was at least equal to the market value threshold. The age of the motor vehicle is determined by subtracting the model year from the current calendar year.

(4) Beginning January 1, 2011, the market value threshold is six thousand seven hundred ninety dollars or a greater amount as set by rule of the department. The department shall:

(a) Increase the market value threshold amount:

(i) When the consumer price index for all urban consumers, compiled by the bureau of labor statistics, United States department of labor, or its successor, for the west region, in the expenditure category "used cars and trucks," shows an annual average increase over the previous year;

(ii) By the same percentage increase of the annual average shown in the consumer price index; and

(iii) On July 1st of the year immediately following the year with the increase of the annual average;

(b) Round each increase of the market value threshold to the nearest ten dollars;

(c) Not increase the market value threshold amount if the amount of the increase would be less than fifty dollars; and

(d) Carry forward any unmade increases to succeeding years until the cumulative increase is at least fifty dollars. [2010 c 161 § 306; 2003 c 53 § 235; 2002 c 245 § 2; 1990 c 250 § 28; 1961 c 12 § 46.12.070. Prior: 1959 c 166 § 4; prior: 1947 c 164 § 3(b); 1939 c 182 § 1(b); 1937 c 188 § 5(b); Rem. Supp. 1947 § 6312-5(b). Formerly RCW 46.12.070.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

46.12.610 Contaminated vehicles. (Effective July 1, 2011.) (1) A local health officer may notify the department that a vehicle has been:

(a) Declared unfit and prohibited from use as authorized in chapter 64.44 RCW if the vehicle has become contaminated as defined in RCW 64.44.010;

(b) Satisfactorily decontaminated and retested according to the written work plan approved by the local health officer.

(2) The department shall brand vehicle records and certificates of title when it receives the notification from a local health officer as provided in subsection (1) of this section.

(3) A person is guilty of a gross misdemeanor if he or she advertises for sale or sells a vehicle that has been declared unfit and prohibited from use by a local health officer if:

(a) The person has knowledge that the local health officer has issued an order declaring the vehicle unfit and prohibiting its use; or

(b) A notification has been placed on the certificate of title under subsection (2) of this section that the vehicle has been declared unfit and prohibited from use.

(4) A person may advertise or sell a vehicle if a release for reuse document has been issued by a local health officer under chapter 64.44 RCW or a notification has been placed on the certificate of title under subsection (2) of this section that the vehicle has been decontaminated and released for reuse. [2010 c 161 § 308.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.12.620 Legal owner not liable for acts of registered owner. (Effective July 1, 2011.) A person shown as the legal owner on a certificate of title which has a different person shown as the registered owner does not incur liability and is not responsible for damage or any liability resulting from any act or contract made by the registered owner or by any other person acting for, or by or under the authority of, the registered owner. [2010 c 161 § 318; 1961 c 12 § 46.12.190. Prior: 1937 c 188 § 10, part; RRS § 6312-10, part. Formerly RCW 46.12.190.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.12.630 Lists of registered and legal owners of vehicles—Furnished for certain purposes—Penalty for unauthorized use. (Effective July 1, 2011.) In addition to any other authority which it may have, the department of licensing may furnish lists of registered and legal owners of motor vehicles only for the purposes specified in this section to:

(1) The manufacturers of motor vehicles, or their authorized agents, to be used to enable those manufacturers to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. sec. 1382-1418), including amendments or additions thereto, respecting safety-related defects in motor vehicles;

(2) Any governmental agency of the United States or Canada, or political subdivisions thereof, to be used by it or by its authorized commercial agents or contractors only in connection with the enforcement of motor vehicle or traffic laws by, or programs related to traffic safety of, that government agency. Only such parts of the list as are required for completion of the work required of the agent or contractor shall be provided to such agent or contractor;

(3) A commercial parking company requiring the names and addresses of registered owners to notify them of outstanding parking violations. Subject to the disclosure agreement provisions of *RCW 46.12.380 and the requirements of Executive Order 97-01, the department may provide only the parts of the list that are required for completion of the work required of the company;

(4) An authorized agent or contractor of the department, to be used only in connection with providing motor vehicle excise tax, licensing, title, and registration information to motor vehicle dealers;

(5) Any business regularly making loans to other persons to finance the purchase of motor vehicles, to be used to assist the person requesting the list to determine ownership of specific vehicles for the purpose of determining whether or not to provide such financing; or

(6) A company or its agents operating a toll facility under chapter 47.46 RCW or other applicable authority requiring the names, addresses, and vehicle information of motor vehicle registered owners to identify toll violators.

Where both a mailing address and residence address are recorded on the vehicle record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to requests for disclosure from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business.

If a list of registered and legal owners of motor vehicles is used for any purpose other than that authorized in this section, the manufacturer, governmental agency, commercial parking company, authorized agent, contractor, financial institution, toll facility operator, or their authorized agents or contractors responsible for the unauthorized disclosure or use will be denied further access to such information by the department of licensing. [2005 c 340 § 1; 2004 c 230 § 1.

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Prior: 1997 c 432 § 6; 1997 c 33 § 1; 1982 c 215 § 1. Formerly RCW 46.12.370.]

*Reviser's note: RCW 46.12.380 was recodified as RCW 46.12.635 pursuant to 2010 c 161 § 1210, effective July 1, 2011.

46.12.635 Disclosure of names and addresses of individual vehicle owners. (Effective July 1, 2011.) (1) Notwithstanding the provisions of chapter 42.56 RCW, the name or address of an individual vehicle owner shall not be released by the department, county auditor, or agency or firm authorized by the department except under the following circumstances:

(a) The requesting party is a business entity that requests the information for use in the course of business;

(b) The request is a written request that is signed by the person requesting disclosure that contains the full legal name and address of the requesting party, that specifies the purpose for which the information will be used; and

(c) The requesting party enters into a disclosure agreement with the department in which the party promises that the party will use the information only for the purpose stated in the request for the information; and that the party does not intend to use, or facilitate the use of, the information for the purpose of making any unsolicited business contact with a person named in the disclosed information. The term "unsolicited business contact" means a contact that is intended to result in, or promote, the sale of any goods or services to a person named in the disclosed information. The term does not apply to situations where the requesting party and such person have been involved in a business transaction prior to the date of the disclosure request and where the request is made in connection with the transaction.

(2) Where both a mailing address and residence address are recorded on the vehicle record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to requests for disclosure from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business.

(3) The disclosing entity shall retain the request for disclosure for three years.

(4) Whenever the disclosing entity grants a request for information under this section by an attorney or private investigator, the disclosing entity shall provide notice to the vehicle owner, to whom the information applies, that the request has been granted. The notice also shall contain the name and address of the requesting party.

(5) Any person who is furnished vehicle owner information under this section shall be responsible for assuring that the information furnished is not used for a purpose contrary to the agreement between the person and the department.

(6) This section shall not apply to requests for information by governmental entities or requests that may be granted under any other provision of this title expressly authorizing the disclosure of the names or addresses of vehicle owners.

(7) This section shall not apply to title history information under RCW 19.118.170. [2005 c 340 § 2; 2005 c 274 § 304; 1995 c 254 § 10; 1990 c 232 § 2; 1987 c 299 § 1; 1984 c 241 § 2. Formerly RCW 46.12.380.]

Reviser's note: This section was amended by 2005 c 274 § 304 and by 2005 c 340 § 2, each without reference to the other. Both amendments are

incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Legislative finding and purpose—1990 c 232: "The legislature recognizes the extraordinary value of the vehicle title and registration records for law enforcement and commerce within the state. The legislature also recognizes that indiscriminate release of the vehicle owner information to be an infringement upon the rights of the owner and can subject owners to intrusions on their privacy. The purpose of this act is to limit the release of vehicle owners' names and addresses while maintaining the availability of the vehicle records for the purposes of law enforcement and commerce." [1990 c 232 § 1.]

Additional notes found at www.leg.wa.gov

46.12.640 Disclosure violations, penalties. (Effective July 1, 2011.) (1) The department may review the activities of a person who receives vehicle record information to ensure compliance with the limitations imposed on the use of the information. The department shall suspend or revoke for up to five years the privilege of obtaining vehicle record information of a person found to be in violation of chapter 42.56 RCW, this chapter, or a disclosure agreement executed with the department.

(2) In addition to the penalty in subsection (1) of this section:

(a) The unauthorized disclosure of information from a department vehicle record; or

(b) The use of a false representation to obtain information from the department's vehicle records; or

(c) The use of information obtained from the department vehicle records for a purpose other than what is stated in the request for information or in the disclosure agreement executed with the department; or

(d) The sale or other distribution of any vehicle owner name or address to another person not disclosed in the request or disclosure agreement

is a gross misdemeanor punishable by a fine not to exceed ten thousand dollars, or by imprisonment in a county jail not to exceed one year, or by both such fine and imprisonment for each violation. [2005 c 274 § 305; 1990 c 232 § 3. Formerly RCW 46.12.390.]

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Legislative finding and purpose—1990 c 232: See note following RCW 46.12.635.

VEHICLE SALES, TRANSFERS, AND SECURITY INTERESTS

46.12.650 Releasing interest—Reports of sale—Transfer of ownership—Requirements—Penalty, exceptions. (Effective July 1, 2011.) (1) **Releasing interest.** An owner releasing interest in a vehicle shall:

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

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

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

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

(2) **Report of sale.** An owner shall notify the department, county auditor or other agent, or subagent appointed by the director in writing within five business days after a vehicle is or has been:

(a) Sold;

(b) Given as a gift to another person;

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

(d) Donated to charity;

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

(f) Disposed of.

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

(a) The date of sale or transfer;

(b) The owner's name and address;

(c) The name and address of the person acquiring the vehicle;

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

(e) A date or stamp by the department showing it was received on or before the fifth business day after the date of sale or transfer; and

(f) Payment of the fees required under RCW 46.17.050 if the report of sale is processed by a county auditor or other agent or subagent appointed by the director.

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

(a) Provide or approve reports of sale forms;

(b) Provide a system enabling an owner to submit reports of sale electronically;

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

(d) Provide instructions on release of interest forms that allow the seller of a vehicle to release their interest in a vehicle at the same time a financial institution, as defined in RCW 30.22.040, releases its lien on the vehicle; and

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

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

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

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

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

(6) **Certificate of title delivered to secured party.** The certificate of title must be kept by or delivered to the person who becomes the secured party when a security interest is

reserved or created at the time of the transfer of ownership. The parties must comply with RCW 46.12.675.

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

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

- (a) The department requests additional supporting documents;
- (b) The department, county auditor or other agent, or subagent fails to perform or is neglectful;
- (c) The owner is prevented from applying due to an illness or extended hospitalization;
- (d) The legal owner fails or neglects to release interest;
- (e) The owner did not know of the filing of a report of sale by the previous owner and signs an affidavit to the fact; or
- (f) The department finds other conditions exist that adequately explain the delay.

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

(10) **Rules.** The department may adopt rules as necessary to implement this section. [2010 c 161 § 309; 2008 c 316 § 1; 2007 c 96 § 1; 2006 c 291 § 2. Prior: 2004 c 223 § 1; 2004 c 200 § 2; 2003 c 264 § 7; 2002 c 279 § 1; 1998 c 203 § 11; 1991 c 339 § 19; 1990 c 238 § 4; 1987 c 127 § 1; 1984 c 39 § 1; 1972 ex.s. c 99 § 1; 1969 ex.s. c 281 § 38; 1969 ex.s. c 42 § 1; 1967 c 140 § 7. Formerly RCW 46.12.101.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2004 c 200: See note following RCW 46.68.020.

Finding—1998 c 203: See note following RCW 46.55.105.

Additional notes found at www.leg.wa.gov

46.12.655 Release of owner from liability. (Effective July 1, 2011.) (1) An owner is relieved of civil or criminal liability for the operation of a vehicle by another person when the owner has:

- (a) Made a bona fide sale or transfer of a vehicle;
- (b) Delivered possession of the vehicle to the person acquiring ownership;
- (c) Released interest in the vehicle and provided the certificate of title and registration certificate to the person acquiring ownership; and
- (d) Filed a report of sale that meets all the requirements in RCW 46.12.650(2).

(2) A person acquiring a vehicle assumes civil or criminal liability for any traffic violation under this title, whether designated as a traffic infraction or classified as a criminal

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offense, that occurs after the date of sale or transfer of ownership based on the vehicle's identification including, but not limited to:

- (a) Parking infractions;
 - (b) High occupancy toll lane violations; and
 - (c) Violations recorded by automated traffic safety cameras.
- (3) A person shown as the buyer of a vehicle on an abandoned vehicle report submitted to the department by a registered tow truck operator assumes liability for the vehicle. Any previous owner is relieved of civil or criminal liability for the operation of the vehicle from the date of sale.

(4) A person who had no knowledge of the filing of the report of sale is relieved of civil or criminal liability for the operation of the vehicle. Liability is then transferred to the seller shown on the report of sale. [2010 c 161 § 310; 2006 c 291 § 3; 2005 c 331 § 1; 2002 c 279 § 2; 1984 c 39 § 2. Formerly RCW 46.12.102.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.12.660 Transitional ownership record. (Effective July 1, 2011.) (1) A transitional ownership record:

- (a) Enables a security interest in a motor vehicle to be perfected in a timely manner when the certificate of title is not available at the time the security interest is created;
- (b) Provides for timely notification to security interest holders under chapter 46.55 RCW; and
- (c) Is only acceptable as an ownership record for motor vehicles currently stored on the department's computer system and if the certificate of title or other authorized proof of ownership for the motor vehicle is not in the possession of the selling vehicle dealer or new security interest holder when the transitional ownership record is submitted to the department.

(2) A person shall submit the transitional ownership record to the department or to the county auditor or other agents or subagents.

(3) A transitional ownership record must contain all of the following information:

- (a) The date of sale;
- (b) The name and address of each owner of the vehicle;
- (c) The name and address of each security interest holder;
- (d) The priorities of interest if there are multiple security interest holders and the security interest holders do not jointly hold a single security interest;
- (e) The vehicle identification number, the license plate number, if any, the year, make, and model of the vehicle;
- (f) The name of the selling dealer or security interest holder who is submitting the transitional ownership record; and
- (g) The transferee's driver's license number, if available.

(4) The report of sale form provided or approved by the department under RCW 46.12.650 may be used by a vehicle dealer as the transitional ownership record.

(5) A security interest is perfected in a motor vehicle on the date the department receives the transitional ownership record when:

- (a) The requirements of this section have been met; and

(b) Any required fees have been paid.

(6)(a) The selling dealer or new security interest holder shall submit to the department, within ten days of receipt of the certificate of title for the vehicle, written confirmation that only an electronic record of ownership exists or that the certificate of title has been lost or destroyed with:

(i) An application for a new certificate of title containing the name and address of the secured party; and

(ii) Payment of the required fees as provided in RCW 46.17.060.

(b) A security interest becomes unperfected when a secured party fails to submit an application for a certificate of title within the ten-day time period provided in this subsection (6), unless the security interest is perfected otherwise. [2010 c 161 § 311; 2000 c 250 § 9A-823; 1998 c 203 § 12. Formerly RCW 46.12.103.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2000 c 250: See RCW 62A.9A-701.

Finding—1998 c 203: See note following RCW 46.55.105.

46.12.665 Odometer disclosure statement required—

Exemptions. (Effective July 1, 2011.) (1) The department, county auditor or other agent, or subagent appointed by the director shall require a written odometer disclosure statement with every application for a certificate of title for a motor vehicle. The odometer disclosure statement must be on either the certificate of title or on a separate form approved by the department. A secure odometer disclosure statement is required if the certificate of title was issued after April 30, 1990. Odometer disclosure statements must include, at a minimum, the following:

(a) The miles shown on the odometer at the time of transfer of ownership, but not to include tenths of miles;

(b) The date of transfer of ownership;

(c) The transferor's printed name, current address, and signature;

(d) The transferee's printed name, current address, and signature;

(e) The identity of the motor vehicle, including its make, model, year, body type, and vehicle identification number;

(f) Information that the odometer statement is required by the federal truth in mileage act of 1986 and that failure to complete the odometer statement or providing false information may result in fines or imprisonment, or both; and

(g) One of the following statements:

(i) The mileage shown is actual to the best of transferor's knowledge;

(ii) The odometer reading exceeds the mechanical limits of the odometer to the best of the transferor's knowledge; or

(iii) The odometer reading is not the actual mileage.

If the odometer reading is under one hundred thousand miles, the only options that can be certified are "actual to the best of the transferor's knowledge" or "not the actual mileage." If the odometer reading is one hundred thousand miles or more, the options "actual to the best of the transferor's knowledge" or "not the actual mileage" cannot be used unless the odometer has six digit capability.

(2) The transferee and the transferor shall each sign the odometer disclosure statement. Only one registered owner is

required to complete the odometer disclosure statement for the transferee, and only one owner is required to complete the odometer disclosure statement for the transferor. When applicable, both the business name and a company representative's name must be shown on the odometer disclosure statement when the registered owner is a business or the transferee represents a company, or both.

(3) The transferee shall return a signed copy of the odometer disclosure statement to the transferor at the time of transfer of ownership.

(4) The following vehicles are not subject to odometer disclosure requirements at the time of ownership transfer:

(a) A motor vehicle having a declared gross vehicle weight of more than sixteen thousand pounds;

(b) A vehicle that is not self-propelled;

(c) A motor vehicle that is ten years old or older;

(d) A motor vehicle sold directly by a manufacturer to a federal agency in conformity with contract specifications; or

(e) A new motor vehicle before its first retail sale.

(5) The requirements of this section also apply to the transfer of a motor vehicle held:

(a) For lease when transferred to a lessee and then to the lessor at the end of the leasehold; and

(b) In a fleet when transferred to a purchaser. [2010 c 161 § 312; 1990 c 238 § 6. Formerly RCW 46.12.124.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.12.670 Assigned certificates of title filed—Transfer of interest in vehicle. (Effective July 1, 2011.) (1) The department shall file and index certificates of title when assigned and returned to the department, together with subsequent transactions so that at all times it will be possible to trace ownership to the vehicle designated on each certificate of title.

(2)(a) A person who acquires an interest in a vehicle, other than by voluntary transfer, shall within fifteen days mail or deliver to the department, county auditor or other agent, or subagent appointed by the director:

(i) The last certificate of title if available;

(ii) Proof of transfer; and

(iii) An application for a new certificate of title.

(b) This subsection shall not apply to transactions described in subsection (4) of this section.

(3) A secured party named in the certificate of title who repossesses a vehicle under a security agreement shall within fifteen days mail or deliver to the department, county auditor or other agent, or subagent appointed by the director:

(a) The last certificate of title;

(b) An application for a new certificate of title; and

(c) An affidavit made by or on the behalf of the secured party that the vehicle was repossessed and that the interest of the owner was lawfully terminated or sold under the terms of the security agreement.

(4) A secured party named in the certificate of title who holds the vehicle for resale is not required to apply for a new certificate of title. When the vehicle is sold, the secured party shall promptly mail or deliver to the buyer or to the depart-

ment, county auditor or other agent, or subagent appointed by the director:

- (a) The certificate of title;
- (b) An affidavit made by or on the behalf of the secured party that the vehicle was repossessed and that the interest of the owner was lawfully terminated or sold under the terms of the security agreement; and
- (c) Any other documents required to be sent to the department by the buyer. [2010 c 161 § 313; 2010 c 8 § 9005; 1967 c 140 § 3; 1961 c 12 § 46.12.130. Prior: 1959 c 166 § 11; prior: 1947 c 164 § 4(d); 1937 c 188 § 6(d); Rem. Supp. 1947 § 6312-6(d). Formerly RCW 46.12.130.]

Reviser's note: This section was amended by 2010 c 8 § 9005 and by 2010 c 161 § 313, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.12.675 Perfection of security interest—Procedure. (Effective July 1, 2011.) (1) A security interest in a vehicle other than one held as inventory by a manufacturer or a dealer and for which a certificate of title is required is perfected only by:

- (a) Complying with the requirements of RCW 46.12.660 or this section;
- (b) Receipt by the department, county auditor or other agent, or subagent appointed by the director of:
 - (i) The existing certificate of title, if any;
 - (ii) An application for a certificate of title containing the name and address of the secured party; and
 - (iii) Payment of the required fees.
- (2) A security interest is perfected when it is created if the secured party's name and address appear on the most recently issued certificate of title or, if not, it is created when the department, county auditor or other agent, or subagent appointed by the director receives the certificate of title or an application for a certificate of title and the fees required in subsection (1) of this section.

(3) If a vehicle is subject to a security interest when brought into this state, perfection of the security interest is determined by the law of the jurisdiction where the vehicle was when the security interest was attached, subject to the following:

(a) The security interest continues perfected in this state if the name of the secured party is shown on the existing certificate of title issued by that jurisdiction. The name of the secured party must be shown on the certificate of title issued for the vehicle by this state. The security interest continues perfected in this state when the department issues the certificate of title.

(b) If the security interest was not perfected under the law of the jurisdiction where the vehicle was when the security interest was attached, it may be perfected in this state. Perfection begins when the department receives the information and fees required in subsection (1) of this section.

(4)(a) After a certificate of title has been issued, the registered owner or secured party must apply to the department, county auditor or other agent, or subagent appointed by the

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director for a new certificate of title when a security interest is granted on a vehicle. Within ten days after creating a security agreement, the registered owner or secured party must submit:

- (i) An application for a certificate of title;
 - (ii) The certificate of title last issued for the vehicle, or other documentation required by the department; and
 - (iii) The fee required in RCW 46.17.100.
- (b) If satisfied that a certificate of title should be reissued, the department shall change the vehicle record and issue a new certificate of title to the secured party.

(5) A secured party shall release the security interest when the conditions within the security agreement have been met and there is no further secured obligation. The secured party must either:

(a) Assign the certificate of title to the registered owner or the registered owner's designee and send the certificate of title to the department, county auditor or other agent, or subagent appointed by the director with the fee required in RCW 46.17.100; or

(b) Assign the certificate of title to the person acquiring the vehicle from the registered owner with the registered owner's release of interest.

(6) The department shall issue a new certificate of title to the registered owner when the department receives the release of interest and required fees as provided in subsection (5)(a) of this section.

(7) A secured party is liable for one hundred dollars payable to the registered owner or person acquiring the vehicle from the registered owner when:

(a) The secured party fails to either assign the certificate of title to the registered owner or to the person acquiring the vehicle from the registered owner or apply for a new certificate of title; and

(b) The failure of the secured party to act as described in (a) of this subsection results in a loss to the registered owner or person acquiring the vehicle from the registered owner. [2010 c 161 § 316; 2007 c 96 § 2; 2002 c 352 § 5. Prior: 1997 c 432 § 5; 1997 c 241 § 5; 1994 c 262 § 6; 1979 ex.s. c 113 § 2; 1975 c 25 § 13; 1967 c 140 § 4; 1961 c 12 § 46.12.170; prior: 1951 c 269 § 4; 1947 c 164 § 5; 1939 c 182 § 2; 1937 c 188 § 7; Rem. Supp. 1947 § 6312-7. Formerly RCW 46.12.170.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective dates—2002 c 352: See note following RCW 46.09.410.

Additional notes found at www.leg.wa.gov

46.12.680 Ownership in doubt—Procedure. (Effective July 1, 2011.) (1) The department, county auditor or other agent, or subagent appointed by the director may register a vehicle and withhold issuance of a certificate of title or require a bond as a condition of issuing a certificate of title if the department is not satisfied:

(a) As to the ownership of the vehicle; or

(b) That there are no undisclosed security interests in the vehicle.

(2) A person who is unable to provide satisfactory evidence of ownership may:

(a) Apply for ownership in doubt and receive either a:

(i) Registration without a certificate of title for a three-year period; or

(ii) A bonded certificate of title with or without registration as described in subsection (3) of this section; or

(b) Petition any district court or superior court of any county in this state to receive a judgment awarding ownership of the vehicle.

(3) A person who is either required by the department, county auditor or other agent, or subagent appointed by the director to file a bond or wants a certificate of title for a vehicle when ownership is in doubt shall file the bond for a three-year period. The bond must:

(a) Be in the form approved by the department;

(b) Be in an amount equal to one and one-half times the value of the vehicle as determined by the department;

(c) Be signed by the applicant and the bonding agent; and

(d) Offer protection to any previous owner, secured party, future purchaser, or their successors against any expense, loss, or damage, including reasonable attorneys' fees.

(4) A person who has or has held an interest in the vehicle may, during the three-year ownership in doubt period, petition any district court or superior court of any county in this state to receive a judgment either awarding ownership of the vehicle or be compensated for any expense, loss, or damage, including reasonable attorneys' fees. The total claim must not be more than the amount of the bond if a bond has been filed with the department.

(5) A person who has applied for ownership in doubt may apply for a certificate of title at any time during the three-year ownership in doubt period when satisfactory evidence of ownership becomes available. At the end of the three-year ownership in doubt period, the owner must apply to the department, county auditor or other agent, or subagent appointed by the director for a certificate of title. The new certificate of title will not include reference to the bond if a bond was filed with the department.

(6) A person applying for ownership in doubt must have acquired the vehicle by purchase, exchange, gift, lease, or inheritance from the owner of record or interim owner.

(7) Ownership in doubt does not apply to:

(a) Unauthorized vehicles, as defined in RCW 46.55.010;

(b) Abandoned vehicles, as defined in RCW 46.55.010;

(c) Snowmobiles, as defined in RCW 46.04.546; or

(d) Washington vehicle dealer sales, as defined in RCW 46.70.011. [2010 c 161 § 314; 1990 c 250 § 30; 1967 c 140 § 9. Formerly RCW 46.12.151.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

SPECIFIC VEHICLES

46.12.690 Campers. (Effective July 1, 2011.) A camper is considered a vehicle for the purposes of certificates of title, perfection of security interests, and registrations. The director may adopt rules to implement this section. [2010 c

161 § 321; 2010 c 8 § 9007; 1979 c 158 § 136; 1971 ex.s. c 231 § 6. Formerly RCW 46.12.280.]

Reviser's note: This section was amended by 2010 c 8 § 9007 and by 2010 c 161 § 321, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.12.695 Kit vehicles. (Effective July 1, 2011.) (1) A person who applies for an original certificate of title for a kit vehicle shall provide:

(a) The manufacturer's certificate of origin or an equivalent document if the kit vehicle is a new manufactured vehicle kit or body kit;

(b) The certificate of title or a certified copy or equivalent document for the frame;

(c) Proof of ownership for all major parts used in the construction of the vehicle. Major parts include the frame, engine, axles, transmission, and any other parts that carry vehicle identification numbers;

(d) Bills of sale or invoices for all major components used in the construction of the vehicle. The bills of sale must be notarized unless the vendor is registered with the department of revenue for the collection of retail sales or use tax and must include:

(i) The names and addresses of the seller and purchaser;

(ii) A description of the vehicle or part being sold, including the make, model, and identification or serial number or the yard number if from a wrecking yard;

(iii) The date of sale; and

(iv) The purchase price of the vehicle or part;

(e) A certificate of vehicle inspection completed by the Washington state patrol or other authorized inspector verifying the vehicle identification number, and year and make when applicable. A Washington state patrol vehicle identification number inspector must ensure that all parts are documented by certificates of title, notarized bills of sale, or business receipts, such as those obtained from a wrecking yard purchase;

(f) A completed declaration of value form to determine the value for excise tax purposes if the purchase cost and year is unknown or incomplete;

(g) Payment of use tax on the frame and all component parts used, unless proof of payment of the sales or use tax is submitted; and

(h) An odometer disclosure statement on all originals and transfers of certificates of title for kit vehicles under ten years old, unless otherwise exempt by law.

(2) If the frame from a donor vehicle is used and the remainder of the donor vehicle is to be sold or destroyed, the certificate of title is required as an ownership document to the buyer. The department may make a certified copy of the certificate of title for documentation of the frame for this transaction.

(3) When accepting an application for an original certificate of title for a kit vehicle, the department, county auditor or other agent, or subagent appointed by the director shall:

(a) Use the vehicle identification number provided on the manufacturer's certificate of origin. If the vehicle identification number is not available, the Washington state patrol shall assign a vehicle identification number at the time of inspection;

(b) Use the actual model year provided on the manufacturer's certificate of origin as the model year. This is not the model year of the vehicle being replicated;

(c) Record the make as "KITV";

(d) Record in the series and body designation a discrete vehicle model; and

(e) Assign a use class identifying the actual use of the vehicle, such as a passenger car or truck.

(4) A kit vehicle may be registered under RCW 46.18.220 as a street rod vehicle if the vehicle is manufactured to have the same appearance as a similar vehicle manufactured before 1949. Kit vehicles must comply with chapter 204-10 WAC unless the kit vehicle is registered under RCW 46.18.220.

(5) A kit vehicle is exempt from the welding requirements under WAC 204-10-022(8) if, upon application for a certificate of title, the owner furnishes documentation from the manufacturer of the vehicle frame that informs the owner that the welding on the frame was not completed by a certified welder and that the structural strength of the frame has not been certified by an engineer as meeting the applicable federal motor vehicle safety standards set under 49 C.F.R. Sec. 571.201, 571.214, 571.216, and 571.220 through 571.224, and the applicable SAE standards.

(6) The department may not deny a certificate of title to an applicant who completes the requisite application, complies with this section, and pays the requisite titling fees and taxes. [2010 c 161 § 324; 2009 c 284 § 1; 1996 c 225 § 8. Formerly RCW 46.12.440.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Finding—1996 c 225: See note following RCW 46.04.125.

46.12.700 Mobile or manufactured homes. (Effective July 1, 2011.) (1) **Titling options.** An owner of a manufactured home shall establish ownership in the manufactured home by either:

(a) Applying for a certificate of title as required under this chapter; or

(b) Eliminating the certificate of title under chapter 65.20 RCW.

(2) **Exemption.** This section does not apply to a manufactured home held for resale by a dealer or manufacturer.

(3) **Transferring ownership.** A registered owner of record must sign the certificate of title releasing the owner's interest when transferring ownership of a manufactured home. If the mobile home was manufactured before June 15, 1976, the registered owner must sign an affidavit on a form approved by the department. The affidavit must state that the purchaser was notified that failure of the mobile home to meet federal housing and urban development standards or failure of the mobile home to meet a fire and safety inspection by the department of labor and industries may result in denial by a local jurisdiction of a permit to site the mobile home.

(2010 Ed.)

(4) **Evidence of taxes paid.** Before accepting an application for a certificate of title for a manufactured home, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to provide evidence that any taxes due on the sale of the manufactured home under chapters 82.45 and 84.52 RCW have been paid. Acceptable evidence includes a copy of:

(a) The real estate excise tax affidavit that has been stamped by the county treasurer; or

(b) A treasurer certificate that is prepared by the treasurer of the county in which a used manufactured home is located and that states that all property taxes due upon the used manufactured home being sold have been satisfied.

(5) **County assessor notification.** The department shall notify the county assessor of the county where the manufactured home is located when ownership of a manufactured home is transferred. The notification must include the name and address of the former owner and the new owner.

(6) **Title elimination.** The certificate of title for a manufactured home may be eliminated or not issued when the manufactured home is registered under chapter 65.20 RCW. If the certificate of title is eliminated or not issued, the application must be recorded in the county property records of the county where the real property to which the home is affixed is located. All vehicle license fees and taxes applicable to manufactured homes under this chapter are due and must be collected before recording the ownership with the county auditor.

(7) **Rules.** The department may adopt rules as necessary to implement this section. [2010 c 161 § 322; 2005 c 399 § 4; 1993 c 154 § 2. Prior: 1989 c 343 § 20; 1989 c 337 § 4; 1981 c 304 § 2; 1979 c 158 § 137; 1971 ex.s. c 231 § 14. Formerly RCW 46.12.290.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.12.705 Parts cars. (Effective July 1, 2011.) The owner of a parts car must possess proof of ownership for each such vehicle. [1996 c 225 § 7. Formerly RCW 46.12.430.]

Finding—1996 c 225: See note following RCW 46.04.125.

46.12.710 Street rod vehicles. (Effective July 1, 2011.) A street rod vehicle must:

(1) Be recorded in department records as the make and year of the vehicle as originally manufactured; and

(2) Have the certificate of title branded with the designation "street rod." [2010 c 161 § 323; 1996 c 225 § 6. Formerly RCW 46.12.420.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Finding—1996 c 225: See note following RCW 46.04.125.

SERIAL NUMBERS

46.12.720 Buying, selling, etc. with numbers removed, altered, etc.—Penalty. (Effective July 1, 2011.) Whoever knowingly buys, sells, receives, disposes of, conceals, or has knowingly in his or her possession any vehicle,

watercraft, camper, or component part thereof, from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered, or destroyed for the purpose of concealment or misrepresenting the identity of the said vehicle, watercraft, camper, or component part thereof shall be guilty of a gross misdemeanor. [2010 c 8 § 9008; 1975-'76 2nd ex.s. c 91 § 1. Formerly RCW 46.12.300.]

Additional notes found at www.leg.wa.gov

46.12.725 Seizure and impoundment—Notice to interested persons—Release to owner. (Effective July 1, 2011.) (1) Any vehicle, watercraft, camper, or any component part thereof, from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered, obliterated, or destroyed, may be impounded and held by the seizing law enforcement agency for the purpose of conducting an investigation to determine the identity of the article or articles, and to determine whether it had been reported stolen.

(2) Within five days of the impounding of any vehicle, watercraft, camper, or component part thereof, the law enforcement agency seizing the article or articles shall send written notice of such impoundment by certified mail to all persons known to the agency as claiming an interest in the article or articles. The seizing agency shall exercise reasonable diligence in ascertaining the names and addresses of those persons claiming an interest in the article or articles. Such notice shall advise the person of the fact of seizure, the possible disposition of the article or articles, the requirement of filing a written claim requesting notification of potential disposition, and the right of the person to request a hearing to establish a claim of ownership. Within five days of receiving notice of other persons claiming an interest in the article or articles, the seizing agency shall send a like notice to each such person.

(3) If reported as stolen, the seizing law enforcement agency shall promptly release such vehicle, watercraft, camper, or parts thereof as have been stolen, to the person who is the lawful owner or the lawful successor in interest, upon receiving proof that such person presently owns or has a lawful right to the possession of the article or articles. [1995 c 256 § 2; 1975-'76 2nd ex.s. c 91 § 2. Formerly RCW 46.12.310.]

Additional notes found at www.leg.wa.gov

46.12.730 Disposition authorized, when. (Effective July 1, 2011.) Unless a claim of ownership to the article or articles is established pursuant to *RCW 46.12.330, the law enforcement agency seizing the vehicle, watercraft, camper, or component part thereof may dispose of them by destruction, by selling at public auction to the highest bidder, or by holding the article or articles for the official use of the agency, when:

(1) The true identity of the article or articles cannot be established by restoring the original manufacturer's serial number or other distinguishing numbers or identification marks or by any other means;

(2) After the true identity of the article or articles has been established, the seizing law enforcement agency cannot

locate the person who is the lawful owner or if such lawful owner or his or her successor in interest fails to claim the article or articles within forty-five days after receiving notice from the seizing law enforcement agency that the article or articles is in its possession.

No disposition of the article or articles pursuant to this section shall be undertaken until at least sixty days have elapsed from the date of seizure and written notice of the right to a hearing to establish a claim of ownership pursuant to *RCW 46.12.330 and of the potential disposition of the article or articles shall have first been served upon the person who held possession or custody of the article when it was impounded and upon any other person who, prior to the final disposition of the article, has notified the seizing law enforcement agency in writing of a claim to ownership or lawful right to possession thereof. [2010 c 8 § 9009; 1975-'76 2nd ex.s. c 91 § 3. Formerly RCW 46.12.320.]

***Reviser's note:** RCW 46.12.330 was recodified as RCW 46.12.735 pursuant to 2010 c 161 § 1213, effective July 1, 2011.

Additional notes found at www.leg.wa.gov

46.12.735 Hearing—Appeal—Removal to court—Release after ruling. (Effective July 1, 2011.) (1) Any person may submit a written request for a hearing to establish a claim of ownership or right to lawful possession of the vehicle, watercraft, camper, or component part thereof seized pursuant to this section.

(2) Upon receipt of a request for hearing, one shall be held before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW.

(3) Such hearing shall be held within a reasonable time after receipt of a request therefor. Reasonable investigative activities, including efforts to establish the identity of the article or articles and the identity of the person entitled to the lawful possession or custody of the article or articles shall be considered in determining the reasonableness of the time within which a hearing must be held.

(4) The hearing and any appeal therefrom shall be conducted in accordance with Title 34 RCW.

(5) The burden of producing evidence shall be upon the person claiming to be the lawful owner or to have the lawful right of possession to the article or articles.

(6) Any person claiming ownership or right to possession of an article or articles subject to disposition under *RCW 46.12.310 through 46.12.340 may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is two hundred dollars or more. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to judgment for costs and reasonable attorney's fees. For purposes of this section the seizing law enforcement agency shall not be considered a claimant.

(7) The seizing law enforcement agency shall promptly release the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof. [1981 c 67 § 27; 1975-'76 2nd ex.s. c 91 § 4. Formerly RCW 46.12.330.]

***Reviser's note:** RCW 46.12.310, 46.12.320, 46.12.330, and 46.12.340 were recodified as RCW 46.12.725, 46.12.730, 46.12.735, and

46.12.740, respectively, pursuant to 2010 c 161 § 1213, effective July 1, 2011.

Additional notes found at www.leg.wa.gov

46.12.740 Release without hearing. (Effective July 1, 2011.) The seizing law enforcement agency may release the article or articles impounded pursuant to this section to the person claiming ownership without a hearing pursuant to *RCW 46.12.330 when such law enforcement agency is satisfied after an appropriate investigation as to the claimant's right to lawful possession. If no hearing is contemplated as provided for in *RCW 46.12.330 such release shall be within a reasonable time following seizure. Reasonable investigative activity, including efforts to establish the identity of the article or articles and the identity of the person entitled to lawful possession or custody of the article or articles shall be considered in determining the reasonableness of the time in which release must be made. [1975-'76 2nd ex.s. c 91 § 5. Formerly RCW 46.12.340.]

***Reviser's note:** RCW 46.12.330 was recodified as RCW 46.12.735 pursuant to 2010 c 161 § 1213, effective July 1, 2011.

Additional notes found at www.leg.wa.gov

46.12.745 Assignment of new number. (Effective July 1, 2011.) An identification number shall be assigned to any article impounded pursuant to *RCW 46.12.310 in accordance with the rules promulgated by the department of licensing prior to:

- (1) The release of the article from the custody of the seizing agency; or
- (2) The use of the article by the seizing agency. [1979 c 158 § 138; 1975-'76 2nd ex.s. c 91 § 6. Formerly RCW 46.12.350.]

***Reviser's note:** RCW 46.12.310 was recodified as RCW 46.12.725 pursuant to 2010 c 161 § 1213, effective July 1, 2011.

Additional notes found at www.leg.wa.gov

VIOLATIONS

46.12.750 Penalty for false statements, illegal transfers, alterations, or forgeries—Exception. (Effective July 1, 2011.) (1) A person is guilty of a class B felony if the person:

- (a) Knowingly makes any false statement of a material fact, either on an application for a certificate of title or in any transfer of a certificate of title;
- (b) Intentionally acquires or passes ownership of a vehicle which that person knows or has reason to believe has been stolen;
- (c) Receives or transfers possession of a stolen vehicle from or to another person;
- (d) Possesses any vehicle which that person knows or has reason to believe has been stolen;
- (e) Alters or forges or causes the alteration or forgery of:
 - (i) A certificate of title or registration certificate issued by the department;
 - (ii) An assignment of a certificate of title or registration certificate; or
 - (iii) A release or notice of release of an encumbrance referred to on a certificate of title or registration certificate; or

(2010 Ed.)

(f) Holds or uses a certificate of title, registration certificate, assignment, release, or notice of release, knowing that it has been altered or forged.

(2) A person convicted of violating subsection (1) of this section must be punished by a fine of not more than five thousand dollars or by imprisonment for not more than ten years, or both such fine and imprisonment. This subsection does not exclude any other offenses or penalties prescribed by any existing or future law for the larceny or unauthorized taking of a vehicle.

(3) It is a class C felony for a person to sell or convey a vehicle certificate of title except in conjunction with the sale or transfer of the vehicle for which the certificate was originally issued.

(4) This section does not apply to an officer of the law engaged at the time in the performance of official authorized law enforcement activities. [2010 c 161 § 319; 2003 c 53 § 236; 1961 c 12 § 46.12.210. Prior: 1937 c 188 § 12; RRS § 6312-12. Formerly RCW 46.12.210.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.12.755 Ownership of motor vehicle by person under eighteen prohibited—Exception. (Effective July 1, 2011.) (1) A person under the age of eighteen may not be the registered or legal owner of a motor vehicle unless the:

(a) Motor vehicle was previously registered in the person's name in another jurisdiction while a resident of that jurisdiction;

(b) Person is on active military duty with the United States armed forces; or

(c) Person is, in effect, emancipated.

(2) It is unlawful for any person to convey, sell, or transfer the ownership of any motor vehicle to a person under the age of eighteen. This subsection does not apply to a vehicle dealer properly licensed under chapter 46.70 RCW if the minor provides the dealer with a certified copy of an original birth certificate showing that the minor is over eighteen years of age. The vehicle dealer shall submit the certified copy of the original birth certificate with an application for certificate of title to the department, county auditor or other agent, or subagent appointed by the director.

(3) A person is guilty of a misdemeanor punishable by a fine of not more than two hundred fifty dollars or by imprisonment in a county jail for not more than ninety days if that person with actual notice of the prohibition:

(a) Gives, sells, or transfers the ownership of a motor vehicle to a person under the age of eighteen;

(b) Is a registered or legal owner of a motor vehicle in violation of subsection (1) of this section; or

(c) Transfers, sells, or encumbers an interest in a motor vehicle in violation of RCW 46.61.5058. [2010 c 161 § 320; 1969 ex.s. c 125 § 1. Formerly RCW 46.12.250.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Chapter 46.16 RCW
VEHICLE LICENSES

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Auto transportation companies: Chapter 81.68 RCW.

Free license plates

surviving spouse or surviving domestic partner of deceased prisoner of war: RCW 73.04.115.

veterans with disabilities, prisoners of war: RCW 73.04.110.

Rental cars: RCW 46.87.023.

Special license plates—Fee—Hulk haulers or scrap processors: RCW 46.79.060.

Unprocessed agricultural products, license for transport: RCW 20.01.120.

46.16.004 Definitions. (Effective until July 1, 2011.)

For the purposes of this chapter unless the context clearly requires otherwise:

(1) "Commercial motor vehicle," for the purposes of requiring a department of transportation number, means the same as defined in RCW 46.25.010(6), or a motor vehicle used in commerce when the motor vehicle: (a) Has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit of a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds or more); (b) has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more); or (c) is used in the transportation of hazardous materials, as defined in RCW 46.25.010(13);

(2) "Department" means the department of licensing;

(3) "Department of transportation number" means a department of transportation number from the federal motor carrier safety administration;

(4) "Interstate commercial motor vehicle" means a commercial vehicle that operates in more than one state;

(5) "Intrastate commercial motor vehicle" means a commercial vehicle that operates exclusively within the state of Washington;

(6) "Motor carrier" means a person or entity who has been issued a department of transportation number and who owns a commercial motor vehicle. [2007 c 419 § 3.]

Findings—2007 c 419: "The legislature finds and declares that it is the policy of the state of Washington to prevent the loss of human lives and the loss of property and vehicles, and to protect the traveling environment of the state of Washington through sound and consistent regulatory provisions for interstate and intrastate motor carriers.

The legislature further finds and declares that it is a policy of the state of Washington to require commercial motor vehicles operating on state roadways to comply with rigorous federal and state safety regulations. The legislature also finds that intrastate and interstate commercial motor vehicles should comply with consistent state and federal commercial vehicle regulations." [2007 c 419 § 1.]

(2010 Ed.)

Short title—2007 c 419: "This act may be known and cited as the Tony Qamar and Daniel Johnson act." [2007 c 419 § 2.]

46.16.006 "Registration year" defined—Registration months—"Last day of the month" defined. (Effective until July 1, 2011.) (1) The term "registration year" for the purposes of chapters 46.16, 82.44, and 82.50 RCW means the effective period of a vehicle license issued by the department. Such year commences at 12:01 a.m. on the date of the calendar year designated by the department and ends at 12:01 a.m. on the same date of the next succeeding calendar year.

(a) If a vehicle license previously issued in this state has expired and is renewed with a different registered owner, a new registration year is deemed to commence upon the date the expired license is renewed in order that the renewed license be useable for a full twelve-month period.

(b) A new registration year is deemed to commence upon the date the expired license is renewed in order that the renewed license be useable for a full twelve months when the registered owner:

- (i) Is a member of the United States armed forces;
- (ii) Was stationed outside of Washington under military orders during the prior vehicle registration year; and
- (iii) Provides the department a copy of the military orders.

(2) Each registration year may be divided into twelve registration months. Each registration month commences on the day numerically corresponding to the day of the calendar month on which the registration year begins, and terminates on the numerically corresponding day of the next succeeding calendar month.

(3) Where the term "last day of the month" is used in chapters 46.16, 82.44, and 82.50 RCW in lieu of a specified day of any calendar month it means the last day of such calendar month or months irrespective of the numerical designation of that day.

(4) If the final day of a registration year or month falls on a Saturday, Sunday, or legal holiday, such period extends through the end of the next business day. [2009 c 159 § 1; 1992 c 222 § 1; 1983 c 27 § 1; 1981 c 214 § 1; 1975 1st ex.s. c 118 § 1.]

Additional notes found at www.leg.wa.gov

46.16.010 Licenses and plates required—Penalties—Exceptions—Expired registration, impoundment. (Effective until July 1, 2011.) (1) It is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates as provided by this chapter.

(2) Failure to make initial registration before operation on the highways of this state is a traffic infraction, and any person committing this infraction must pay a fine of five hundred twenty-nine dollars, subject to applicable assessments, no part of which may be suspended or deferred. This fine is in addition to any delinquent taxes and fees that must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion. The five hundred twenty-nine dollar fine must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250.

(3) Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

(4) The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16.028, evading the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable, in lieu of the fine in subsection (2) of this section, as follows:

(a) For a first offense:

(i) Up to one year in the county jail;

(ii) Payment of a fine of five hundred twenty-nine dollars plus any applicable assessments, no part of which may be suspended or deferred. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;

(iii) A fine of one thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, no part of which may be suspended or deferred; and

(iv) The delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, no part of which may be suspended or deferred;

(b) For a second or subsequent offense:

(i) Up to one year in the county jail;

(ii) Payment of a fine of five hundred twenty-nine dollars plus any applicable assessments, no part of which may be suspended or deferred. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;

(iii) A fine of five thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, no part of which may be suspended or deferred; and

(iv) The amount of delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, no part of which may be suspended or deferred.

(5) These provisions do not apply to the following vehicles:

(a) Motorized foot scooters;

(b) Electric-assisted bicycles;

(c) Off-road vehicles operating on nonhighway roads under *RCW 46.09.115;

(d) Farm vehicles if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law;

(e) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(f) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the

warehouses which they serve. However, these provisions do not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;

(g) "Trams" used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have an average daily traffic of not more than 15,000 vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another;

(h)(i) "Special highway construction equipment" defined as follows: Any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which:

(A) Are in excess of the legal width; or

(B) Because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment; or

(C) Are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

(ii) "Special highway construction equipment" does not include dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached; and

(i) Golf carts, as defined in RCW 46.04.1945, operating within a designated golf cart zone as described in RCW 46.08.175.

(6) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

(c) An off-road vehicle operated on a street, road, or highway as authorized under ****RCW 46.09.180**.

(7)(a) A motor vehicle subject to initial or renewal registration under this section shall not be registered to a natural person unless the person at time of application:

(i) Presents an unexpired Washington state driver's license; or

(ii) Certifies that he or she is:

(A) A Washington resident who does not operate a motor vehicle on public roads; or

(B) Exempt from the requirement to obtain a Washington state driver's license under **RCW 46.20.025**.

(b) For shared or joint ownership, the department will set up procedures to verify that all owners meet the requirements of this subsection.

(c) A person falsifying residency is guilty of a gross misdemeanor punishable only by a fine of five hundred twenty-nine dollars.

(d) The department may adopt rules necessary to implement this subsection, including rules under which a natural person applying for registration may be exempt from the requirements of this subsection where the person provides evidence satisfactory to the department that he or she has a valid and compelling reason for not being able to meet the requirements of this subsection.

(8) A vehicle with an expired registration of more than forty-five days parked on a public street may be impounded by a police officer under **RCW 46.55.113(2)**. [2010 c 270 § 1; 2010 c 217 § 5; 2007 c 242 § 2; 2006 c 212 § 1. Prior: 2005 c 350 § 1; 2005 c 323 § 2; 2005 c 213 § 6; prior: 2003 c 353 § 8; 2003 c 53 § 238; 2000 c 229 § 1; 1999 c 277 § 4; prior: 1997 c 328 § 2; 1997 c 241 § 13; 1996 c 184 § 1; 1993 c 238 § 1; 1991 c 163 § 1; 1989 c 192 § 2; 1986 c 186 § 1; 1977 ex.s. c 148 § 1; 1973 1st ex.s. c 17 § 2; 1972 ex.s. c 5 § 2; 1969 c 27 § 3; 1967 c 202 § 2; 1963 ex.s. c 3 § 51; 1961 ex.s. c 21 § 32; 1961 c 12 § 46.16.010; prior: 1955 c 265 § 1; 1947 c 33 § 1; 1937 c 188 § 15; Rem. Supp. 1947 § 6312-15; 1929 c 99 § 5; RRS § 6324.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Reviser's note: *(1) RCW 46.09.115 was recodified as RCW 46.09.450 pursuant to 2010 c 161 § 1204, effective July 1, 2011.

** (2) RCW 46.09.180 was recodified as RCW 46.09.360 pursuant to 2010 c 161 § 1202, effective July 1, 2011.

(3) This section was amended by 2010 c 217 § 5 and by 2010 c 270 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 c 270: "This act takes effect July 1, 2010." [2010 c 270 § 3.]

Effective date—2005 c 350: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 9, 2005]." [2005 c 350 § 2.]

(2010 Ed.)

Declaration and intent—2005 c 323: "When a person establishes residency in this state, unless otherwise exempt by statute, the person must register any vehicles to be operated on public highways, and pay all required licensing fees and taxes. Washington residents must renew vehicle registrations annually as well. The intent of this act is to increase the monetary penalties associated with failure to properly register vehicles in the state of Washington." [2005 c 323 § 1.]

Effective date—2005 c 323: "This act takes effect August 1, 2005." [2005 c 323 § 4.]

Application—2005 c 323: "This act applies to registrations due or to become due on or after January 1, 2006." [2005 c 323 § 5.]

Findings—Construction—Effective date—2005 c 213: See notes following RCW 46.09.010.

Effective date—2003 c 353: See note following RCW 46.04.320.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective date—2000 c 229: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 30, 2000]." [2000 c 229 § 9.]

Legislative intent—1989 c 192: "The legislature recognizes that there are residents of this state who intentionally register motor vehicles in other states to evade payment of taxes and fees required by the laws of this state. This results in a substantial loss of revenue to the state. It is the intent of the legislature to impose a stronger criminal penalty upon those residents who defraud the state, thereby enhancing compliance with the registration laws of this state and further enhancing enforcement and collection efforts.

In order to encourage voluntary compliance with the registration laws of this state, administrative penalties associated with failing to register a motor vehicle are waived until September 1, 1989. It is not the intent of the legislature to waive traffic infraction or criminal traffic violations imposed prior to July 23, 1989." [1989 c 192 § 1.]

Additional notes found at www.leg.wa.gov

46.16.0105 Exemption—Vehicles in national recreation areas. (Effective until July 1, 2011.) After initial vehicle registration, motor vehicles operated solely within a national recreation area that is not accessible by a state highway are exempt from annual registration renewal and the associated fees under **RCW 46.16.0621**. [2005 c 79 § 1.]

46.16.011 Allowing unauthorized person to drive—Penalty. (Effective until July 1, 2011.) It is unlawful for any person in whose name a vehicle is registered knowingly to permit another person to drive the vehicle when the other person is not authorized to do so under the laws of this state. A violation of this section is a misdemeanor. [1987 c 388 § 10.]

Allowing unauthorized child to drive: RCW 46.20.024.

Additional notes found at www.leg.wa.gov

46.16.012 Immunity from liability for licensing non-roadworthy vehicle. (Effective until July 1, 2011.) The director, the state of Washington, and its political subdivisions shall be immune from civil liability arising from the issuance of a vehicle license to a nonroadworthy vehicle. [1986 c 186 § 5.]

46.16.015 Emission control inspections required—Exceptions—Educational information. (Effective until July 1, 2011.) (1) Neither the department of licensing nor its agents may issue or renew a motor vehicle license for any vehicle or change the registered owner of a licensed vehicle, for any vehicle that is required to be inspected under chapter 70.120 RCW, unless the application for issuance or renewal

is: (a) Accompanied by a valid certificate of compliance or a valid certificate of acceptance issued pursuant to chapter 70.120 RCW; or (b) exempted from this requirement pursuant to subsection (2) of this section. The certificates must have a date of validation which is within six months of the date of application for the vehicle license or license renewal. Certificates for fleet or owner tested diesel vehicles may have a date of validation which is within twelve months of the assigned license renewal date.

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

(a) New motor vehicles whose equitable or legal title has never been transferred to a person who in good faith purchases the vehicle for purposes other than resale;

(b) Motor vehicles with a model year of 1967 or earlier;

(c) Motor vehicles that use propulsion units powered exclusively by electricity;

(d) Motor vehicles fueled by propane, compressed natural gas, or liquid petroleum gas, unless it is determined that federal sanctions will be imposed as a result of this exemption;

(e) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles as defined in RCW 46.04.332;

(f) Farm vehicles as defined in RCW 46.04.181;

(g) Used vehicles which are offered for sale by a motor vehicle dealer licensed under chapter 46.70 RCW;

(h) Classes of motor vehicles exempted by the director of the department of ecology;

(i) Collector cars as identified by the department of licensing under RCW 46.16.305(1);

(j) Beginning January 1, 2000, vehicles that are less than five years old or more than twenty-five years old; or

(k) Hybrid motor vehicles that obtain a rating by the environmental protection agency of at least fifty miles per gallon of gas during city driving. For purposes of this section, a hybrid motor vehicle is one that uses propulsion units powered by both electricity and gas.

The provisions of (a) of this subsection may not be construed as exempting from the provisions of subsection (1) of this section applications for the renewal of licenses for motor vehicles that are or have been leased.

(3) The department of ecology shall provide information to motor vehicle owners regarding the boundaries of emission contributing areas and restrictions established under this section that apply to vehicles registered in such areas. In addition the department of ecology shall provide information to motor vehicle owners on the relationship between motor vehicles and air pollution and steps motor vehicle owners should take to reduce motor vehicle related air pollution. The department of licensing shall send to all registered motor vehicle owners affected by the emission testing program notice that they must have an emission test to renew their registration. [2002 c 24 § 1; 1998 c 342 § 6; 1991 c 199 § 209; 1990 c 42 § 318; 1989 c 240 § 1; 1985 c 7 § 111. Prior: 1983 c 238 § 1; 1983 c 237 § 3; 1980 c 176 § 1; 1979 ex.s. c 163 § 11.]

Finding—1991 c 199: See note following RCW 70.94.011.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Legislative finding—1983 c 237: See note following RCW 46.37.467.

Additional notes found at www.leg.wa.gov

46.16.016 Emission control inspections—Rules for licensing requirements. (Effective until July 1, 2011.) The director of the department of licensing shall adopt rules implementing and enforcing RCW 46.16.015, except for *RCW 46.16.015(2)(g) in accordance with chapter 34.05 RCW. [1979 ex.s. c 163 § 15.]

*Reviser's note: RCW 46.16.015 was amended by 1991 c 199 § 209, changing subsection (2)(g) to subsection (2)(f).

Additional notes found at www.leg.wa.gov

46.16.017 Emission standards—Compliance required to register, lease, rent, or sell vehicles—Exemptions. (Effective until July 1, 2011.) After adoption of rules specified in RCW 70.120A.010, no vehicle shall be registered, leased, rented, or sold for use in the state starting with the model year as provided in RCW 70.120A.010 unless the vehicle: (1)(a) Is consistent with the vehicle emission standards as adopted by the department of ecology; (b) is consistent with the carbon dioxide equivalent emission standards as adopted by the department of ecology; and (c) has a California certification label for (i) all emission standards, and (ii) carbon dioxide equivalent emission standards necessary to meet fleet average requirements; or (2) has seven thousand five hundred miles or more. The department of licensing, in consultation with the department of ecology, may adopt rules necessary to implement this section and may provide for reasonable exemptions to these requirements. The department of ecology may exempt public safety vehicles from meeting the standards where the department finds that vehicles necessary to meet the needs of public safety agencies are not otherwise reasonably available. [2005 c 295 § 7.]

Effective date—2005 c 295 §§ 1, 2, 7, and 11-13: See note following RCW 70.120A.010.

46.16.020 Exemptions—State and publicly owned vehicles—Registration. (Effective until July 1, 2011.) Any vehicle owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington and used exclusively by them, and all vehicles owned or leased with an option to purchase by the United States government, or by the government of foreign countries, or by international bodies to which the United States government is a signatory by treaty, or owned or leased by the governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior, and used exclusively in its or their service shall be exempt from the payment of license fees for the licensing thereof as in this chapter provided: PROVIDED, HOWEVER, That such vehicles, except those owned and used exclusively by the United States government and which are identified by clearly exhibited registration numbers or license plates assigned by an instrumentality of that government, shall be registered as prescribed for the license registration of other vehicles and shall display the vehicle license number plates assigned to it. The department shall assign a plate or plates to each vehicle or may assign a block of plates to an agency or political subdivision for further assignment by the agency or political subdivision to individual vehicles registered to it pursuant to this section. The agency, political subdivision, or Indian tribe, except a foreign government or international body, shall pay

a fee of two dollars for the plate or plates for each vehicle. An Indian tribe is not entitled to license and register any tribal government service vehicle under this section if that tribe itself licenses or registers any tribal government service vehicles under tribal law. No vehicle license or license number plates shall be issued to any such vehicle under the provisions of this section for the transportation of school children unless and until such vehicle shall have been first personally inspected by the director or the director's duly authorized representative. [1986 c 30 § 1; 1975 1st ex.s. c 169 § 5; 1973 1st ex.s. c 132 § 22; 1967 c 32 § 14; 1965 ex.s. c 106 § 1; 1961 c 12 § 46.16.020. Prior: 1939 c 182 § 4; 1937 c 188 § 21; RRS § 6312-21; 1925 ex.s. c 47 § 1; 1921 c 96 § 17; 1919 c 46 § 2; 1917 c 155 § 12; 1915 c 142 § 17; RRS § 6329.]

Marking of publicly owned vehicles: RCW 46.08.065 through 46.08.068.

Special license plates issued without fee

Congressional Medal of Honor recipients: RCW 46.16.305.

Surviving spouse or surviving domestic partner of deceased prisoner of war: RCW 73.04.115.

veterans with disabilities, prisoners of war: RCW 73.04.110.

Additional notes found at www.leg.wa.gov

46.16.022 Exemptions—Vehicles owned by Indian tribes—Conditions. (Effective until July 1, 2011.) (1) The provisions of this chapter relating to licensing of vehicles by this state, including the display of vehicle license number plates and license registration certificates, do not apply to vehicles owned or leased by the governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior, only when:

(a) The vehicle is used exclusively in tribal government service; and

(b) The vehicle has been licensed and registered under a law adopted by such tribal government; and

(c) Vehicle license number plates issued by the tribe showing the initial or abbreviation of the name of the tribe are displayed on the vehicle substantially as provided therefor in this state; and

(d) The tribe has not elected to receive any Washington state license plates for tribal government service vehicles pursuant to RCW 46.16.020; and

(e) If required by the department, the tribe provides the department with vehicle description and ownership information similar to that required for vehicles registered in this state, which may include the model year, make, model series, body type, type of power (gasoline, diesel, or other), VIN, and the license plate number assigned to each government service vehicle licensed by that tribe.

(2) The provisions of this section are operative as to a vehicle owned or leased by an Indian tribe located within this state and used exclusively in tribal government service only to the extent that under the laws of the tribe like exemptions and privileges are granted to all vehicles duly licensed under the laws of this state for operation of such vehicles on all tribal roads within the tribe's reservation. If under the laws of the tribe, persons operating vehicles licensed by this state are required to pay a license or registration fee or to carry or display vehicle license number plates or a registration certificate issued by the tribe, the tribal government shall comply with the provisions of this state's laws relating to the licensing and

registration of vehicles operating on the highways of this state. [1986 c 30 § 2.]

46.16.023 Ride-sharing vehicles—Special plates—Gross misdemeanor. (Effective until July 1, 2011.) (1) Every owner or lessee of a vehicle seeking to apply for an excise tax exemption under RCW 82.08.0287, 82.12.0282, or 82.44.015 shall apply to the director for, and upon satisfactory showing of eligibility, receive in lieu of the regular motor vehicle license plates for that vehicle, special plates of a distinguishing separate numerical series or design, as the director shall prescribe. In addition to paying all other initial fees required by law, each applicant for the special license plates shall pay an additional license fee of twenty-five dollars upon the issuance of such plates. The special fee shall be deposited in the motor vehicle fund. Application for renewal of the license plates shall be as prescribed for the renewal of other vehicle licenses. No renewal is required for vehicles exempted under RCW 46.16.020.

(2) Whenever the ownership of a vehicle receiving special plates under subsection (1) of this section is transferred or assigned, the plates shall be removed from the motor vehicle, and if another vehicle qualifying for special plates is acquired, the plates shall be transferred to that vehicle for a fee of ten dollars, and the director shall be immediately notified of the transfer of the plates. Otherwise the removed plates shall be immediately forwarded to the director to be canceled. Whenever the owner or lessee of a vehicle receiving special plates under subsection (1) of this section is for any reason relieved of the tax-exempt status, the special plates shall immediately be forwarded to the director along with an application for replacement plates and the required fee. Upon receipt the director shall issue the license plates that are otherwise provided by law.

(3) Any person who knowingly makes any false statement of a material fact in the application for a special plate under subsection (1) of this section is guilty of a gross misdemeanor. [2004 c 223 § 2; 1993 c 488 § 5; 1987 c 175 § 2.]

Finding—Annual recertification rule—Report—1993 c 488: See notes following RCW 82.08.0287.

Additional notes found at www.leg.wa.gov

46.16.025 Identification device for exempt farm vehicles—Application for—Contents—Fee. (Effective until July 1, 2011.) Before any "farm vehicle", as defined in RCW 46.04.181, shall operate on or move along a public highway, there shall be displayed upon it in a conspicuous manner a decal or other device, as may be prescribed by the director of licensing and issued by the department of licensing, which shall describe in some manner the vehicle and identify it as a vehicle exempt from the licensing requirements of this chapter. Application for such identifying devices shall be made to the department on a form furnished for that purpose by the director. Such application shall be made by the owner or lessee of the vehicle, or his or her duly authorized agent over the signature of such owner or agent, and he or she shall certify that the statements therein are true to the best of his or her knowledge. The application must show:

(1) The name and address of the owner of the vehicle;

(2) The trade name of the vehicle, model, year, type of body, the motor number or the identification number thereof

if such vehicle be a motor vehicle, or the serial number thereof if such vehicle be a trailer;

(3) The purpose for which said vehicle is to be principally used;

(4) Such other information as shall be required upon such application by the director; and

(5) Place where farm vehicle is principally used or garaged.

A fee of five dollars shall be charged for and submitted with such application for an identification decal as in this section provided as to each farm vehicle which fee shall be deposited in the motor vehicle fund and distributed proportionately as otherwise provided for vehicle license fees under RCW 46.68.030. Only one application need be made as to each such vehicle, and the status as an exempt vehicle shall continue until suspended or revoked for misuse, or when such vehicle no longer is used as a farm vehicle. [2010 c 8 § 9010; 1979 c 158 § 139; 1967 c 202 § 3.]

46.16.028 "Resident" defined—Vehicle registration required. (Effective until July 1, 2011.) (1) For the purposes of vehicle license registration, a resident is a person who manifests an intent to live or be located in this state on more than a temporary or transient basis. Evidence of residency includes but is not limited to:

(a) Becoming a registered voter in this state; or

(b) Receiving benefits under one of the Washington public assistance programs; or

(c) Declaring that he or she is a resident for the purpose of obtaining a state license or tuition fees at resident rates.

(2) The term "Washington public assistance programs" referred to in subsection (1)(b) of this section includes only public assistance programs for which more than fifty percent of the combined costs of benefits and administration are paid from state funds. Programs which are not included within the term "Washington public assistance programs" pursuant to the above criteria include, but are not limited to the food stamp program under the federal food stamp act of 1964; programs under the child nutrition act of 1966, 42 U.S.C. Secs. 1771 through 1788; and temporary assistance for needy families.

(3) A resident of the state shall register under chapters 46.12 and 46.16 RCW a vehicle to be operated on the highways of the state. New Washington residents shall be allowed thirty days from the date they become residents as defined in this section to procure Washington registration for their vehicles. This thirty-day period shall not be combined with any other period of reciprocity provided for in this chapter or chapter 46.85 RCW. [1997 c 59 § 7; 1987 c 142 § 1; 1986 c 186 § 2; 1985 c 353 § 1.]

Additional notes found at www.leg.wa.gov

46.16.029 Purchasing vehicle with foreign plates. (Effective until July 1, 2011.) It is unlawful to purchase a vehicle bearing foreign license plates without removing and destroying the plates unless (1) the out-of-state vehicle is sold to a Washington resident by a resident of a jurisdiction where the license plates follow the owner or (2) the out-of-state plates may be returned to the jurisdiction of issuance by the

owner for refund purposes or (3) for such other reasons as the department may deem appropriate by rule. [1987 c 142 § 2.]

46.16.030 Nonresident exemption—Reciprocity. (Effective until July 1, 2011.) Except as is herein provided for foreign businesses, the provisions relative to the licensing of vehicles and display of vehicle license number plates and license registration certificates shall not apply to any vehicles owned by nonresidents of this state if the owner thereof has complied with the law requiring the licensing of vehicles in the names of the owners thereof in force in the state, foreign country, territory or federal district of his or her residence; and the vehicle license number plate showing the initial or abbreviation of the name of such state, foreign country, territory or federal district, is displayed on such vehicle substantially as is provided therefor in this state. The provisions of this section shall be operative as to a vehicle owned by a nonresident of this state only to the extent that under the laws of the state, foreign country, territory or federal district of his or her residence, like exemptions and privileges are granted to vehicles duly licensed under the laws of and owned by residents of this state. If under the laws of such state, foreign country, territory or federal district, vehicles owned by residents of this state, operating upon the highways of such state, foreign country, territory or federal district, are required to pay the license fee and carry the vehicle license number plates of such state, foreign country, territory or federal district, the vehicles owned by residents of such state, foreign country, territory or federal district, and operating upon the highways of this state, shall comply with the provisions of this state relating to the licensing of vehicles. Foreign businesses owning, maintaining, or operating places of business in this state and using vehicles in connection with such places of business, shall comply with the provisions relating to the licensing of vehicles insofar as vehicles used in connection with such places of business are concerned. Under provisions of the international registration plan, the nonmotor vehicles of member and nonmember jurisdictions which are properly based and licensed in such jurisdictions are granted reciprocity in this state as provided in *RCW 46.87.070(2). The director is empowered to make and enforce rules and regulations for the licensing of nonresident vehicles upon a reciprocal basis and with respect to any character or class of operation. [1991 c 163 § 2; 1990 c 42 § 110; 1967 c 32 § 15; 1961 c 12 § 46.16.030. Prior: 1937 c 188 § 23; RRS § 6312-23; 1931 c 120 § 1; 1929 c 99 § 4; 1921 c 96 § 11; 1919 c 59 § 6; 1917 c 155 § 7; 1915 c 142 § 11; RRS § 6322.]

*Reviser's note: RCW 46.87.070 was amended by 2005 c 194 § 5, deleting subsection (1). The language from subsection (2) remains.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

46.16.035 Exemptions—Private school buses. (Effective until July 1, 2011.) Any bus or vehicle owned and operated by a private school or schools meeting the requirements of RCW 28A.195.010 and used by that school or schools primarily to transport children to and from school or to transport children in connection with school activities shall be exempt from the payment of license fees for the licensing thereof as in this chapter provided. A license issued by the department

for such bus or vehicle shall be considered an exempt license under RCW 82.44.010. [1990 c 33 § 584; 1980 c 88 § 1.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

46.16.040 Form of application—Contents. (Effective until July 1, 2011.) Application for original vehicle license shall be made on [a] form furnished for the purpose by the department. Such application shall be made by the owner of the vehicle or duly authorized agent over the signature of such owner or agent, and the applicant shall certify that the statements therein are true to the best of the applicant's knowledge. The application must show:

(1) Name and address of the owner of the vehicle and, if the vehicle is subject to a security agreement, the name and address of the secured party;

(2) Trade name of the vehicle, model, year, type of body, the identification number thereof;

(3) The power to be used—whether electric, steam, gas or other power;

(4) The purpose for which said vehicle is to be used and the nature of the license required;

(5) The licensed gross weight for such vehicle which in the case of for hire vehicles and auto stages with seating capacity of more than six shall be the adult seating capacity thereof, including the operator, as provided for in RCW 46.16.111. In the case of motor trucks, tractors, and truck tractors, the licensed gross weight shall be the gross weight declared by the applicant pursuant to the provisions of RCW 46.16.111;

(6) The unladen weight of such vehicle, if it be a motor truck or trailer, which shall be the shipping weight thereof as given by the manufacturer thereof unless another weight is shown by weight slip verified by a certified weighmaster, which slip shall be attached to the original application;

(7) Such other information as shall be required upon such application by the department. [1987 c 244 § 2; 1975 c 25 § 15; 1969 ex.s. c 170 § 2. Prior: 1967 ex.s. c 83 § 59; 1967 c 32 § 16; 1961 c 12 § 46.16.040; prior: 1947 c 164 § 8; 1937 c 188 § 29; Rem. Supp. 1947 § 6312-29; 1921 c 96 § 5; 1919 c 178 § 1; 1919 c 59 § 4; 1915 c 142 § 5; RRS § 6316.]

Additional notes found at www.leg.wa.gov

46.16.045 Temporary permits—Authority—Fees—Secure system. (Effective until July 1, 2011.) (1) The department in its discretion may grant a temporary permit to operate a vehicle for which application for registration has been made, where such application is accompanied by the proper fee pending action upon said application by the department.

(2) The department may authorize vehicle dealers properly licensed pursuant to chapter 46.70 RCW to issue temporary permits to operate vehicles under such rules and regulations as the department deems appropriate.

(3) The fee for each temporary permit application distributed to an authorized vehicle dealer shall be fifteen dollars, five dollars of which shall be credited to the payment of registration fees at the time application for registration is made. The remainder shall be deposited to the state patrol highway account.

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(4) The payment of the registration fees to an authorized dealer is considered payment to the state of Washington.

(5) By July 1, 2009, the department shall provide access to a secure system that allows temporary permits issued by vehicle dealers properly licensed pursuant to chapter 46.70 RCW to be generated and printed on demand. By July 1, 2011, all such permits must be generated using the designated system. [2008 c 51 § 1; 2007 c 155 § 1; 1990 c 198 § 1; 1973 1st ex.s. c 132 § 23; 1961 c 12 § 46.16.045. Prior: 1959 c 66 § 1.]

Effective date—2007 c 155: "This act takes effect August 1, 2007." [2007 c 155 § 3.]

Additional notes found at www.leg.wa.gov

46.16.047 Temporary permits—Form and contents—Duration—Fees. (Effective until July 1, 2011.) Forms for such temporary permits shall be prescribed and furnished by the department. Temporary permits shall bear consecutive numbers, shall show the name and address of the applicant, trade name of the vehicle, model, year, type of body, identification number and date of application, and shall be such as may be affixed to the vehicle at the time of issuance, and remain on such vehicle only during the period of such registration and until the receipt of permanent license plates. The application shall be registered in the office of the person issuing the permit and shall be forwarded by him or her to the department each day together with the fee accompanying it.

A fee of fifty cents shall be charged by the person authorized to issue such permit which shall be accounted for in the same manner as the other fees collected by such officers, provided that such fees collected by county auditors or their agents shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. [2010 c 8 § 9011; 1961 c 12 § 46.16.047. Prior: 1959 c 66 § 2.]

46.16.048 Temporary letter of authority for movement of unlicensed vehicle for special community event. (Effective until July 1, 2011.) The department in its discretion may issue a temporary letter of authority authorizing the movement of an unlicensed vehicle or the temporary usage of a special plate for the purpose of promoting or participating in an event such as a parade, pageant, fair, convention, or other special community activity. The letter of authority may not be issued to or used by anyone for personal gain, but public identification of the sponsor or owner of the donated vehicle shall not be considered to be personal gain. [1977 c 25 § 2.]

46.16.0621 License fee. (Effective until July 1, 2011.) (1) License tab fees are required to be \$30 per year for motor vehicles, regardless of year, value, make, or model.

(2) For the purposes of this section, "license tab fees" are defined as the general fees paid annually for licensing motor vehicles and trailers as defined in RCW 46.04.620 and 46.04.623, including cars, sport utility vehicles, motorcycles, and motor homes. Trailers licensed under RCW 46.16.068 or 46.16.085 and campers licensed under RCW 46.16.505 are not required to pay license tab fees under this section. [2003

c 1 § 2 (Initiative Measure No. 776, approved November 5, 2002); 2002 c 352 § 7; 2000 1st sp.s. c 1 § 1.]

Reviser's note: This section was amended by 2002 c 352 § 7 and by 2003 c 1 § 2 (Initiative Measure No. 776), each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—Savings—2003 c 1 (Initiative Measure No. 776): See note following RCW 81.104.160.

Policies and purposes—2003 c 1 (Initiative Measure No. 776): "This measure would require license tab fees to be \$30 per year for motor vehicles and light trucks and would repeal certain government-imposed charges, including excise taxes and fees, levied on motor vehicles. Politicians promised "\$30 license tabs are here to stay" and promised any increases in vehicle-related taxes, fees and surcharges would be put to a public vote. Politicians should keep their promises. As long as taxpayers must pay incredibly high sales taxes when buying motor vehicles (meaning state and local governments receive huge windfalls of sales tax revenue from these transactions), the people want license tab fees to not exceed the promised \$30 per year. Without this follow-up measure, "tab creep" will continue until license tab fees are once again obscenely expensive, as they were prior to Initiative 695. The people want a public vote on any increases in vehicle-related taxes, fees and surcharges to ensure increased accountability. Voters will require more cost-effective use of existing revenues and fundamental reforms before approving higher charges on motor vehicles (such changes may remove the need for any increases). Also, dramatic changes to transportation plans and programs previously presented to voters must be resubmitted. This measure provides a strong directive to all taxing districts to obtain voter approval before imposing taxes, fees and surcharges on motor vehicles. However, if the legislature ignores this clear message, a referendum will be filed to protect the voters' rights. Politicians should just do the right thing and keep their promises." [2003 c 1 § 1 (Initiative Measure No. 776, approved November 5, 2002).]

Construction—2003 c 1 (Initiative Measure No. 776): "The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act." [2003 c 1 § 9 (Initiative Measure No. 776, approved November 5, 2002).]

Intent—2003 c 1 (Initiative Measure No. 776): "The people have made clear through the passage of numerous initiatives and referenda that taxes need to be reasonable and tax increases should always be a last resort. However, politicians throughout the state of Washington continue to ignore these repeated mandates.

The people expect politicians to keep their promises. The legislative intent of this measure is to ensure that they do.

Politicians are reminded:

(1) Washington voters want license tab fees to be \$30 per year for motor vehicles unless voters authorize higher vehicle-related charges at an election.

(2) All political power is vested in the people, as stated in Article I, section 1 of the Washington state Constitution.

(3) The first power reserved by the people is the initiative, as stated in Article II, section 1 of the Washington state Constitution.

(4) When voters approve initiatives, politicians have a moral, ethical, and constitutional obligation to fully implement them. When politicians ignore this obligation, they corrupt the term "public servant."

(5) Any attempt to violate the clear intent and spirit of this measure undermines the trust of the people in their government and will increase the likelihood of future tax limitation measures." [2003 c 1 § 11 (Initiative Measure No. 776, approved November 5, 2002).]

Effective dates—2002 c 352: See note following RCW 46.09.070.

Effective date—2000 1st sp.s. c 1: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2000]." [2000 1st sp.s. c 1 § 3.]

Retroactive application—2000 1st sp.s. c 1: "This act applies retroactively to January 1, 2000." [2000 1st sp.s. c 1 § 4.]

Boat trailer fee: RCW 46.16.670.

46.16.063 Additional fee for recreational vehicles. (Effective until July 1, 2011.) In addition to other fees for the licensing of vehicles there shall be paid and collected annually for each camper, travel trailer, and motor home as

the same are defined in RCW 82.50.010 a fee of three dollars to be deposited in the RV account of the motor vehicle fund. Under RCW 43.135.055, the department of transportation may increase RV account fees by a percentage that exceeds the fiscal growth factor. After consultation with citizen representatives of the recreational vehicle user community, the department of transportation may implement RV account fee adjustments no more than once every four years. RV account fee adjustments must be preceded by evaluation of the following factors: Maintenance of a self-supporting program, levels of service at existing RV sanitary disposal facilities, identified needs for improved RV service at safety rest areas statewide, sewage treatment costs, and inflation. If the department chooses to adjust the RV account fee, it shall notify the department of licensing six months before implementation of the fee increase. Adjustments in the RV account fee must be in increments of no more than fifty cents per biennium. [1996 c 237 § 1; 1980 c 60 § 2.]

Additional notes found at www.leg.wa.gov

46.16.068 Trailing units—Permanent plates. (Effective until July 1, 2011.) Trailing units which are subject to *RCW 82.44.020(4) shall, upon application, be issued a permanent license plate that is valid until the vehicle is sold, permanently removed from the state, or otherwise disposed of by the registered owner. The fee for this license plate is thirty-six dollars. Upon the sale, permanent removal from the state, or other disposition of a trailing unit bearing a permanent license plate the registered owner is required to return the license plate and registration certificate to the department. Violations of this section or misuse of a permanent license plate may subject the registered owner to prosecution or denial, or both, of future permanent registration of any trailing units. This section does not apply to any trailing units subject to the annual excise taxes prescribed in *RCW 82.44.020. The department is authorized to adopt rules to implement this section for leased vehicles and other applications as necessary. [1998 c 321 § 32 (Referendum Bill No. 49, approved November 3, 1998); 1993 c 123 § 4.]

***Reviser's note:** RCW 82.44.020 was repealed by 2000 1st sp.s. c 1 § 2.

Purpose—Severability—1998 c 321: See notes following RCW 82.14.045.

Additional notes found at www.leg.wa.gov

46.16.070 License fee on trucks, buses, and for hire vehicles based on gross weight. (Effective until July 1, 2011.) (1) In lieu of all other vehicle licensing fees, unless specifically exempt, and in addition to the mileage fees prescribed for buses and stages in RCW 46.16.125, there shall be paid and collected annually for each truck, motor truck, truck tractor, road tractor, tractor, bus, auto stage, or for hire vehicle with seating capacity of more than six, based upon the declared combined gross weight or declared gross weight under chapter 46.44 RCW, the following licensing fees by weight:

WEIGHT	SCHEDULE A	SCHEDULE B
4,000 lbs.	\$ 40.00	\$ 40.00
6,000 lbs.	\$ 50.00	\$ 50.00
8,000 lbs.	\$ 60.00	\$ 60.00

10,000 lbs.	\$ 62.00	.....	\$ 62.00
12,000 lbs.	\$ 79.00	.....	\$ 79.00
14,000 lbs.	\$ 90.00	.....	\$ 90.00
16,000 lbs.	\$ 102.00	.....	\$ 102.00
18,000 lbs.	\$ 154.00	.....	\$ 154.00
20,000 lbs.	\$ 171.00	.....	\$ 171.00
22,000 lbs.	\$ 185.00	.....	\$ 185.00
24,000 lbs.	\$ 200.00	.....	\$ 200.00
26,000 lbs.	\$ 211.00	.....	\$ 211.00
28,000 lbs.	\$ 249.00	.....	\$ 249.00
30,000 lbs.	\$ 287.00	.....	\$ 287.00
32,000 lbs.	\$ 346.00	.....	\$ 346.00
34,000 lbs.	\$ 368.00	.....	\$ 368.00
36,000 lbs.	\$ 399.00	.....	\$ 399.00
38,000 lbs.	\$ 438.00	.....	\$ 438.00
40,000 lbs.	\$ 501.00	.....	\$ 501.00
42,000 lbs.	\$ 521.00	.....	\$ 611.00
44,000 lbs.	\$ 532.00	.....	\$ 622.00
46,000 lbs.	\$ 572.00	.....	\$ 662.00
48,000 lbs.	\$ 596.00	.....	\$ 686.00
50,000 lbs.	\$ 647.00	.....	\$ 737.00
52,000 lbs.	\$ 680.00	.....	\$ 770.00
54,000 lbs.	\$ 734.00	.....	\$ 824.00
56,000 lbs.	\$ 775.00	.....	\$ 865.00
58,000 lbs.	\$ 806.00	.....	\$ 896.00
60,000 lbs.	\$ 859.00	.....	\$ 949.00
62,000 lbs.	\$ 921.00	.....	\$ 1,011.00
64,000 lbs.	\$ 941.00	.....	\$ 1,031.00
66,000 lbs.	\$ 1,048.00	.....	\$ 1,138.00
68,000 lbs.	\$ 1,093.00	.....	\$ 1,183.00
70,000 lbs.	\$ 1,177.00	.....	\$ 1,267.00
72,000 lbs.	\$ 1,259.00	.....	\$ 1,349.00
74,000 lbs.	\$ 1,368.00	.....	\$ 1,458.00
76,000 lbs.	\$ 1,478.00	.....	\$ 1,568.00
78,000 lbs.	\$ 1,614.00	.....	\$ 1,704.00
80,000 lbs.	\$ 1,742.00	.....	\$ 1,832.00
82,000 lbs.	\$ 1,863.00	.....	\$ 1,953.00
84,000 lbs.	\$ 1,983.00	.....	\$ 2,073.00
86,000 lbs.	\$ 2,104.00	.....	\$ 2,194.00
88,000 lbs.	\$ 2,225.00	.....	\$ 2,315.00
90,000 lbs.	\$ 2,346.00	.....	\$ 2,436.00
92,000 lbs.	\$ 2,466.00	.....	\$ 2,556.00
94,000 lbs.	\$ 2,587.00	.....	\$ 2,677.00
96,000 lbs.	\$ 2,708.00	.....	\$ 2,798.00
98,000 lbs.	\$ 2,829.00	.....	\$ 2,919.00
100,000 lbs.	\$ 2,949.00	.....	\$ 3,039.00
102,000 lbs.	\$ 3,070.00	.....	\$ 3,160.00
104,000 lbs.	\$ 3,191.00	.....	\$ 3,281.00
105,500 lbs.	\$ 3,312.00	.....	\$ 3,402.00

Schedule A applies to vehicles either used exclusively for hauling logs or that do not tow trailers. Schedule B applies to vehicles that tow trailers and are not covered under Schedule A.

Every truck, motor truck, truck tractor, and tractor exceeding 6,000 pounds empty scale weight registered under chapter 46.16, 46.87, or 46.88 RCW shall be licensed for not less than one hundred fifty percent of its empty weight unless the amount would be in excess of the legal limits prescribed for such a vehicle in RCW 46.44.041 or 46.44.042, in which event the vehicle shall be licensed for the maximum weight

authorized for such a vehicle or unless the vehicle is used only for the purpose of transporting any well drilling machine, air compressor, rock crusher, conveyor, hoist, donkey engine, cook house, tool house, bunk house, or similar machine or structure attached to or made a part of such vehicle.

The following provisions apply when increasing gross or combined gross weight for a vehicle licensed under this section:

(a) The new license fee will be one-twelfth of the fee listed above for the new gross weight, multiplied by the number of months remaining in the period for which licensing fees have been paid, including the month in which the new gross weight is effective.

(b) Upon surrender of the current certificate of registration or cab card, the new licensing fees due shall be reduced by the amount of the licensing fees previously paid for the same period for which new fees are being charged.

(2) The proceeds from the fees collected under subsection (1) of this section shall be distributed in accordance with RCW 46.68.035.

(3) In lieu of the gross weight fee under subsection (1) of this section, farm vehicles may be licensed upon payment of the fee in effect under subsection (1) of this section on May 1, 2005. In order to qualify for the reduced fee under this subsection, the farm vehicle must be exempt from property taxes in accordance with RCW 84.36.630. The applicant must submit copies of the forms required under RCW 84.36.630. The application for the reduced fee under this subsection shall require the applicant to attest that the vehicle shall be used primarily for farming purposes. The department shall provide licensing agents and subagents with a schedule of the appropriate licensing fees for farm vehicles. [2005 c 314 § 204. Prior: 2003 c 361 § 201; 2003 c 1 § 3 (Initiative Measure No. 776, approved November 5, 2002); 1994 c 262 § 8; 1993 sp.s. c 23 § 60; prior: 1993 c 123 § 5; 1993 c 102 § 1; 1990 c 42 § 105; 1989 c 156 § 1; prior: 1987 1st ex.s. c 9 § 4; 1987 c 244 § 3; 1986 c 18 § 4; 1985 c 380 § 15; 1975-'76 2nd ex.s. c 64 § 1; 1969 ex.s. c 281 § 54; 1967 ex.s. c 118 § 1; 1967 ex.s. c 83 § 56; 1961 ex.s. c 7 § 11; 1961 c 12 § 46.16.070; prior: 1957 c 273 § 1; 1955 c 363 § 2; prior: 1951 c 269 § 9; 1950 ex.s. c 15 § 1, part; 1939 c 182 § 3, part; 1937 c 188 § 17, part; 1931 c 140 § 1, part; 1921 c 96 § 15, part; 1919 c 46 § 1, part; 1917 c 155 § 10, part; 1915 c 142 § 15, part; Rem. Supp. 1949 § 6312-17, part; RRS § 6326, part.]

Effective dates—2005 c 314 §§ 110 and 201-206: See note following RCW 46.17.010.

Application—2005 c 314 §§ 201-206, 301, and 302: See note following RCW 46.17.010.

Part headings not law—2005 c 314: See note following RCW 46.17.010.

Application—2003 c 361 § 201: "Section 201 of this act is effective with registrations that are due or will become due August 1, 2003, and thereafter." [2003 c 361 § 704.]

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

Construction—Intent—2003 c 1 (Initiative Measure No. 776): See notes following RCW 46.16.0621.

Severability—Savings—2003 c 1 (Initiative Measure No. 776): See note following RCW 81.104.160.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

46.16.071 Additional fees. (Effective until July 1, 2011.) (1) In addition to the fees set forth in RCW 46.16.070, there shall be paid and collected annually upon registration, a fee of one dollar for each truck, motor truck, truck tractor, road tractor, tractor, bus, auto stage, or for hire vehicle with seating capacity of more than six, notwithstanding the provisions of RCW 46.16.070.

(2) In addition to the fees set forth in RCW 46.16.085, there shall be paid and collected annually upon registration, a fee of one dollar for each trailer, semitrailer, and pole trailer, notwithstanding the provisions of RCW 46.16.085.

(3) The proceeds from the fees collected under subsections (1) and (2) of this section shall be deposited into the highway safety fund, except that for each vehicle registered by a county auditor or agent to a county auditor under RCW 46.01.140, the proceeds shall be credited to the current county expense fund. [1996 c 315 § 4.]

Additional notes found at www.leg.wa.gov

46.16.073 Federal heavy vehicle use tax. (Effective until July 1, 2011.) The department may refuse registration of a vehicle if the applicant has failed to furnish proof, acceptable to the department, that the federal heavy vehicle use tax imposed by section 4481 of the internal revenue code of 1954 has been paid.

The department may adopt rules as deemed necessary to administer this section. [1985 c 79 § 1.]

46.16.076 Voluntary, opt-out donation—State parks renewal and stewardship account. (Effective until July 1, 2011.) (1)(a) Except as otherwise provided in this section, the department shall collect from the owners of vehicles registered under RCW 46.16.0621 and vehicles licensed under RCW 46.16.070 with a declared gross weight of ten thousand pounds or less a voluntary donation of five dollars at the time of initial or renewal registration. The donation must be deposited in the state parks renewal and stewardship account established in RCW 79A.05.215 to be used for the operation and maintenance of state parks.

(b) The donation required under this section may not be collected from any vehicle owner actively opting not to participate in the donation program. The department shall ensure that the opt-out donation under this section shall be clear, visible, and prominently displayed in both paper and online vehicle registration renewals. Notification of intent to not participate in the donation program must be provided annually at the time of vehicle registration renewal.

(2) This section applies to registrations due or to become due on or after September 1, 2009. [2009 c 512 § 1; 2007 c 340 § 1.]

46.16.079 Fixed load motor vehicle equipped for lifting or towing—Capacity fee in addition to and in lieu. (Effective until July 1, 2011.) The licensee of any fixed load motor vehicle equipped for lifting or towing any disabled, impounded, or abandoned vehicle or part thereof, may pay a capacity fee of twenty-five dollars in addition to all other fees

required for the annual licensing of motor vehicles in lieu of the licensing fees provided in RCW 46.16.070. [1986 c 18 § 5; 1975 c 25 § 16; 1963 c 18 § 1.]

46.16.085 Commercial trailers, pole trailers—Fee in lieu. (Effective until July 1, 2011.) In lieu of all other licensing fees, an annual license fee of thirty-six dollars shall be collected in addition to the excise tax prescribed in chapter 82.44 RCW for: (1) Each trailer and semitrailer not subject to the license fee under *RCW 46.16.065 or the capacity fees under **RCW 46.16.080; (2) every pole trailer. The proceeds from this fee shall be distributed in accordance with RCW 46.68.035. This section does not pertain to travel trailers or personal use trailers that are not used for commercial purposes or owned by commercial enterprises. [1991 c 163 § 3; 1989 c 156 § 2; 1987 c 244 § 4; 1986 c 18 § 8; 1985 c 380 § 16.]

Reviser's note: *(1) RCW 46.16.065 was repealed by 2002 c 352 § 28.
**(2) RCW 46.16.080 was repealed by 1994 c 262 § 28, effective July 1, 1994.

Additional notes found at www.leg.wa.gov

46.16.086 Single-axle trailers—Fee in lieu. (Effective until July 1, 2011.) In lieu of the license tab fees provided in RCW 46.16.0621, private use single-axle trailers of two thousand pounds scale weight or less may be licensed upon the payment of a license fee in the sum of fifteen dollars, but only if the trailer is operated upon public highways. The license fee must be collected annually for each registration year or fraction of a registration year. This reduced license fee applies only to trailers operated for personal use of the owners, and not trailers held for rental to the public or used in any commercial or business endeavor. The proceeds from the fees collected under this section shall be distributed in accordance with RCW 46.68.035(2). [2006 c 337 § 2; 2005 c 314 § 203.]

Effective dates—2005 c 314 §§ 110 and 201-206: See note following RCW 46.17.010.

Application—2005 c 314 §§ 201-206, 301, and 302: See note following RCW 46.17.010.

Part headings not law—2005 c 314: See note following RCW 46.17.010.

Boat trailer fee: RCW 46.16.670.

46.16.088 Transfer of license plates—Penalty. (Effective until July 1, 2011.) Except as provided in RCW 46.16.290, the transfer of license plates issued pursuant to this chapter between two or more vehicles is a traffic infraction subject to a fine not to exceed five hundred dollars. Any law enforcement agency that determines that a license plate has been transferred between two or more vehicles shall confiscate the license plates and return them to the department for nullification along with full details of the reasons for confiscation. Each vehicle identified in the transfer will be issued a new license plate upon application by the owner or owners thereof and payment of the full fees and taxes. [1986 c 18 § 9; 1985 c 380 § 17.]

Additional notes found at www.leg.wa.gov

46.16.090 Gross weight fees on farm vehicles—Penalty. (Effective until July 1, 2011.) Motor trucks, truck trac-

tors, and tractors may be specially licensed based on the declared gross weight thereof for the various amounts set forth in the schedule provided in RCW 46.16.070 less twenty-three dollars; divide the difference by two and add twenty-three dollars, when such vehicles are owned and operated by farmers, but only if the following condition or conditions exist:

(1) When such vehicles are to be used for the transportation of the farmer's own farm, orchard, or dairy products, or the farmer's own private sector cultured aquatic products as defined in RCW 15.85.020, from point of production to market or warehouse, and of supplies to be used on the farmer's farm. Fish other than those that are such private sector cultured aquatic products and forestry products are not considered as farm products; and/or

(2) When such vehicles are to be used for the infrequent or seasonal transportation by one farmer for another farmer in the farmer's neighborhood of products of the farm, orchard, dairy, or aquatic farm owned by the other farmer from point of production to market or warehouse, or supplies to be used on the other farm, but only if transportation for another farmer is for compensation other than money. Farmers shall be permitted an allowance of an additional eight thousand pounds, within the legal limits, on such vehicles, when used in the transportation of the farmer's own farm machinery between the farmer's own farm or farms and for a distance of not more than thirty-five miles from the farmer's farm or farms.

The department shall prepare a special form of application to be used by farmers applying for licenses under this section, which form shall contain a statement to the effect that the vehicle concerned will be used subject to the limitations of this section. The department shall prepare special insignia which shall be placed upon all such vehicles to indicate that the vehicle is specially licensed, or may, in its discretion, substitute a special license plate for such vehicle for such designation.

Operation of such a specially licensed vehicle in transportation upon public highways in violation of the limitations of this section is a traffic infraction. [1989 c 156 § 3; 1986 c 18 § 10. Prior: 1985 c 457 § 16; 1985 c 380 § 18; 1979 ex.s. c 136 § 45; 1977 c 25 § 1; 1969 ex.s. c 169 § 1; 1961 c 12 § 46.16.090; prior: 1957 c 273 § 13; 1955 c 363 § 6; prior: 1953 c 227 § 1; 1951 c 269 § 12; 1950 ex.s. c 15 § 1, part; 1949 c 220 § 10, part; 1947 c 200 § 15, part; 1941 c 224 § 1, part; 1939 c 182 § 3, part; 1937 c 188 § 17, part; Rem. Supp. 1949 § 6312-17, part; 1931 c 140 § 1, part; 1921 c 96 § 15, part; 1919 c 46 § 1, part; 1917 c 155 § 10, part; 1915 c 142 § 15, part; RRS § 6326, part.]

Unprocessed agricultural products, license for transport: RCW 20.01.120.

Additional notes found at www.leg.wa.gov

46.16.111 Gross weight, how computed. (Effective until July 1, 2011.) The gross weight in the case of any motor truck, tractor, or truck tractor shall be the scale weight of the motor truck, tractor, or truck tractor, plus the scale weight of any trailer, semitrailer, converter gear, or pole trailer to be towed thereby, to which shall be added the weight of the maximum load to be carried thereon or towed thereby as set by the licensee in the application if it does not

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exceed the weight limitations prescribed by chapter 46.44 RCW. If the sum of the scale weight and maximum load of the trailer is not greater than four thousand pounds, that sum shall not be computed as part of the gross weight of any motor truck, tractor, or truck tractor. Where the trailer is a utility trailer, travel trailer, horse trailer, or boat trailer, for the personal use of the owner of the truck, tractor, or truck tractor, and not for sale or commercial purposes, the gross weight of such trailer and its load shall not be computed as part of the gross weight of any motor truck, tractor, or truck tractor. The weight of any camper is exempt from the determination of gross weight in the computation of any licensing fees required under RCW 46.16.070.

The gross weight in the case of any bus, auto stage, or for hire vehicle, except taxicabs, with a seating capacity over six, shall be the scale weight of each bus, auto stage, and for hire vehicle plus the seating capacity, including the operator's seat, computed at one hundred and fifty pounds per seat.

If the resultant gross weight, according to this section, is not listed in RCW 46.16.070, it shall be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW. [1987 c 244 § 5; 1986 c 18 § 11; 1971 ex.s. c 231 § 1; 1969 ex.s. c 170 § 6; 1967 ex.s. c 83 § 57.]

Additional notes found at www.leg.wa.gov

46.16.121 Seating capacity fees on stages, for hire vehicles. (Effective until July 1, 2011.) In addition to other fees for the licensing of vehicles, there shall be paid and collected annually, for each auto stage and for hire vehicle, except taxicabs, with a seating capacity of six or less the sum of fifteen dollars. [1967 ex.s. c 83 § 58.]

Additional notes found at www.leg.wa.gov

46.16.125 Mileage fees on stages—Penalty. (Effective until July 1, 2011.) In addition to the fees required by RCW 46.16.070, operators of auto stages with seating capacity over six shall pay, at the time they file gross earning returns with the utilities and transportation commission, the sum of fifteen cents for each one hundred vehicle miles operated by each auto stage over the public highways of this state. However, in the case of each auto stage propelled by steam, electricity, natural gas, diesel oil, butane, or propane, the payment required in this section is twenty cents per one hundred miles of such operation. The commission shall transmit all sums so collected to the state treasurer, who shall deposit the same in the motor vehicle fund. Any person failing to make any payment required by this section is subject to a penalty of one hundred percent of the payment due in this section, in addition to any penalty provided for failure to submit a report. Any penalties so collected shall be credited to the public service revolving fund. [1997 c 215 § 2; 1967 ex.s. c 83 § 60; 1961 c 12 § 46.16.125. Prior: 1951 c 269 § 14.]

Additional notes found at www.leg.wa.gov

46.16.135 Monthly license fee—Penalty. (Effective until July 1, 2011.) The annual vehicle licensing fees as provided in RCW 46.16.070 for any motor vehicle or combination of vehicles having a declared gross weight in excess of twelve thousand pounds may be paid for any full registration month or months at one-twelfth of the usual annual fee plus

two dollars, this sum to be multiplied by the number of full months for which the fees are paid if for less than a full year. An additional fee of two dollars shall be collected each time a license fee is paid.

Operation of a vehicle licensed under the provisions of this section by any person upon the public highways after the expiration of the monthly license is a traffic infraction, and in addition the person shall be required to pay a license fee for the vehicle involved covering an entire registration year's operation, less the fees for any registration month or months of the registration year already paid. If, within five days, no license fee for a full registration year has been paid as required aforesaid, the Washington state patrol, county sheriff, or city police shall impound such vehicle in such manner as may be directed for such cases by the chief of the Washington state patrol, until such requirement is met. [1986 c 18 § 12; 1985 c 380 § 19; 1979 ex.s. c 136 § 46; 1979 c 134 § 1; 1975-'76 2nd ex.s. c 64 § 3; 1975 1st ex.s. c 118 § 6; 1969 ex.s. c 170 § 7; 1961 c 12 § 46.16.135. Prior: 1951 c 269 § 16.]

Additional notes found at www.leg.wa.gov

46.16.140 Overloading licensed capacity—Additional license—Penalties—Exceptions. (*Effective until July 1, 2011.*) It is a traffic infraction for any person to operate, or cause, permit, or suffer to be operated upon a public highway of this state any bus, auto stage, motor truck, truck tractor, or tractor, with passengers, or with a maximum gross weight, in excess of that for which the motor vehicle or combination is licensed.

Any person who operates or causes to be operated upon a public highway of this state any motor truck, truck tractor, or tractor with a maximum gross weight in excess of the maximum gross weight for which the vehicle is licensed shall be deemed to have set a new maximum gross weight and shall, in addition to any penalties otherwise provided, be required to purchase a new license covering the new maximum gross weight, and any failure to secure such new license is a traffic infraction. No such person may be permitted or required to purchase the new license for a gross weight or combined gross weight which would exceed the maximum gross weight or combined gross weight allowed by law. This section does not apply to for hire vehicles, buses, or auto stages operating principally within cities and towns. [1986 c 18 § 13; 1979 ex.s. c 136 § 47; 1961 c 12 § 46.16.140. Prior: 1955 c 384 § 16; 1951 c 269 § 18; 1937 c 188 § 25, part; RRS § 6312-25, part.]

Additional notes found at www.leg.wa.gov

46.16.145 Overloading licensed capacity—Penalties. (*Effective until July 1, 2011.*) Any person violating any of the provisions of RCW 46.16.140 shall, upon a first offense, pay a penalty of not less than twenty-five dollars nor more than fifty dollars; upon a second offense pay a penalty of not less than fifty dollars nor more than one hundred dollars, and in addition the court may suspend the certificate of license registration of the vehicle for not more than thirty days; upon a third and subsequent offense pay a penalty of not less than one hundred dollars nor more than two hundred dollars, and in addition the court shall suspend the certificate of license

registration of the vehicle for not less than thirty days nor more than ninety days.

Upon ordering the suspension of any certificate of license registration, the court or judge shall forthwith secure such certificate and mail it to the director. [1979 ex.s. c 136 § 48; 1975-'76 2nd ex.s. c 64 § 5; 1961 c 12 § 46.16.145. Prior: 1951 c 269 § 19; 1937 c 188 § 25, part; RRS § 6312-25, part.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.16.150 School buses exempt from load and seat capacity fees. (*Effective until July 1, 2011.*) No provision of the law of this state shall be construed to require for hire vehicle license or adult seating capacity fees, either directly or indirectly for the transportation of school children or teachers, or both, to and from school and other school activities, or either, whether the same be done in motor vehicles owned, leased, rented or used by the school authority or upon contract to furnish such transportation: PROVIDED, That this section shall apply to vehicles used exclusively for the purpose set forth and in the event that any vehicle so used is also used for any other purpose, such vehicle shall be appropriately licensed for such other purpose, as required by this chapter. [1961 c 12 § 46.16.150. Prior: 1937 c 188 § 22; RRS § 6312-22.]

46.16.160 Vehicle trip permits—Restrictions and requirements—Fees and taxes—Penalty—Rules. (*Effective until July 1, 2011.*) (1) The owner of a vehicle which under reciprocal relations with another jurisdiction would be required to obtain a license registration in this state or an unlicensed vehicle which would be required to obtain a license registration for operation on public highways of this state may, as an alternative to such license registration, secure and operate such vehicle under authority of a trip permit issued by this state in lieu of a Washington certificate of license registration, and licensed gross weight if applicable. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles nor forty thousand pounds for a single unit vehicle with three or more axles. Trip permits are required for movement of mobile homes or park model trailers and may only be issued if property taxes are paid in full. For the purpose of this section, a vehicle is considered unlicensed if the licensed gross weight currently in effect for the vehicle or combination of vehicles is not adequate for the load being carried. Vehicles registered under RCW 46.16.135 shall not be operated under authority of trip permits in lieu of further registration within the same registration year.

(2) Each trip permit shall authorize the operation of a single vehicle at the maximum legal weight limit for such vehicle for a period of three consecutive days commencing with the day of first use. No more than three such permits may be used for any one vehicle in any period of thirty consecutive days, except that in the case of a recreational vehicle as defined in RCW 43.22.335, no more than two trip permits may be used for any one vehicle in a one-year period. Every permit shall identify, as the department may require, the vehicle for which it is issued and shall be completed in its entirety

and signed by the operator before operation of the vehicle on the public highways of this state. Correction of data on the permit such as dates, license number, or vehicle identification number invalidates the permit. The trip permit shall be displayed on the vehicle to which it is issued as prescribed by the department.

(3) Vehicles operating under authority of trip permits are subject to all laws, rules, and regulations affecting the operation of like vehicles in this state.

(4) Prorate operators operating commercial vehicles on trip permits in Washington shall retain the customer copy of such permit for four years.

(5) Trip permits may be obtained from field offices of the department of transportation, department of licensing, or other agents appointed by the department. The fee for each trip permit is twenty dollars. Five dollars from every twenty-dollar trip permit fee shall be deposited into the state patrol highway account and must be used for commercial motor vehicle inspections. For each permit issued, the fee includes a filing fee as provided by RCW 46.01.140 and an excise tax of one dollar. The remaining portion of the trip permit fee must be deposited to the credit of the motor vehicle fund as an administrative fee. If the filing fee amount of three dollars as prescribed in RCW 46.01.140 is increased or decreased after July 1, 2002, the administrative fee must be increased or decreased by the same amount so that the total trip permit would be adjusted equally to compensate. These fees and taxes are in lieu of all other vehicle license fees and taxes. No exchange, credits, or refunds may be given for trip permits after they have been purchased.

(6) The department may appoint county auditors or businesses as agents for the purpose of selling trip permits to the public. County auditors or businesses so appointed may retain the filing fee collected for each trip permit to defray expenses incurred in handling and selling the permits.

(7) Commercial motor vehicles that are owned by a motor carrier subject to RCW 46.32.080, must not be operated on trip permits authorized by RCW 46.16.160 or 46.16.162 if the motor carrier's department of transportation number has been placed out of service by the Washington state patrol. A violation of or a failure to comply with this subsection is a gross misdemeanor, subject to a minimum monetary penalty of two thousand five hundred dollars for the first violation and five thousand dollars for each subsequent violation.

(8) Except as provided in subsection (7) of this section, a violation of or a failure to comply with any provision of this section is a gross misdemeanor.

(9) The department of licensing may adopt rules as it deems necessary to administer this section.

(10) A surcharge of five dollars is imposed on the issuance of trip permits. The portion of the surcharge paid by motor carriers must be deposited in the motor vehicle fund for the purpose of supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program. The remaining portion of the surcharge must be deposited in the motor vehicle fund for the purpose of supporting congestion relief programs. All other administrative fees and excise taxes collected under the provisions of this chapter shall be forwarded by the department with proper identifying detailed report to the state treasurer

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who shall deposit the administrative fees to the credit of the motor vehicle fund and the excise taxes to the credit of the general fund. Filing fees will be forwarded and reported to the state treasurer by the department as prescribed in RCW 46.01.140. [2007 c 419 § 6. Prior: 2002 c 352 § 8; 2002 c 168 § 5; 1999 c 270 § 1; 1996 c 184 § 2; 1993 c 102 § 2; 1987 c 244 § 6; 1981 c 318 § 1; 1977 ex.s. c 22 § 5; 1975-'76 2nd ex.s. c 64 § 6; 1969 ex.s. c 170 § 8; 1961 c 306 § 1; 1961 c 12 § 46.16.160; prior: 1957 c 273 § 3; 1955 c 384 § 17; 1949 c 174 § 1; 1947 c 176 § 1; 1937 c 188 § 24; Rem. Supp. 1949 § 6312-24.]

Findings—Short title—2007 c 419: See notes following RCW 46.16.004.

Effective dates—2002 c 352: See note following RCW 46.09.070.

Additional notes found at www.leg.wa.gov

46.16.162 Farm vehicle trip permits. (Effective until July 1, 2011.) (1) The owner of a farm vehicle licensed under RCW 46.16.090 purchasing a monthly license under RCW 46.16.135 may, as an alternative to the first partial month of the license registration, secure and operate the vehicle under authority of a farm vehicle trip permit issued by this state. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles nor forty thousand pounds for a single unit vehicle with three or more axles.

(2) If a monthly license previously issued has expired, the owner of a farm vehicle may, as an alternative to purchasing a full monthly license, secure and operate the vehicle under authority of a farm vehicle trip permit issued by this state. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles nor forty thousand pounds for a single unit vehicle with three or more axles.

(3) Each farm vehicle trip permit shall authorize the operation of a single vehicle at the maximum legal weight limit for the vehicle for thirty consecutive calendar days, commencing with the day of first use. No more than four such permits may be used for any one vehicle in any twelve-month period. Every permit shall identify, as the department may require, the vehicle for which it is issued and shall be completed in its entirety and signed by the operator before operation of the vehicle on the public highways of this state. Correction of data on the permit such as dates, license number, or vehicle identification number invalidates the permit. The farm vehicle trip permit shall be displayed on the vehicle to which it is issued as prescribed by the department.

(4) Vehicles operating under authority of farm vehicle trip permits are subject to all laws, rules, and regulations affecting the operation of like vehicles in this state.

(5) Farm vehicle trip permits may be obtained from the department of licensing or agents and subagents appointed by the department. The fee for each farm vehicle trip permit is six dollars and twenty-five cents. Farm vehicle trip permits sold by the department's agents or subagents are subject to fees specified in RCW 46.01.140 (4)(a), (5)(b), or (6).

(6) The proceeds from farm vehicle trip permits received by the director shall be forwarded to the state treasurer to be distributed as provided in RCW 46.68.035(2).

(7) No exchange, credits, or refunds may be given for farm vehicle trip permits after they have been purchased.

(8) The department of licensing may adopt rules as it deems necessary to administer this section. [2009 c 452 § 1; 2006 c 337 § 3; 2005 c 314 § 206.]

Effective dates—2005 c 314 §§ 110 and 201-206: See note following RCW 46.17.010.

Application—2005 c 314 §§ 201-206, 301, and 302: See note following RCW 46.17.010.

Part headings not law—2005 c 314: See note following RCW 46.17.010.

46.16.180 Unlawful to carry passengers for hire without license. (Effective until July 1, 2011.) It shall be unlawful for the owner or operator of any vehicle not licensed annually for hire or as an auto stage and for which additional seating capacity fee as required by this chapter has not been paid, to carry passengers therein for hire. [1961 c 12 § 46.16.180. Prior: 1937 c 188 § 20; RRS § 6312-20.]

46.16.200 Applications to agents—Transmittal to director. (Effective until July 1, 2011.) Upon receipt by agents of the director, including county auditors, of original applications for vehicle license accompanied by the proper fees, such agents shall, if the applications are in proper form and accompanied by such information as may be required by the director, immediately forward them, together with the fees to the director. [1961 c 12 § 46.16.200. Prior: 1955 c 259 § 1; 1955 c 89 § 4; 1947 c 164 § 10; 1937 c 188 § 33; Rem. Supp. 1947 § 6312-33; 1921 c 96 § 6, part; 1917 c 155 § 4, part; 1915 c 142 § 6, part; RRS § 6317, part.]

46.16.210 Original applications—Renewals—Fees—Preissuance, when. (Effective until July 1, 2011.) (1) Upon receipt of the application and proper fee for original vehicle license, the director shall make a recheck of the application and in the event that there is any error in the application it may be returned to the county auditor or other agent to effectively secure the correction of such error, who shall return the same corrected to the director.

(2) Application for the renewal of a vehicle license shall be made to the director or his or her agents, including county auditors, by the registered owner on a form prescribed by the director. The application must be accompanied by the payment of such license fees and excise tax as may be required by law. Such application shall be handled in the same manner and the fees transmitted to the state treasurer in the same manner as in the case of an original application. Any such application which upon validation becomes a renewal certificate need not have entered upon it the name of the lien holder, if any, of the vehicle concerned.

(3) Persons expecting to be out of the state during the normal renewal period of a vehicle license may secure renewal of such vehicle license and have license plates or tabs preissued by making application to the director or his or her agents upon forms prescribed by the director. The application must be accompanied by such license fees, and excise tax as may be required by law.

(4) Application for the annual renewal of a vehicle license number plate to the director or the director's agents shall not be required for those vehicles owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the

state of Washington or a governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior. [2010 c 8 § 9012; 2001 c 206 § 1; 1997 c 241 § 8; 1994 c 262 § 9; 1977 c 8 § 1. Prior: 1975 1st ex.s. c 169 § 6; 1975 1st ex.s. c 118 § 8; 1969 ex.s. c 75 § 1; 1961 c 12 § 46.16.210; prior: 1957 c 273 § 5; 1955 c 89 § 2; 1953 c 252 § 3; 1947 c 164 § 11; 1937 c 188 § 34; Rem. Supp. 1947 § 6312-34.]

Rental cars: RCW 46.87.023.

Additional notes found at www.leg.wa.gov

46.16.212 Notice of liability insurance requirement. (Effective until July 1, 2011.) The department of licensing shall notify the public of the requirements of RCW 46.30.020 through 46.30.040 at the time of new vehicle registration and when the department sends a registration renewal notice. [1989 c 353 § 10.]

Additional notes found at www.leg.wa.gov

46.16.216 Payment of parking fines required for renewal. (Contingent expiration date.) (Effective until July 1, 2011.) (1) To renew a vehicle license, an applicant shall satisfy all listed standing, stopping, and parking violations, and other infractions issued under RCW 46.63.030(1)(d) for the vehicle incurred while the vehicle was registered in the applicant's name and forwarded to the department pursuant to RCW 46.20.270(3). For the purposes of this section, "listed" standing, stopping, and parking violations, and other infractions issued under RCW 46.63.030(1)(d) include only those violations for which notice has been received from state or local agencies or courts by the department one hundred twenty days or more before the date the vehicle license expires and that are placed on the records of the department. Notice of such violations received by the department later than one hundred twenty days before that date that are not satisfied shall be considered by the department in connection with any applications for license renewal in any subsequent license year. The renewal application may be processed by the department or its agents only if the applicant:

(a) Presents a preprinted renewal application showing no listed standing, stopping, or parking violations, or other infractions issued under RCW 46.63.030(1)(d), or in the absence of such presentation, the agent verifies the information that would be contained on the preprinted renewal application; or

(b) If listed standing, stopping, or parking violations, or other infractions issued under RCW 46.63.030(1)(d) exist, presents proof of payment and pays a fifteen dollar surcharge.

(2) The surcharge shall be allocated as follows:

(a) Ten dollars shall be deposited in the motor vehicle fund to be used exclusively for the administrative costs of the department of licensing; and

(b) Five dollars shall be retained by the agent handling the renewal application to be used by the agent for the administration of this section.

(3) If there is a change in the registered owner of the vehicle, the department shall forward the information regarding the change to the state or local charging jurisdiction and release any hold on the renewal of the vehicle license result-

ing from parking violations or other infractions issued under RCW 46.63.030(1)(d) incurred while the certificate of license registration was in a previous registered owner's name.

(4) The department shall send to all registered owners of vehicles who have been reported to have outstanding listed parking violations or other infractions issued under RCW 46.63.030(1)(d), at the time of renewal, a statement setting out the dates and jurisdictions in which the violations occurred as well as the amounts of unpaid fines and penalties relating to them and the surcharge to be collected. [2004 c 231 § 4; 1990 2nd ex.s. c 1 § 401; 1984 c 224 § 1.]

Additional notes found at www.leg.wa.gov

46.16.216 Payment of standing, stopping, and parking fines and photo toll civil penalties required for renewal. (Contingent effective date.) (1) To renew a vehicle license, an applicant shall satisfy all listed standing, stopping, and parking violations, and civil penalties issued under RCW 46.63.160 for the vehicle incurred while the vehicle was registered in the applicant's name and forwarded to the department pursuant to RCW 46.20.270(3). For the purposes of this section, "listed" standing, stopping, and parking violations, and civil penalties issued under RCW 46.63.160 include only those violations for which notice has been received from state or local agencies or courts by the department one hundred twenty days or more before the date the vehicle license expires and that are placed on the records of the department. Notice of such violations received by the department later than one hundred twenty days before that date that are not satisfied shall be considered by the department in connection with any applications for license renewal in any subsequent license year. The renewal application may be processed by the department or its agents only if the applicant:

(a) Presents a preprinted renewal application showing no listed standing, stopping, or parking violations, or civil penalties issued under RCW 46.63.160, or in the absence of such presentation, the agent verifies the information that would be contained on the preprinted renewal application; or

(b) If listed standing, stopping, or parking violations, or civil penalties issued under RCW 46.63.160 exist, presents proof of payment and pays a fifteen dollar surcharge.

(2) The surcharge shall be allocated as follows:

(a) Ten dollars shall be deposited in the motor vehicle fund to be used exclusively for the administrative costs of the department of licensing; and

(b) Five dollars shall be retained by the agent handling the renewal application to be used by the agent for the administration of this section.

(3) If there is a change in the registered owner of the vehicle, the department shall forward the information regarding the change to the state or local charging jurisdiction and release any hold on the renewal of the vehicle license resulting from parking violations or civil penalties issued under RCW 46.63.160 incurred while the certificate of license registration was in a previous registered owner's name.

(4) The department shall send to all registered owners of vehicles who have been reported to have outstanding listed parking violations or civil penalties issued under RCW

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46.63.160, at the time of renewal, a statement setting out the dates and jurisdictions in which the violations occurred as well as the amounts of unpaid fines and penalties relating to them and the surcharge to be collected. [2010 c 249 § 10; 2004 c 231 § 4; 1990 2nd ex.s. c 1 § 401; 1984 c 224 § 1.]

Contingent effective date—2010 c 249: See note following RCW 47.56.795.

Additional notes found at www.leg.wa.gov

46.16.220 Time of renewal of licenses—Duration. (Effective until July 1, 2011.) Vehicle licenses and vehicle license number plates may be renewed for the subsequent registration year up to eighteen months before the current expiration date and must be used and displayed from the date of issue or from the day of the expiration of the preceding registration year, whichever date is later. [1997 c 241 § 9; 1991 c 339 § 20; 1975 1st ex.s. c 118 § 9; 1969 ex.s. c 170 § 9; 1961 c 12 § 46.16.220. Prior: 1957 c 261 § 8; 1955 c 89 § 1; 1953 c 252 § 4; 1947 c 164 § 12; 1937 c 188 § 35; Rem. Supp. 1947 § 6312-35; 1921 c 96 § 7, part; RRS § 6318, part; 1921 c 6 § 1, part; 1916 c 142 § 7, part.]

Additional notes found at www.leg.wa.gov

46.16.225 Adjustment of vehicle registration periods to stagger renewal periods. (Effective until July 1, 2011.) Notwithstanding any provision of law to the contrary, the department may extend or diminish vehicle license registration periods for the purpose of staggering renewal periods. Such extension or diminishment of a vehicle license registration period shall be by rule of the department adopted in accordance with the provisions of chapter 34.05 RCW. The rules may provide for the omission of any classes or classifications of vehicle from the staggered renewal system and may provide for the gradual introduction of classes or classifications of vehicles into the system. The rules shall provide for the collection of proportionately increased or decreased vehicle license registration fees and of excise or property taxes required to be paid at the time of registration.

It is the intent of the legislature that there shall be neither a significant net gain nor loss of revenue to the state general fund or the motor vehicle fund as the result of implementing and maintaining a staggered vehicle registration system. [1986 c 18 § 15; 1979 c 158 § 140; 1975 1st ex.s. c 118 § 2.]

Additional notes found at www.leg.wa.gov

46.16.230 License plates furnished. (Effective until July 1, 2011.) The director shall furnish to all persons making satisfactory application for vehicle license as provided by law, two identical vehicle license number plates each containing the vehicle license number to be displayed on such vehicle as by law required: PROVIDED, That if the vehicle to be licensed is a trailer, semitrailer, or motorcycle only one vehicle license number plate shall be issued for each thereof. The number and plate shall be of such size and color and shall contain such symbols indicative of the registration period for which the same is issued and of the state of Washington, as shall be determined and prescribed by the director. Any vehicle license number plate or plates issued to a dealer shall contain thereon a sufficient and satisfactory indication that such plates have been issued to a dealer in vehicles. All vehicle

license number plates may be obtained by the director from the metal working plant of a state correctional facility or from any source in accordance with existing state of Washington purchasing procedures.

Notwithstanding the foregoing provisions of this section, the director may, in his or her discretion and under such rules and regulations as he or she may prescribe, adopt a type of vehicle license number plates whereby the same shall be used as long as legible on the vehicle for which issued, with provision for tabs or emblems to be attached thereto or elsewhere on the vehicle to signify renewals, in which event the term "vehicle license number plate" as used in any enactment shall be deemed to include in addition to such plate the tab or emblem signifying renewal except when such plate contains the designation of the current year without reference to any tab or emblem. Renewals shall be effected by the issuance and display of such tab or emblem. [2010 c 8 § 9013; 1992 c 7 § 41; 1975 c 25 § 19; 1961 c 12 § 46.16.230. Prior: 1957 c 261 § 9; 1949 c 90 § 1; 1939 c 182 § 5; 1937 c 188 § 28; Rem. Supp. 1949 § 6312-28; 1921 c 96 § 12; 1921 c 6 § 2; 1919 c 59 § 7; 1917 c 155 § 8; 1915 c 142 § 12; RRS § 6323.]

46.16.233 Standard background—Periodic replacement—Retention of current plate number. (Effective until July 1, 2011.) (1) Except for those license plates issued under *RCW 46.16.305(1) before January 1, 1987, under *RCW 46.16.305(3), and to commercial vehicles with a gross weight in excess of twenty-six thousand pounds, effective with vehicle registrations due or to become due on January 1, 2001, the appearance of the background of all vehicle license plates may vary in color and design but must be legible and clearly identifiable as a Washington state license plate, as designated by the department. Additionally, to ensure maximum legibility and reflectivity, the department shall periodically provide for the replacement of license plates, except for commercial vehicles with a gross weight in excess of twenty-six thousand pounds. Frequency of replacement shall be established in accordance with empirical studies documenting the longevity of the reflective materials used to make license plates.

(2) Special license plate series approved by the special license plate review board created under **RCW 46.16.705 and enacted by the legislature prior to June 30, 2010, may display a symbol or artwork approved by the special license plate review board. Beginning July 1, 2010, special license plate series approved by the department and enacted into law by the legislature may display a symbol or artwork approved by the department.

(3) By November 1, 2003, in providing for the periodic replacement of license plates, the department shall offer to vehicle owners the option of retaining their current license plate numbers. The department shall charge a retention fee of twenty dollars if this option is exercised. Revenue generated from the retention fee must be deposited into the multimodal transportation account. [2010 1st sp.s. c 7 § 91. Prior: 2003 c 361 § 501; 2003 c 196 § 401; 2000 c 37 § 1; 1997 c 291 § 2.]

Reviser's note: *(1) RCW 46.16.305 was repealed by 2010 c 161 § 438, effective July 1, 2011.

** (2) RCW 46.16.705 was amended and recodified by 2010 c 161 §§ 602 and 1226, effective July 1, 2011, respectively, and repealed by 2010 1st sp.s. c 7 § 90, effective June 30, 2010.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

Part headings not law—2003 c 196: See note following RCW 46.16.700.

46.16.235 State name not abbreviated. (Effective until July 1, 2011.) Vehicle license number plates issued by the state of Washington commencing with the next general issuance of such plates shall be so designed as to designate the name of the state of Washington in full without abbreviation. [1965 ex.s. c 78 § 2.]

46.16.237 Reflectorized materials—Fee. (Effective until July 1, 2011.) All vehicle license number plates issued after January 1, 1968, or such earlier date as the director may prescribe with respect to plates issued in any county, shall be treated with fully reflectorized materials designed to increase the visibility and legibility of such plates at night. In addition to all other fees prescribed by law, there shall be paid and collected for each vehicle license number plate treated with such materials, the sum of two dollars and for each set of two plates, the sum of four dollars. However, one plate is available only to those vehicles that by law require only one plate. Such fees shall be deposited in the motor vehicle fund. [2005 c 314 § 301; 1987 c 52 § 1; 1967 ex.s. c 145 § 60.]

Application—2005 c 314 §§ 201-206, 301, and 302: See note following RCW 46.17.010.

Part headings not law—2005 c 314: See note following RCW 46.17.010.

Additional notes found at www.leg.wa.gov

46.16.240 Attachment of plates to vehicles—Violations enumerated. (Effective until July 1, 2011.) The vehicle license number plates shall be attached conspicuously at the front and rear of each vehicle for which the same are issued and in such a manner that they can be plainly seen and read at all times. However, if only one license number plate is legally issued for any vehicle such plate shall be conspicuously attached to the rear of such vehicle. Each vehicle license number plate shall be placed or hung in a horizontal position at a distance of not more than four feet from the ground and shall be kept clean so as to be plainly seen and read at all times. In cases where the body construction of the vehicle is such that compliance with this section is impossible, permission to deviate therefrom may be granted by the state patrol. It shall be unlawful to display upon the front or rear of any vehicle, vehicle license number plate or plates other than those furnished by the director for such vehicle or to display upon any vehicle any vehicle license number plate or plates which have been in any manner changed, altered, disfigured or have become illegible. License plate frames may be used on vehicle license number plates only if the frames do not obscure license tabs or identifying letters or numbers on the plates and the plates can be plainly seen and read at all times. It is unlawful to use any holders, frames, or any materials that in any manner change, alter, or make the vehicle license number plates illegible. It shall be unlawful for any person to operate any vehicle unless there shall be

displayed thereon valid vehicle license number plates attached as herein provided. [2006 c 326 § 1. Prior: 1987 c 330 § 704; 1987 c 142 § 3; 1969 ex.s. c 170 § 10; 1967 c 32 § 18; 1961 c 12 § 46.16.240; prior: 1947 c 89 § 1; 1937 c 188 § 36; Rem. Supp. 1947 § 6312-36.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Illumination of plate: RCW 46.37.050.

Additional notes found at www.leg.wa.gov

46.16.260 License registration certificate—Signature required—Carried in vehicle—Penalty—Inspection—Exception. (Effective until July 1, 2011.) A certificate of license registration to be valid must have endorsed thereon the signature of the registered owner (if a firm or corporation, the signature of one of its officers or other duly authorized agent) and must be carried in the vehicle for which it is issued, at all times in the manner prescribed by the department. It shall be unlawful for any person to operate or have in his or her possession a vehicle without carrying thereon such certificate of license registration. Any person in charge of such vehicle shall, upon demand of any of the local authorities or of any police officer or of any representative of the department, permit an inspection of such certificate of license registration. This section does not apply to a vehicle for which annual renewal of its license plates is not required and which is marked in accordance with the provisions of RCW 46.08.065. [2010 c 8 § 9014; 1986 c 18 § 16; 1979 ex.s. c 113 § 3; 1969 ex.s. c 170 § 11; 1967 c 32 § 19; 1961 c 12 § 46.16.260. Prior: 1955 c 384 § 18; 1937 c 188 § 8; RRS § 6312-8.]

46.16.265 Replacement certificate. (Effective until July 1, 2011.) If a certificate of license registration is lost, stolen, mutilated, or destroyed or becomes illegible, the registered owner or owners, as shown by the records of the department, shall promptly make application for and may obtain a duplicate upon tender of one dollar and twenty-five cents in addition to all other fees and upon furnishing information satisfactory to the department. The duplicate of the license registration shall contain the legend, "duplicate."

A person recovering an original certificate of license registration for which a duplicate has been issued shall promptly surrender the original certificate to the department. [1997 c 241 § 6.]

46.16.270 Replacement of plates—Fee. (Effective until July 1, 2011.) The total replacement plate fee shall be deposited in the motor vehicle fund.

Upon the loss, defacement, or destruction of one or both of the vehicle license number plates issued for any vehicle where more than one plate was originally issued or where one or both have become so illegible or in such a condition as to be difficult to distinguish, or upon the owner's option, the owner of the vehicle shall make application for new vehicle license number plates upon a form furnished by the director. The application shall be filed with the director or the director's authorized agent, accompanied by the certificate of license registration of the vehicle and a fee in the amount of ten dollars per plate, whereupon the director, or the director's authorized agent, shall issue new vehicle license number

plates to the applicant. It shall be accompanied by a fee of two dollars for a new motorcycle license number plate. In the event the director has issued license period tabs or a windshield emblem instead of vehicle license number plates, and upon the loss, defacement, or destruction of the tabs or windshield emblem, application shall be made on a form provided by the director and in the same manner as above described, and shall be accompanied by a fee of one dollar for each pair of tabs or for each windshield emblem, whereupon the director shall issue to the applicant a duplicate pair of tabs, year tabs, and when necessary month tabs or a windshield emblem to replace those lost, defaced, or destroyed. For vehicles owned, rented, or leased by the state of Washington or by any county, city, town, school district, or other political subdivision of the state of Washington or United States government, or owned or leased by the governing body of an Indian tribe as defined in RCW 46.16.020, a fee shall be charged for replacement of a vehicle license number plate only to the extent required by the provisions of RCW 46.16.020, 46.16.237, and 46.01.140. For vehicles owned, rented, or leased by foreign countries or international bodies to which the United States government is a signatory by treaty, the payment of any fee for the replacement of a vehicle license number plate shall not be required. [2005 c 314 § 302; 1997 c 291 § 3; 1990 c 250 § 32; 1987 c 178 § 2. Prior: 1986 c 280 § 4; 1986 c 30 § 3; 1975 1st ex.s. c 169 § 7; 1965 ex.s. c 78 § 1; 1961 c 12 § 46.16.270; prior: 1951 c 269 § 6; 1947 c 164 § 13; 1937 c 188 § 37; Rem. Supp. 1947 § 6312-37; 1929 c 99 § 6; 1921 c 96 § 14; 1919 c 59 § 8; 1915 c 142 § 14; RRS § 6325.]

Application—2005 c 314 §§ 201-206, 301, and 302: See note following RCW 46.17.010.

Part headings not law—2005 c 314: See note following RCW 46.17.010.

Additional notes found at www.leg.wa.gov

46.16.276 Implementing rules. (Effective until July 1, 2011.) The director may make and enforce rules to implement this chapter. [1986 c 30 § 4.]

46.16.280 Sale, loss, or destruction of commercial vehicle—Credit for unused fee—Change in license classification. (Effective until July 1, 2011.) In case of loss, destruction, sale, or transfer of any motor vehicle with a registered gross weight in excess of twelve thousand pounds and subject to the license fees under RCW 46.16.070, the registered owner thereof may, under the following conditions, obtain credit for the unused portion of the licensing fee paid for the vehicle or may transfer such credit to the new owner if desired:

(1) The licensing fee paid for the motor vehicle will be reduced by one-twelfth for each calendar month and fraction thereof elapsing between the first month of the current registration year in which the motor vehicle was registered and the month the registrant surrenders the vehicle's registration certificate for the registration year to the department or an authorized agent of the department.

(2) If any such credit is less than fifteen dollars, no credit may be given.

(3) The credit may only be applied against the licensing fee liability due under RCW 46.16.070 for the replacement

motor vehicle or if such credit was transferred to the new owner, it shall remain with the vehicle. The credit may only be used during the registration year from which it was obtained.

(4) In no event is such credit subject to refund.

Whenever any vehicle has been so altered as to change its license classification in such a manner that the vehicle license number plates are rendered improper, the current license plates shall be surrendered to the department. New license plates shall be issued upon application accompanied by a one dollar fee in addition to any other or different charge by reason of licensing under a new classification. Such application shall be on forms prescribed by the department and forwarded with the proper fee to the department or the office of a duly authorized agent of the department. [1987 c 244 § 7; 1986 c 18 § 17; 1967 c 32 § 20; 1961 c 12 § 46.16.280. Prior: 1947 c 164 § 14; 1937 c 188 § 38; Rem. Supp. 1947 § 6312-38.]

46.16.290 Disposition of license plates, certificate on vehicle transfer. (Effective until July 1, 2011.) (1) In any case of a valid sale or transfer of the ownership of any vehicle, the right to the certificates properly transferable therewith, except as provided in RCW 46.16.280, and to the vehicle license plates passes to the purchaser or transferee. It is unlawful for the holder of such certificates, except as provided in RCW 46.16.280, or vehicle license plates to fail, neglect, or refuse to endorse the certificates and deliver the vehicle license plates to the purchaser or transferee.

(2)(a) If the sale or transfer is of a vehicle licensed with current standard issue license plates, the vehicle license plates may be retained and displayed upon a vehicle obtained in replacement of the vehicle so sold or transferred. If a person applies for a transfer of the plate or plates to another eligible vehicle, the plates must be transferred to a vehicle requiring the same type of plate. A transfer fee of ten dollars must be charged in addition to all other applicable fees. The transfer fees must be deposited in the motor vehicle fund.

(b) If the sale or transfer is of a vehicle licensed by the state or any county, city, town, school district, or other political subdivision entitled to exemption as provided by law, or, if the vehicle is licensed with personalized plates, amateur radio operator plates, medal of honor plates, disabled person plates, disabled veteran plates, prisoner of war plates, or other special license plates issued under RCW 46.16.301 as it existed before amendment by section 5, chapter 291, Laws of 1997, the vehicle license plates therefor shall be retained and may be displayed upon a vehicle obtained in replacement of the vehicle so sold or transferred. [2004 c 223 § 3; 1997 c 291 § 4; 1986 c 18 § 18; 1983 c 27 § 2; 1961 c 12 § 46.16.290. Prior: 1937 c 188 § 39; RRS § 6312-39; 1931 c 138 § 2; 1929 c 99 § 3; 1921 c 96 § 8; 1919 c 59 § 5; 1917 c 155 § 5; 1915 c 142 § 8; RRS § 6319.]

46.16.295 Returned plates—Reuse. (Effective until July 1, 2011.) The department may, upon request, provide license plates that have been used and subsequently returned to the department to individuals for nonvehicular use. The department may charge a fee of up to five dollars per plate to cover costs of recovery, postage, and handling. The depart-

ment may waive the fee for plates used in educational projects, and may, by rule, provide standards for the fee waiver and restrictions on the number of plates provided to any one person. [2003 c 359 § 1.]

46.16.301 Baseball stadium license plates. (Effective until July 1, 2011.) The department shall create, design, and issue a special baseball stadium license plate that may be used in lieu of regular or personalized license plates for motor vehicles required to display two motor vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special plates shall commemorate the construction of a baseball stadium, as defined in RCW 82.14.0485. The department shall also issue to each recipient of a special baseball stadium license plate a certificate of participation in the construction of the baseball stadium. [1997 c 291 § 5; 1995 3rd sp.s. c 1 § 102; 1994 c 194 § 2; 1990 c 250 § 1.]

State contribution for baseball stadium limited: RCW 82.14.0486.

Additional notes found at www.leg.wa.gov

46.16.305 Special license plates—Continuance of earlier issues—Conditions for current issues. (Effective until July 1, 2011.) The department shall continue to issue the categories of special plates issued by the department under the sections repealed under section 12 (1) through (7), chapter 250, Laws of 1990. Special license plates issued under those repealed sections before January 1, 1991, are valid to the extent and under the conditions provided in those repealed sections. The following conditions, limitations, or requirements apply to certain special license plates issued after January 1, 1991:

(1) A horseless carriage plate and a plate or plates issued for collectors' vehicles more than thirty years old, upon payment of the initial fees required by law and the additional special license plate fee established by the department, are valid for the life of the vehicle for which application is approved by the department. When a single plate is issued, it shall be displayed on the rear of the vehicle.

(2) The department may issue special license plates denoting amateur radio operator status only to persons having a valid official radio operator license issued by the federal communications commission.

(3) The department shall issue one set of special license plates to each resident of this state who has been awarded the Congressional Medal of Honor for use on a passenger vehicle registered to that person. The department shall issue the plate without the payment of licensing fees and motor vehicle excise tax.

(4) The department may issue for use on only one motor vehicle owned by the qualified applicant special license plates denoting that the recipient of the plate is a survivor of the attack on Pearl Harbor on December 7, 1941, to persons meeting all of the following criteria:

(a) Is a resident of this state;

(b) Was a member of the United States Armed Forces on December 7, 1941;

(c) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor,

the island of Oahu, or offshore at a distance not to exceed three miles;

(d) Received an honorable discharge from the United States Armed Forces; and

(e) Is certified by a Washington state chapter of the Pearl Harbor survivors association as satisfying the qualifications in (c) of this subsection.

The department may issue such plates to the surviving spouse of any deceased Pearl Harbor survivor who met the requirements of this subsection. If the surviving spouse remarries, he or she shall return the special plates to the department within fifteen days and apply for regular plates. The surviving spouse must be a resident of this state.

The department shall issue these plates upon payment by the applicant of all other license fees, but the department may not set or charge an additional fee for these special license plates.

(5) Effective with registrations that are due or become due on or after January 1, 2009, the department may issue for use on motor vehicles owned by the qualified applicant special license plates denoting that the recipient of the plate is a parent of a member of the United States armed forces who died while in service to his or her country or as a result of such service to persons meeting all of the following criteria:

(a) Is a resident of this state; and

(b) Is a mother or father of a member of the United States armed forces who died while in service to his or her country or who died as a result of such service, as certified by the Washington state department of veterans affairs.

The department shall issue these plates upon payment by the applicant of all other license fees, but the department may not set or charge an additional fee for these special plates.

(6) The department shall replace, free of charge, special license plates issued under subsections (3) through (5) of this section if they are lost, stolen, damaged, defaced, or destroyed. Such plates shall remain with the persons upon transfer or other disposition of the vehicle for which they were initially issued, and may be used on another vehicle registered to the recipient in accordance with the provisions of RCW 46.16.316(1). [2008 c 72 § 1. Prior: 1997 c 291 § 6; 1997 c 241 § 10; 1990 c 250 § 2.]

Exemption—2008 c 72 § 1: "Section 1 of this act is exempt from the requirements of RCW 46.16.775." [2008 c 72 § 3.]

Finding—1997 c 291: "The legislature finds that the proliferation of special license plate series has decreased the ready identification of vehicles by law enforcement, and increased the amount of computer programming conducted by the department of licensing, thereby increasing costs. Furthermore, rarely has the actual demand for special license plates met the requesters' projections. Most importantly, special plates detract from the primary purpose of license plates, that of vehicle identification." [1997 c 291 § 1.]

Additional notes found at www.leg.wa.gov

46.16.307 Collectors' vehicles—Use restrictions. (*Effective until July 1, 2011.*) A collectors' vehicle licensed under RCW 46.16.305(1) may only be used for participation in club activities, exhibitions, tours, parades, and occasional pleasure driving. [1996 c 225 § 11.]

Finding—1996 c 225: See note following RCW 46.04.125.

46.16.309 Special license plates—Application. (*Effective until July 1, 2011.*) Persons applying to the department for special license plates shall apply on forms (2010 Ed.)

obtained from the department and in accordance with RCW 46.16.040. The applicant shall provide all information as is required by the department in order to determine the applicant's eligibility for the special license plates. [1997 c 291 § 7; 1990 c 250 § 3.]

Additional notes found at www.leg.wa.gov

46.16.30901 Professional firefighters and paramedics plate. (*Effective until July 1, 2011.*) The department shall issue a special license plate displaying a symbol, approved by the special license plate review board before June 30, 2010, for professional firefighters and paramedics who are members of the Washington State Council of Firefighters. Upon initial application and subsequent renewals, applicants must show proof of eligibility by providing a certificate of current membership from the Washington State Council of Firefighters. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon the terms and conditions established by the department. [2010 1st sp.s. c 7 § 98; 2004 c 35 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30902 Washington State Council of Firefighters benevolent fund. (*Effective until July 1, 2011.*) (1) The Washington State Council of Firefighters benevolent fund is created in the custody of the state treasurer. Upon the department's determination the state has been reimbursed for the cost of implementing the professional firefighters and paramedics special license plate, all receipts, except as provided in RCW 46.16.313 (6) and (7), from professional firefighters and paramedics license plates must be deposited into the account. Only the director of the department of licensing or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Funds in the account must be disbursed subject to the following conditions and limitations:

(a) Under the requirements of RCW 46.16.765, the department must contract with a qualified nonprofit organization to receive and disseminate funds for charitable purposes on behalf of members of the Washington State Council of Firefighters, their families, and others deemed in need.

(b) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation incorporated and operating exclusively in Washington that has received a determination of tax exempt status under section 501(c)(3) of the federal internal revenue code. The organization must have been established for the express purposes of receiving and disseminating funds for charitable purposes on behalf of members of the Washington State Council of Firefighters, their families, and others deemed in need.

(c) The qualified nonprofit organization must meet all requirements set out in RCW 46.16.765. [2004 c 35 § 4.]

46.16.30903 "Helping Kids Speak" plate. (*Effective until July 1, 2011.*) The department shall issue a special

license plate displaying a symbol, as approved by the special license plate review board before June 30, 2010, recognizing an organization that supports programs that provide no-cost speech pathology programs to children. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special plates will commemorate an organization that supports programs that provide free diagnostic and therapeutic services to children who have a severe delay in language or speech development. [2010 1st sp.s. c 7 § 99; 2004 c 48 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30904 "Helping Kids Speak" account. (Effective until July 1, 2011.) (1) The "Helping Kids Speak" account is created in the custody of the state treasurer. Upon the department's determination that the state has been reimbursed for the cost of implementing the "Helping Kids Speak" license plate, all receipts, except as provided in *RCW 46.16.313 (6) and (7), from the "Helping Kids Speak" license plate must be deposited into the account. Only the director or the director's designee may authorize expenditures from this account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Funds in the account must be disbursed subject to the following conditions and limitations:

(a) Under the requirements of RCW 46.16.765 the department must contract with a qualified nonprofit organization for the purpose of the organization providing free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development.

(b) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation operating in Washington that has received a determination of tax exempt status under section 501(c)(3) of the federal internal revenue code. The organization must offer free language disorder diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development.

(c) The qualified nonprofit organization must meet all requirements of RCW 46.16.765. [2004 c 48 § 4.]

***Reviser's note:** RCW 46.16.313 was amended by 2004 c 35 § 3, 2004 c 48 § 3, and 2004 c 221 § 3. The subsections relating to the "Helping Kids Speak" plates have been renumbered as subsections (8) and (9).

46.16.30905 Law enforcement memorial plate. (Effective until July 1, 2011.) The department shall issue a special license plate displaying a symbol, as approved by the special license plate review board before June 30, 2010, honoring law enforcement officers in Washington killed in the line of duty. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon the terms and conditions established by the department. [2010 1st sp.s. c 7 § 100; 2004 c 221 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30906 Law enforcement memorial account. (Effective until July 1, 2011.) (1) The law enforcement memorial account is created in the custody of the state treasurer. Upon the department's determination that the state has been reimbursed for the cost of implementing the law enforcement memorial special license plate, all receipts, except as provided in *RCW 46.16.313 (7) and (8), from law enforcement memorial license plates must be deposited into the account. Only the director of the department of licensing or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Funds in the account must be disbursed subject to the following conditions and limitations:

(a) Pursuant to the requirements set out in RCW 46.16.765 the department must contract with a qualified nonprofit organization to provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers.

(b) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation incorporated and operating exclusively in Washington that has received a determination of tax exempt status under section 501(c)(3) of the federal internal revenue code. The organization must have been established for the express purposes of providing support and assistance to the survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers.

(c) The qualified nonprofit must meet all requirements set out in RCW 46.16.765. [2004 c 221 § 4.]

***Reviser's note:** RCW 46.16.313 was amended by 2004 c 35 § 3, 2004 c 48 § 3, and 2004 c 221 § 3. The subsections relating to law enforcement memorial plates have been renumbered as subsections (10) and (11).

46.16.30907 Washington's Wildlife plate collection. (Effective until July 1, 2011.) The department shall issue a special license plate collection displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing Washington's wildlife, that may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. [2010 1st sp.s. c 7 § 101; 2005 c 42 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30908 Washington's Wildlife license plate collection—Definition. (Effective until July 1, 2011.) For the purposes of RCW 46.16.313 and 46.16.30907, the term "Washington's Wildlife license plate collection" means the collection of three separate license plate designs issued under

RCW 46.16.30907. Each license plate design displays a distinct symbol or artwork recognizing the wildlife of Washington, to include bear, deer, and elk. [2005 c 42 § 2.]

46.16.30909 Washington state parks and recreation commission plate. (*Effective until July 1, 2011.*) The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources, that may be used in lieu of regular or personalized license plates for vehicles required to display one and two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. [2010 1st sp.s. c 7 § 102; 2005 c 44 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30910 Washington state parks and recreation commission special license plate—Definition. (*Effective until July 1, 2011.*) For the purposes of RCW 46.16.313, "Washington state parks and recreation commission special license plate" means license plates issued under RCW 46.16.30909 that display a symbol or artwork recognizing the efforts of state parks and recreation in Washington state. [2005 c 44 § 2.]

46.16.30911 "Washington Lighthouses" plate. (*Effective until July 1, 2011.*) The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing an organization that supports selected Washington state lighthouses and provides environmental education programs. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. [2010 1st sp.s. c 7 § 103; 2005 c 48 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30912 Lighthouse environmental programs account. (*Effective until July 1, 2011.*) (1) The lighthouse environmental programs account is created in the custody of the state treasurer. Upon the department's determination that the state had been reimbursed for the cost of implementing the "Washington Lighthouses" special license plate, all receipts, except as provided in RCW 46.16.313(14) (a) and (b), from "Washington Lighthouses" license plates must be deposited into the account. Only the director of the department of licensing or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Funds in the account must be disbursed subject to the following conditions and limitations:

(a) Under the requirements set out in RCW 46.16.765, the department must contract with a qualified nonprofit orga-

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nization to support selected Washington state lighthouses that are accessible to the public and staffed by volunteers; to provide environmental education programs; and to provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration and to encourage and support interpretive programs by lighthouse docents.

(b) For the purpose of this section, a "qualified nonprofit organization" means a not-for-profit corporation incorporated and of tax exempt status under section 501(c)(3) of the federal internal revenue code. The organization must have been established for the express purposes of supporting selected Washington state lighthouses that are open to the public and staffed by volunteers; providing environmental education programs; and encouraging and supporting interpretive programs by lighthouse docents.

(c) The qualified nonprofit organization must meet all requirements set out in RCW 46.16.765. [2005 c 48 § 4.]

46.16.30913 "Keep Kids Safe" plate. (*Effective until July 1, 2011.*) The department shall issue a special license plate displaying artwork, as approved by the special license plate review board before June 30, 2010, recognizing efforts to prevent child abuse and neglect. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. [2010 1st sp.s. c 7 § 104; 2005 c 53 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30914 "We love our pets" plate. (*Effective until July 1, 2011.*) The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board before June 30, 2010, recognizing an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets, in order to reduce pet overpopulation. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. [2010 1st sp.s. c 7 § 105; 2005 c 71 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30915 We love our pets account. (*Effective until July 1, 2011.*) (1) The we love our pets account is created in the custody of the state treasurer. Upon the department's determination that the state has been reimbursed for the cost of implementing the we love our pets special license plate, all receipts, except as provided in RCW 46.16.313(16) (a) and (b), from we love our pets license plates must be deposited into the account. Only the director of the department of licensing or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Funds in the account must be disbursed subject to the following conditions and limitations:

(a) Pursuant to the requirements set out in RCW 46.16.765, the department must contract with a qualified nonprofit organization to support and to enable the Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington state pets, in order to reduce pet overpopulation.

(b) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation incorporated and operating exclusively in Washington that has received a determination of tax exempt status under section 501(c)(3) of the federal internal revenue code. The organization must have been established for the express purpose of assisting local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets, in order to reduce pet overpopulation.

(c) The qualified nonprofit organization must meet all requirements set out in RCW 46.16.765. [2005 c 71 § 4.]

46.16.30916 Gonzaga University alumni association plate. (Effective until July 1, 2011.) The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board before June 30, 2010, recognizing the Gonzaga University alumni association. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. [2010 1st sp.s. c 7 § 106; 2005 c 85 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30917 Gonzaga University alumni association account. (Effective until July 1, 2011.) (1) The Gonzaga University alumni association account is created in the custody of the state treasurer. Upon the department's determination that the state has been reimbursed for the cost of implementing the Gonzaga University alumni association special license plate, all receipts, except as provided in RCW 46.16.313(17) (a) and (b), from Gonzaga University alumni association license plates must be deposited into the account. Only the director of the department of licensing or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Funds in the account must be disbursed subject to the following conditions and limitations:

(a) Pursuant to the requirements set out in RCW 46.16.765, the department must contract with a qualified nonprofit organization to provide scholarship funds to needy and qualified students attending or planning to attend Gonzaga University.

(b) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation incorporated and operating exclusively in Washington that has received a determination of tax exempt status under section 501(c)(3) of the federal internal revenue code. The organization must have been established for the express purpose of providing student scholarships to Gonzaga University.

(c) The qualified nonprofit organization must meet all requirements set out in RCW 46.16.765. [2005 c 85 § 4.]

46.16.30918 "Washington's National Park Fund" plate. (Effective until July 1, 2011.) The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing Washington's National Park Fund, that may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. [2010 1st sp.s. c 7 § 107; 2005 c 177 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30919 "Washington's National Park Fund" account. (Effective until July 1, 2011.) (1) The "Washington's National Park Fund" account is created in the custody of the state treasurer. Upon the department's determination that the state had been reimbursed for the cost of implementing the "Washington's National Park Fund" special license plate, all receipts, except as provided in RCW 46.16.313 (18) and (19), from "Washington's National Park Fund" license plates must be deposited into the account. Only the director of the department of licensing or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Funds in the account must be disbursed subject to the following conditions and limitations:

(a) Under the requirements set out in RCW 46.16.765, the department must contract with a qualified nonprofit organization to build awareness of Washington's national parks and to support priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.

(b) For the purpose of this section, a "qualified nonprofit organization" means a not-for-profit corporation incorporated and of tax exempt status under section 501(c)(3) of the federal internal revenue code. The organization must have been established for the express purposes of building awareness of Washington's national parks, enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.

(c) The qualified nonprofit organization must meet all requirements set out in RCW 46.16.765. [2005 c 177 § 4.]

46.16.30920 Armed forces plate collection. (Effective until July 1, 2011.) [(1)] The department shall issue a special license plate collection, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing the contribution of veterans, active duty military personnel, reservists, and members of the national guard. The collection includes six separate designs, each containing a symbol representing a different branch of the armed forces

to include army, navy, air force, marine corps, coast guard, and national guard.

(2) Armed forces special license plates may be used in lieu of regular or personalized license plates for vehicles required to display one and two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department.

(3) Upon request, the department must make available to the purchaser, at no additional cost, a decal indicating the purchaser's military status. The department must work with the department of veterans affairs to establish a list of the decals to be made available. The list of available decals must include, but is not limited to, "veteran," "disabled veteran," "reservist," "retiree," or "active duty." The department may specify where the decal may be placed on the license plate. Decals are required to be made available only for standard six-inch by twelve-inch license plates.

(4) Armed forces license plates and decals are available only to veterans as defined in RCW 41.04.007, active duty military personnel, reservists, members of the national guard, and the families of veterans and service members. Upon initial application, any purchaser requesting an armed forces license plate and decal will be required to show proof of eligibility by providing: A DD-214 or discharge papers if a veteran; a military identification or retired military identification card; or a declaration of fact attesting to the purchaser's eligibility as required under this section. "Family" or "families" means an individual's spouse, child, parent, sibling, aunt, uncle, or cousin. A child includes stepchild, adopted child, foster child, grandchild, and son or daughter-in-law. A parent includes stepparent, grandparent, and in-laws. A sibling includes brother, half brother, stepbrother, sister, half sister, stepsister, and brother or sister-in-law.

(5) The department of veterans affairs must enter into an agreement with the department to reimburse the department for the costs associated with providing military status decals described in subsection (3) of this section.

(6) Armed forces license plates are not available free of charge to disabled veterans, former prisoners of war, or spouses of deceased former prisoners of war under the privileges defined in *RCW 73.04.110 and 73.04.115. [2010 1st sp.s. c 7 § 108; 2008 c 183 § 1; 2005 c 216 § 1.]

***Reviser's note:** RCW 73.04.110 was repealed by 2010 c 161 § 1169, effective July 1, 2011.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30921 Armed forces license plate collection—Definition—No free issuance. (Effective until July 1, 2011.) (1) "Armed forces license plate collection" means the collection of six separate license plate designs issued under RCW 46.16.30920. Each license plate design displays a symbol representing one of the five branches of the armed forces, and one representing the national guard.

(2) Armed forces license plates are not available free of charge to disabled veterans, former prisoners of war, or spouses of deceased former prisoners of war under the privileges defined in RCW 73.04.110 and 73.04.115. [2008 c 183 § 2; 2005 c 216 § 2.]

(2010 Ed.)

46.16.30922 "Ski & Ride Washington" plate. The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing the Washington snowsports industry, that may be used in lieu of regular or personalized license plates for vehicles required to display vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. [2010 1st sp.s. c 7 § 109; 2005 c 220 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30923 "Ski & Ride Washington" account. (Effective until July 1, 2011.) (1) The "Ski & Ride Washington" account is created in the custody of the state treasurer. Upon the department's determination that the state had been reimbursed for the cost of implementing the "Ski & Ride Washington" special license plate, all receipts, except as provided in RCW 46.16.313(21), from "Ski & Ride Washington" license plates must be deposited into the account. Only the director of the department of licensing or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Funds in the account must be disbursed subject to the following conditions and limitations:

(a) Under the requirements of RCW 46.16.765, the department must contract with a qualified nonprofit organization for the purpose of promoting winter snowsports (i.e. skiing and snowboarding) and related programs such as ski and ride safety programs, underprivileged youth "ski and ride" programs, and active, healthy lifestyle programs.

(b) The qualified nonprofit organization must meet all requirements set out in RCW 46.16.765. [2005 c 220 § 4.]

46.16.30924 Wild On Washington plate. (Effective until July 1, 2011.) The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, referred to as "Wild On Washington license plates," that may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. [2010 1st sp.s. c 7 § 110; 2005 c 224 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30925 Wild On Washington license plates—Definition. (Effective until July 1, 2011.) For the purposes of RCW 46.16.313 and 46.16.30924, the term "Wild On Washington license plates" means license plates issued under RCW 46.16.30924 that display a symbol or artwork symbolizing wildlife viewing in Washington state. [2005 c 224 § 2.]

46.16.30926 Endangered Wildlife plate. (Effective until July 1, 2011.) The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature

before June 30, 2010, referred to as "Endangered Wildlife license plates," that may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. [2010 1st sp.s. c 7 § 111; 2005 c 225 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30927 Endangered Wildlife license plates—Definition. (Effective until July 1, 2011.) For the purposes of RCW 46.16.313 and 46.16.30926, the term "Endangered Wildlife license plates" means license plates issued under RCW 46.16.30926 that display a symbol or artwork symbolizing endangered wildlife in Washington state. [2005 c 225 § 2.]

46.16.30928 "Share the Road" plate. (Effective until July 1, 2011.) The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing an organization that promotes bicycle safety and awareness education. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special plates will commemorate the life of Cooper Jones. [2010 1st sp.s. c 7 § 112; 2005 c 426 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

46.16.30929 "Share the Road" account. (Effective until July 1, 2011.) (1) The "Share the Road" account is created in the custody of the state treasurer. Upon the department's determination that the state had been reimbursed for the cost of implementing the "Share the Road" special license plate, all receipts, except as provided in RCW 46.16.313(24) (a) and (b), from "Share the Road" license plates must be deposited into the account. Only the director of the department of licensing or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Funds in the account must be disbursed subject to the following conditions and limitations:

(a) Under the requirements set out in RCW 46.16.765, the department must contract with a qualified nonprofit organization to promote bicycle safety and awareness education in communities throughout Washington.

(b) For the purpose of this section, a "qualified nonprofit organization" means a not-for-profit corporation incorporated and of tax exempt status under section 501(c)(3) of the federal internal revenue code. The organization must promote bicycle safety and awareness education in communities throughout Washington.

(c) The qualified nonprofit organization must meet all requirements set out in RCW 46.16.765. [2005 c 426 § 4.]

46.16.313 Special license plates—Fees. (Effective until July 1, 2011.) (1) The department may establish a fee of no more than forty dollars for each type of special license plates issued under RCW 46.16.301(1) (a), (b), or (c), as existing before amendment by section 5, chapter 291, Laws of 1997, in an amount calculated to offset the cost of production of the special license plates and the administration of this program. This fee is in addition to all other fees required to register and license the vehicle for which the plates have been requested. All such additional special license plate fees collected by the department shall be deposited in the state treasury and credited to the motor vehicle fund.

(2) In addition to all fees and taxes required to be paid upon application and registration of a motor vehicle, the holder of a collegiate license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the funds to the appropriate collegiate license plate fund as provided in RCW 28B.10.890.

(3) In addition to all fees and taxes required to be paid upon renewal of a motor vehicle registration, the holder of a collegiate license plate shall pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the funds to the appropriate collegiate license plate fund as provided in RCW 28B.10.890.

(4) In addition to all fees and taxes required to be paid upon application and registration of a motor vehicle, the holder of a special baseball stadium license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds, minus the cost of plate production, shall be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

(5) In addition to all fees and taxes required to be paid upon renewal of a motor vehicle registration, the holder of a special baseball stadium license plate shall pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

(6) Effective with vehicle registrations due or to become due on January 1, 2005, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a professional firefighters and paramedics license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the professional firefighters and paramedics license plates. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Washington State Council of Firefighters benevolent fund established under RCW 46.16.30902.

(7) Effective with annual renewals due or to become due on January 1, 2006, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a professional firefighters and paramedics license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the professional firefighters and paramedics special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Washington State Council of Firefighters benevolent fund established under RCW 46.16.30902.

(8) Effective with vehicle registrations due or to become due on November 1, 2004, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Helping Kids Speak" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Helping Kids Speak" special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Helping Kids Speak" account established under RCW 46.16.30904.

(9) Effective with annual renewals due or to become due on November 1, 2005, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Helping Kids Speak" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be

remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Helping Kids Speak" special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Helping Kids Speak" account established under RCW 46.16.30904.

(10) Effective with vehicle registrations due or to become due on January 1, 2005, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "law enforcement memorial" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the law enforcement memorial special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the law enforcement memorial account established under RCW 46.16.30906.

(11) Effective with annual renewals due or to become due on January 1, 2006, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "law enforcement memorial" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the law enforcement memorial special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the law enforcement memorial account established under RCW 46.16.30906.

(12)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a Washington's Wildlife collection license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Washington's Wildlife license plate collection. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state

wildlife account. Proceeds credited to the state wildlife account from the sale of the Washington's Wildlife license plate collection may be used only for the department of fish and wildlife's game species management activities.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a Washington's Wildlife collection license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Washington's Wildlife license plate collection. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state wildlife account. Proceeds credited to the state wildlife account from the sale of the Washington's Wildlife license plate collection may be used only for the department of fish and wildlife's game species management activities.

(13)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a Washington state parks and recreation commission special license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Washington state parks and recreation commission special license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state parks education and enhancement account established in RCW 79A.05.059.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a Washington state parks and recreation commission special license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Washington state parks and recreation commission special license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state parks education and enhancement account established in RCW 79A.05.059.

(14)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Washington Lighthouses" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Washington Lighthouses" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the lighthouse environmental programs account established under RCW 46.16.30912.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Washington Lighthouses" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Washington Lighthouses" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the lighthouse environmental programs account established under RCW 46.16.30912.

(15)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Keep Kids Safe" license plate shall pay an initial fee of forty-five dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Keep Kids Safe" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the children's trust fund established under RCW 43.121.100.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Keep Kids Safe" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper

identifying report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Keep Kids Safe" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the children's trust fund established under RCW 43.121.100.

(16)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "we love our pets" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administrative and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "we love our pets" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the we love our pets account established under RCW 46.16.30915.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "we love our pets" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "we love our pets" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the we love our pets account established under RCW 46.16.30915.

(17)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Gonzaga University alumni association" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administrative and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Gonzaga University alumni association" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Gonzaga University alumni association account established under RCW 46.16.30917.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Gonzaga University alumni association" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Gonzaga University alumni association" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Gonzaga University alumni association account established under RCW 46.16.30917.

(18) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Washington's National Park Fund" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Washington's National Park Fund" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Washington's National Park Fund" account established under RCW 46.16.30919.

(19) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Washington's National Park Fund" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Washington's National Park Fund" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Washington's National Park Fund" account established under RCW 46.16.30919.

(20)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of an armed forces license plate shall pay an initial fee of forty dollars. The department shall retain an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection

expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the armed forces special license plate collection. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the veterans stewardship account established under RCW 43.60A.140.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of an armed forces license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the armed forces special license plate collection. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the veterans stewardship account established in RCW 43.60A.140.

(21)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Ski & Ride Washington" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Ski & Ride Washington" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Ski & Ride Washington" account established under RCW 46.16.30923.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Ski & Ride Washington" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Ski & Ride Washington" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Ski & Ride Washington" account established under RCW 46.16.30923.

(22)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a Wild On Washington license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Wild On Washington license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state wildlife account. Proceeds credited to the state wildlife account from the sale of the Wild On Washington license plates must be dedicated to the department of fish and wildlife's watchable wildlife activities defined in RCW 77.32.560(2).

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a Wild On Washington license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Wild On Washington license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state wildlife account. Proceeds credited to the state wildlife account from the sale of the Wild On Washington license plates must be dedicated to the department of fish and wildlife's watchable wildlife activities defined in RCW 77.32.560(2).

(23)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of an Endangered Wildlife license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Endangered Wildlife license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state wildlife account. Proceeds credited to the state wildlife account from the sale of the Endangered Wildlife license plates must be used only for the department of fish and wildlife's endangered wildlife program activities.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of an Endangered Wildlife license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Endangered Wildlife license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state wildlife account. Proceeds credited to the state wildlife account from the sale of the Endangered Wildlife license plates must be used only for the department of fish and wildlife's endangered wildlife program activities.

(24)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Share the Road" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Share the Road" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Share the Road" account established under RCW 46.16.30929.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Share the Road" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Share the Road" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Share the Road" account established under RCW 46.16.30929. [2005 c 426 § 3; 2005 c 225 § 3; 2005 c 224 § 3; 2005 c 220 § 3; 2005 c 216 § 3; 2005 c 177 § 3; 2005 c 85 § 3; 2005 c 71 § 3; 2005 c 53 § 3; 2005 c 48 § 3; 2005 c 44 § 3; 2005 c 42 § 3. Prior: 2004 c 221 § 3; 2004 c 48 § 3; 2004 c 35 § 3; 1997 c 291 § 8; 1996 c 165 § 506; 1995 3rd sp.s. c 1 § 103; 1994 c 194 § 4; 1990 c 250 § 4.]

Reviser's note: This section was amended by 2005 c 42 § 3, 2005 c 44 § 3, 2005 c 48 § 3, 2005 c 53 § 3, 2005 c 71 § 3, 2005 c 85 § 3, 2005 c 177 § (2010 Ed.)

3, 2005 c 216 § 3, 2005 c 220 § 3, 2005 c 224 § 3, 2005 c 225 § 3, and by 2005 c 426 § 3, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

State contribution for baseball stadium limited: RCW 82.14.0486.

Additional notes found at www.leg.wa.gov

46.16.314 Special license plates—Authority to continue. (*Effective until July 1, 2011.*) The department has the sole discretion, based upon the number of sales to date, to determine whether or not to continue issuing license plates in a special series created before January 1, 2003. [2003 c 196 § 501; 1997 c 291 § 9.]

Part headings not law—2003 c 196: See note following RCW 46.16.700.

46.16.316 Special license plates—Transfer of vehicle—Replacement plates. (*Effective until July 1, 2011.*) Except as provided in *RCW 46.16.305:

(1) When a person who has been issued a special license plate or plates: (a) Under RCW *46.16.30901, *46.16.30903, *46.16.30905, or **46.16.301 as it existed before amendment by section 5, chapter 291, Laws of 1997, or under RCW 46.16.305(2) or 46.16.324; (b) approved by the former special license plate review board; or (c) under *RCW 46.16.601 sells, trades, or otherwise transfers or releases ownership of the vehicle upon which the special license plate or plates have been displayed, he or she shall immediately report the transfer of such plate or plates to an acquired vehicle or vehicle eligible for such plates pursuant to departmental rule, or he or she shall surrender such plates to the department immediately if such surrender is required by departmental rule. If a person applies for a transfer of the plate or plates to another eligible vehicle, a transfer fee of ten dollars shall be charged in addition to all other applicable fees. Such transfer fees shall be deposited in the motor vehicle fund. Failure to surrender the plates when required is a traffic infraction.

(2) If the special license plate or plates issued by the department become lost, defaced, damaged, or destroyed, application for a replacement special license plate or plates shall be made and fees paid as provided by law for the replacement of regular license plates. [2010 1st sp.s. c 7 § 92; 2005 c 210 § 2. Prior: 2004 c 223 § 4; 2004 c 221 § 5, 2004 c 48 § 5; 2004 c 35 § 5; 1997 c 291 § 10; 1990 c 250 § 5.]

Reviser's note: *(1) RCW 46.16.305, 46.16.30901, 46.16.30903, 46.16.30905, and 46.16.601 were repealed by 2010 c 161 § 438, effective July 1, 2011.

***(2) RCW 46.16.301 was recodified as RCW 46.18.215 pursuant to 2010 c 161 § 1228, effective July 1, 2011.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Additional notes found at www.leg.wa.gov

46.16.319 Veterans and military personnel—Emblems. (*Effective until July 1, 2011.*) (1) Veterans discharged under honorable conditions (veterans) and individuals serving on active duty in the United States armed forces (active duty military personnel) may purchase a veterans remembrance emblem or campaign medal emblem. The emblem is to be displayed on vehicle license plates in the

manner described by the department, existing vehicular licensing procedures, and current laws.

(2) Veterans and active duty military personnel who served during periods of war or armed conflict may purchase a remembrance emblem depicting campaign ribbons which they were awarded.

(3) The following campaign ribbon remembrance emblems are available:

- (a) World War I victory medal;
- (b) World War II Asiatic-Pacific campaign medal;
- (c) World War II European-African Middle East campaign medal;
- (d) World War II American campaign medal;
- (e) Korean service medal;
- (f) Vietnam service medal;
- (g) Armed forces expeditionary medal awarded after 1958; and
- (h) Southwest Asia medal.

The director may issue additional campaign ribbon emblems by rule as authorized decorations by the United States department of defense.

(4) Veterans or active duty military personnel requesting a veteran remembrance emblem or campaign medal emblem or emblems must:

- (a) Pay a prescribed fee set by the department; and
- (b) Show proof of eligibility through:
 - (i) Providing a DD-214 or discharge papers if a veteran;
 - (ii) Providing a copy of orders awarding a campaign ribbon if an individual serving on military active duty; or
 - (iii) Attesting in a notarized affidavit of their eligibility as required under this section.

(5) Veterans or active duty military personnel who purchase a veteran remembrance emblem or a campaign medal emblem must be the legal or registered owner of the vehicle on which the emblem is to be displayed. [1997 c 234 § 1; 1991 c 339 § 11; 1990 c 250 § 6.]

Additional notes found at www.leg.wa.gov

46.16.324 Collegiate license plates. (Effective until July 1, 2011.) Effective January 1, 1995, a state university, regional university, or state college as defined in RCW 28B.10.016 may apply to the department, in a form prescribed by the department, and request the department to issue a series of collegiate license plates depicting the name and mascot or symbol of the college or university, as submitted and approved for use by the requesting institution. [1994 c 194 § 3.]

46.16.327 Military emblems—Material, display requirements. (Effective until July 1, 2011.) Vehicle license plate emblems and veteran remembrance emblems shall use fully reflectorized materials designed to provide visibility at night. Emblems shall be designed to be affixed to a vehicle license number plate by pressure-sensitive adhesive so as not to obscure the plate identification numbers or letters.

Emblems will be issued for display on the front and rear license number plates. Single emblems will be issued for vehicles authorized to display one license number plate. [1990 c 250 § 8.]

[Title 46 RCW—page 114]

Additional notes found at www.leg.wa.gov

46.16.332 Military emblems—Fees. (Effective until July 1, 2011.) (1) The director may adopt fees to be charged by the department for emblems issued by the department under RCW 46.16.319.

(2) The fee for each remembrance emblem issued under RCW 46.16.319 shall be in an amount sufficient to offset the costs of production of remembrance emblems and the administration of that program by the department plus an amount for use by the department of veterans affairs, not to exceed a total fee of twenty-five dollars per emblem.

(3) The veterans' emblem account is created in the custody of the state treasurer. All receipts by the department from the issuance of remembrance emblems under RCW 46.16.319 shall be deposited into this fund. Expenditures from the fund may be used only for the costs of production of remembrance emblems and administration of the program by the department of licensing, with the balance used only by the department of veterans affairs for projects that pay tribute to those living veterans and to those who have died defending freedom in our nation's wars and conflicts and for the upkeep and operations of existing memorials, as well as for planning, acquiring land for, and constructing future memorials. Only the director of licensing, the director of veterans affairs, or their designees may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. [1994 c 194 § 5; 1990 c 250 § 9.]

Additional notes found at www.leg.wa.gov

46.16.333 Cooper Jones emblems. (Effective until July 1, 2011.) In cooperation with the Washington state patrol and the department of licensing, the traffic safety commission shall create and design, and the department shall issue, Cooper Jones license plate emblems displaying a symbol of bicycle safety that may be used on motor vehicles required to display two motor vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. These license plate emblems will fund the Cooper Jones act and provide funding for bicyclist and pedestrian safety education, enforcement, and encouragement.

Any person may purchase Cooper Jones license plate emblems. The emblems are to be displayed on the vehicle license plates in the manner described by the department, existing vehicular licensing procedures, and current laws. The fee for Cooper Jones emblems shall be twenty-five dollars. All moneys collected shall first go to the department to be deposited into the motor vehicle fund until all expenses of designing and producing the emblems are recovered. Thereafter, the department shall deduct an amount not to exceed five dollars of each fee collected for Cooper Jones emblems for administration and collection expenses. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the proceeds to the "Share the Road" account established under RCW 46.16.30929. [2005 c 426 § 5; 2002 c 264 § 3.]

Finding—2002 c 264: "The legislature finds that bicycling and walking are becoming increasingly popular in Washington as clean and efficient

(2010 Ed.)

modes of transportation, as recreational activities, and as organized sports. Future plans for the state's transportation system will require increased access and safety for bicycles and pedestrians on our common roadways, and federal transportation legislation and funding programs have created strong incentives to implement these changes quickly. As a result, many more people are likely to take up bicycling in Washington both as a leisure activity and as a convenient, inexpensive form of transportation. Bicyclists are more vulnerable to injury and accident than motorists, and both should be knowledgeable about traffic laws. Bicyclists should be highly visible and predictable when riding in traffic, and be encouraged to wear bicycle safety helmets. Hundreds of bicyclists and pedestrians are seriously injured every year in accidents, and millions of dollars are spent on health care costs associated with these accidents. There is clear evidence that organized training in the rules and techniques of safe and effective cycling can significantly reduce the incidence of serious injury and accidents, increase cooperation among road users, and significantly increase the incidence of bicycle helmet use, particularly among minors. A reduction in accidents benefits the entire community. Therefore, it is appropriate for businesses and community organizations to provide donations to bicycle and pedestrian safety training programs." [2002 c 264 § 1.]

46.16.335 Special license plates and emblems—Rules. (*Effective until July 1, 2011.*) The director shall adopt rules to implement RCW 46.16.301 through 46.16.332, including setting of fees. [1990 c 250 § 10.]

Additional notes found at www.leg.wa.gov

46.16.340 Amateur radio operator plates—Information furnished to various agencies. (*Effective until July 1, 2011.*) The director, from time to time, shall furnish the state military department, the *department of community, trade, and economic development, the Washington state patrol, and all county sheriffs a list of the names, addresses, and license plate or radio station call letters of each person possessing the special amateur radio station license plates so that the facilities of such radio stations may be utilized to the fullest extent in the work of these governmental agencies. [1995 c 391 § 8; 1986 c 266 § 49; 1985 c 7 § 112; 1974 ex.s. c 171 § 43; 1967 c 32 § 23; 1961 c 12 § 46.16.340. Prior: 1957 c 145 § 3.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

46.16.350 Amateur radio operator plates—Expiration or revocation of radio license—Penalty. (*Effective until July 1, 2011.*) Any radio amateur operator who holds a special call letter license plate as issued under RCW 46.16.305, and who has allowed his or her federal communications commission license to expire, or has had it revoked, must notify the director in writing within thirty days and surrender his or her call letter license plate. Failure to do so is a traffic infraction. [1997 c 291 § 11; 1990 c 250 § 11; 1979 ex.s. c 136 § 49; 1967 c 32 § 24; 1961 c 12 § 46.16.350. Prior: 1957 c 145 § 4.]

Additional notes found at www.leg.wa.gov

46.16.371 Special plates for honorary consul, foreign government representative. (*Effective until July 1, 2011.*) (1) Every honorary consul or official representative of any foreign government who is a citizen or resident of the United States of America, duly licensed and holding an exequatur issued by the department of state of the United States of America is entitled to apply to the director for, and upon satisfactory showing, and upon payment of regular license fees

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and excise tax, to receive, in lieu of the regular motor vehicle license plates, such special plates of a distinguishing color and running in a separate numerical series, as the director shall prescribe. Application for renewal of the license plates shall be as prescribed for the license renewal of other vehicles.

(2) Whenever the owner or lessee as provided in subsection (1) of this section transfers or assigns his or her interest or title in the motor vehicle to which the special plates were attached, the plates shall be removed from the motor vehicle, and if another vehicle is acquired, attached thereto, and the director shall be immediately notified of the transfer of the plates; otherwise the removed plates shall be immediately forwarded to the director to be destroyed. Whenever the owner or lessee as provided in subsection (1) of this section is for any reason relieved of his or her duties as an honorary consul or official representative of a foreign government, he or she shall immediately forward the special plates to the director, who shall upon receipt thereof provide such plates as are otherwise provided by law. [2010 c 8 § 9015; 1987 c 237 § 1.]

46.16.374 Taipei Economic and Cultural Office—Special plates. (*Effective until July 1, 2011.*) (1) If the eligible applicant bears the entire cost of plate production, the department shall provide for the issuance of special license plates, in lieu of regular motor vehicle license plates, for passenger vehicles having manufacturers' rated carrying capacities of one ton or less that are owned or leased by an officer of the Taipei Economic and Cultural Office. The department shall issue the special license plates in a distinguishing color, running in a separate numerical series, and bearing the words "Foreign Organization." A vehicle for which special license plates are issued under this section is exempt from regular license fees under RCW 46.16.0621 and any additional vehicle license fees imposed under *RCW 82.80.020.

(2) Whenever the owner or lessee as provided in subsection (1) of this section transfers or assigns the interest or title in the motor vehicle for which the special plates were issued, the plates must be removed from the motor vehicle, and if another qualified vehicle is acquired, attached to that vehicle, and the director must be immediately notified of the transfer of the plates; otherwise the removed plates must be immediately forwarded to the director to be destroyed. Whenever the owner or lessee as provided in subsection (1) of this section is for any reason relieved of his or her duties as a representative of a recognized foreign organization, he or she shall immediately forward the special plates to the director, who shall upon receipt dispose of the plates as otherwise provided by law. [2001 c 64 § 5; 1996 c 139 § 1.]

*Reviser's note: RCW 82.80.020 was repealed by 2003 c 1 § 5, (Initiative Measure No. 776, approved November 5, 2002).

46.16.376 Taipei Economic and Cultural Office—Fee exemption. (*Effective until July 1, 2011.*) A motor vehicle owned or leased by an officer of the Taipei Economic and Cultural Office eligible for a special license plate under RCW 46.16.374 is exempt from the payment of license fees for the licensing of the vehicle as provided in this chapter. [1996 c 139 § 2.]

46.16.381 Special parking for persons with disabilities—Penalties—Enforcement—Definition. (*Effective until July 1, 2011.*) (1) The director shall grant special parking privileges to any person who has a disability that limits or impairs the ability to walk or involves acute sensitivity to light and meets one of the following criteria, as determined by a licensed physician, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a physician assistant licensed under chapter 18.71A or 18.57A RCW:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Has such a severe disability, that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Uses portable oxygen;

(e) Is restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American Heart Association;

(g) Has a disability resulting from an acute sensitivity to automobile emissions which limits or impairs the ability to walk. The personal physician, advanced registered nurse practitioner, or physician assistant of the applicant shall document that the disability is comparable in severity to the others listed in this subsection;

(h) Is legally blind and has limited mobility; or

(i) Is restricted by a form of porphyria to the extent that the applicant would significantly benefit from a decrease in exposure to light.

(2) The applications for parking permits for persons with disabilities and parking permits for persons with temporary disabilities are official state documents. Knowingly providing false information in conjunction with the application is a gross misdemeanor punishable under chapter 9A.20 RCW. The following statement must appear on each application form immediately below the physician's, advanced registered nurse practitioner's, or physician assistant's signature and immediately below the applicant's signature: "A parking permit for a person with disabilities may be issued only for a medical necessity that severely affects mobility or involves acute sensitivity to light (RCW 46.16.381). Knowingly providing false information on this application is a gross misdemeanor. The penalty is up to one year in jail and a fine of up to \$5,000 or both."

(3) Persons who qualify for special parking privileges are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and an individual serial number, along with a special identification card bearing the name and date of birth of the person to whom the placard is issued, and the placard's serial number. The special identification card shall be issued to all persons who are issued parking placards, including those issued for temporary disabilities, and special parking license plates for persons with disabilities. The department

shall design the placard to be displayed when the vehicle is parked by suspending it from the rearview mirror, or in the absence of a rearview mirror the card may be displayed on the dashboard of any vehicle used to transport the person with disabilities. Instead of regular motor vehicle license plates, persons with disabilities are entitled to receive special license plates under this section or *RCW 46.16.385 bearing the international symbol of access for one vehicle registered in the name of the person with disabilities. Persons with disabilities who are not issued the special license plates are entitled to receive a second special placard upon submitting a written request to the department. Persons who have been issued the parking privileges and who are using a vehicle or are riding in a vehicle displaying the placard or special license plates issued under this section or *RCW 46.16.385 may park in places reserved for persons with physical disabilities. The director shall adopt rules providing for the issuance of special placards and license plates to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen centers, private nonprofit agencies as defined in chapter 24.03 RCW, and vehicles registered with the department as cabulances that regularly transport persons with disabilities who have been determined eligible for special parking privileges provided under this section. The director may issue special license plates for a vehicle registered in the name of the public transportation authority, nursing home, boarding home, senior citizen center, private nonprofit agency, or cabulance service if the vehicle is primarily used to transport persons with disabilities described in this section. Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit agencies, and cabulance services are responsible for insuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

(4) Whenever the person with disabilities transfers or assigns his or her interest in the vehicle, the special license plates shall be removed from the motor vehicle. If another vehicle is acquired by the person with disabilities and the vehicle owner qualifies for a special plate, the plate shall be attached to the vehicle, and the director shall be immediately notified of the transfer of the plate. If another vehicle is not acquired by the person with disabilities, the removed plate shall be immediately surrendered to the director.

(5) The special license plate shall be renewed in the same manner and at the time required for the renewal of regular motor vehicle license plates under this chapter. No special license plate may be issued to a person who is temporarily disabled. A person who has a condition expected to improve within six months may be issued a temporary placard for a period not to exceed six months. If the condition exists after six months a new temporary placard shall be issued upon receipt of a new certification from the person's physician. The permanent parking placard and identification card of a person with disabilities shall be renewed at least every five years, as required by the director, by satisfactory proof of the right to continued use of the privileges. In the event of the permit holder's death, the parking placard and identification card must be immediately surrendered to the department. The department shall match and purge its database of parking

permits issued to persons with disabilities with available death record information at least every twelve months.

(6) Additional fees shall not be charged for the issuance of the special placards or the identification cards. No additional fee may be charged for the issuance of the special license plates except the regular motor vehicle registration fee and any other fees and taxes required to be paid upon registration of a motor vehicle.

(7) Any unauthorized use of the special placard, special license plate issued under this section or *RCW 46.16.385, or identification card is a parking infraction with a monetary penalty of two hundred fifty dollars. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed.

(8) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for a person to park in, block, or otherwise make inaccessible the access aisle located next to a space reserved for persons with physical disabilities. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed. The clerk of the court shall report all violations related to this subsection to the department.

(9) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for persons with physical disabilities without a placard or special license plate issued under this section or *RCW 46.16.385. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the placard or special license plate issued under this section or *RCW 46.16.385 required under this section. A local jurisdiction providing nonmetered, on-street parking places reserved for persons with physical disabilities may impose by ordinance time restrictions of no less than four hours on the use of these parking places. A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards or special license plates issued under this section or *RCW 46.16.385. All time restrictions must be clearly posted.

(10)(a) The assessment imposed under subsections (7), (8), and (9) of this section shall be allocated as follows:

(i) One hundred dollars shall be deposited in the accessible communities account created in RCW 50.40.071; and

(ii) One hundred dollars shall be deposited in the multi-modal transportation account under RCW 47.66.070 for the sole purpose of supplementing a grant program for special needs transportation provided by transit agencies and non-profit providers of transportation that is administered by the department of transportation.

(b) Any reduction in any penalty or fine and assessment imposed under subsections (7), (8), and (9) of this section shall be applied proportionally between the penalty or fine and the assessment. When a reduced penalty is imposed under subsection (7), (8), or (9) of this section, the amount deposited in the accounts identified in (a) of this subsection shall be reduced equally and proportionally.

(c) The penalty or fine amounts shall be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs it may have incurred in removal and storage of the improperly parked vehicle.

(11) Except as provided by subsection (2) of this section, it is a traffic infraction with a monetary penalty of two hundred fifty dollars for any person willfully to obtain a special license plate issued under this section or *RCW 46.16.385, placard, or identification card in a manner other than that established under this section.

(12)(a) A law enforcement agency authorized to enforce parking laws may appoint volunteers, with a limited commission, to issue notices of infractions for violations of this section or RCW 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications the agency deems desirable.

(b) An agency appointing volunteers under this section must provide training to the volunteers before authorizing them to issue notices of infractions.

(c) A notice of infraction issued by a volunteer appointed under this subsection has the same force and effect as a notice of infraction issued by a police officer for the same offense.

(d) A police officer or a volunteer may request a person to show the person's identification card or special parking placard when investigating the possibility of a violation of this section. If the request is refused, the person in charge of the vehicle may be issued a notice of infraction for a violation of this section.

(13) For second or subsequent violations of this section, in addition to a monetary fine, the violator must complete a minimum of forty hours of:

(a) Community restitution for a nonprofit organization that serves persons having disabilities or disabling diseases; or

(b) Any other community restitution that may sensitize the violator to the needs and obstacles faced by persons who have disabilities.

(14) The court may not suspend more than one-half of any fine imposed under subsection (7), (8), (9), or (11) of this section.

(15) For the purposes of this section, "legally blind" means a person who: (a) Has no vision or whose vision with corrective lenses is so limited that the individual requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by individuals with normal vision; or (b) has an eye condition of a progressive nature which may lead to blindness. [2010 c 215 § 6. Prior: 2007 c 262 § 1; 2007 c 44 § 1; 2006 c 357 § 2; 2005 c 390 § 2; 2004 c 222 § 2; 2003 c 371 § 1; 2002 c 175 § 33; 2001 c 67 § 1; 1999 c 136 § 1; 1998 c 294 § 1; 1995 c 384 § 1; 1994 c 194 § 6; 1993 c 106 § 1; 1992 c 148 § 1; 1991 c 339 § 21; 1990 c 24 § 1; 1986 c 96 § 1; 1984 c 154 § 2.]

***Reviser's note:** RCW 46.16.385 was repealed by 2010 c 161 § 438, effective July 1, 2011.

Findings—2010 c 215: See note following RCW 50.40.071.

Findings—2006 c 357: "The legislature reaffirms its recognition that legal blindness does not affect the physical ability to walk, nor does it limit the ability to participate and contribute in employment and all aspects of life as an equal and productive citizen. Furthermore, for a legally blind individ-

ual with appropriate training in travel skills, any limitations on that individual's mobility are not resolved by the granting of special parking privileges. However, for some individuals, including the newly blind and those in transition, the availability of special parking privileges could prove to be an appropriate benefit if those individuals choose to avail themselves of the opportunity." [2006 c 357 § 1.]

Effective date—2004 c 222 §§ 1 and 2: See note following RCW 46.16.385.

Effective date—2002 c 175: See note following RCW 7.80.130.

Intent—1984 c 154: "The legislature intends to extend special parking privileges to persons with disabilities that substantially impair mobility." [1984 c 154 § 1.]

Accessible parking spaces required: RCW 70.92.140.

Free parking by individuals with disabilities: RCW 46.61.582.

Additional notes found at www.leg.wa.gov

46.16.385 Versions of special plates for persons with disabilities. (Effective until July 1, 2011.) (1) The department shall design and issue versions of special license plates including the international symbol of access described in RCW 70.92.120 for plates issued under (a) RCW 46.16.301; (b) RCW 46.16.305, except those plates issued under RCW 46.16.305 (1) and (2); (c) RCW 46.16.324; (d) RCW 46.16.745; (e) RCW 73.04.110; (f) RCW 73.04.115; (g) RCW 46.16.301(1) (a), (b), or (c), as it existed before amendment by section 5, chapter 291, Laws of 1997; (h) RCW 46.16.565; or (i) plates issued under RCW 46.16.601. The version of the special plate including the international symbol of access may be used in lieu of the parking placard issued to persons who qualify for special parking privileges under RCW 46.16.381. The department may not charge an additional fee for the issuance of the special license plate including the international symbol of access, except the regular motor vehicle registration fee, the fee associated with the particular special plate, and any other fees and taxes required to be paid upon registration of a motor vehicle. The international symbol of access must be incorporated into the design of the special license plate in a manner to be determined by the department, and under existing vehicular licensing procedures and existing laws.

(2) Persons who qualify for special parking privileges under RCW 46.16.381, and who have applied and paid the appropriate fee for any of the special license plates listed in subsection (1) of this section, are entitled to receive from the department a special license plate including the international symbol of access. The special license plate including the international symbol of access may be used for one vehicle registered in the name of the person with the disability. Persons who have been issued the parking privileges or who are using a vehicle displaying the special license plate including the international symbol of access may park in places reserved for persons with physical disabilities.

(3) Special license plates including the international symbol of access must be administered in the same manner as plates issued under RCW 46.16.381.

(4) The department shall adopt rules to implement this section. [2005 c 390 § 3; 2005 c 210 § 3; 2004 c 222 § 1.]

Reviser's note: This section was amended by 2005 c 210 § 3 and by 2005 c 390 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2004 c 222 §§ 1 and 2: "Sections 1 and 2 of this act take effect November 1, 2004." [2004 c 222 § 5.]

46.16.390 Special plate or card issued by another jurisdiction. (Effective until July 1, 2011.) A special license plate or card issued by another state or country that indicates an occupant of the vehicle has disabilities, entitles the vehicle on or in which it is displayed and being used to transport the person with disabilities to lawfully park in a parking place reserved for persons with physical disabilities pursuant to chapter 70.92 RCW or authority implemental thereof. [2005 c 390 § 4; 1991 c 339 § 22; 1984 c 51 § 1.]

46.16.450 Appeals to superior court from suspension, revocation, cancellation, or refusal of license or certificate. (Effective until July 1, 2011.) See RCW 46.12.240.

46.16.460 Nonresident members of armed forces—Issuance of temporary license. (Effective until July 1, 2011.) Upon the payment of a fee of ten dollars therefor, the department of licensing shall issue a temporary motor vehicle license for a motor vehicle in this state for a period of forty-five days when such motor vehicle has been or is being purchased by a nonresident member of the armed forces of the United States and an application, accompanied with prepayment of required fees, for out of state registration has been made by the purchaser. [1979 c 158 § 141; 1967 c 202 § 4.]

46.16.470 Temporary license—Display. (Effective until July 1, 2011.) The temporary license provided for in RCW 46.16.460 shall be carried on the interior of the motor vehicle in such a way as to be clearly visible from outside the vehicle. [1967 c 202 § 5.]

46.16.480 Nonresident members of armed forces—Exemption from sales, use, or motor vehicle excise taxes—Extent of exemption. (Effective until July 1, 2011.) The original purchaser of a motor vehicle, for which a temporary license as provided in RCW 46.16.460 has been issued, shall not be subject to the sales tax, use tax, or motor vehicle excise tax during the effective period of such license or thereafter unless the motor vehicle, after the effective period of such license, is still in this state or within a period of one year after the effective period of such license is returned to this state. [1967 c 202 § 6.]

46.16.490 Nonresident members of armed forces—Rules and regulations—Proof. (Effective until July 1, 2011.) The department of licensing shall prescribe rules and regulations governing the administration of RCW 46.16.460 through 46.16.490. The department may require that adequate proof of the facts asserted in the application for a temporary license shall be made before the temporary license shall be granted. [1979 c 158 § 142; 1967 c 202 § 7.]

46.16.500 Liability of operator, owner, lessee for violations. (Effective until July 1, 2011.) Whenever an act or omission is declared to be unlawful in chapter 46.16 RCW, if the operator of the vehicle is not the owner or lessee of such vehicle, but is so operating or moving the vehicle with the express or implied permission of the owner or lessee, then the operator and/or owner or lessee are both subject to the provi-

sions of this chapter with the primary responsibility to be that of the owner or lessee.

If the person operating the vehicle at the time of the unlawful act or omission is not the owner or lessee of the vehicle, such person is fully authorized to accept the citation and execute the promise to appear on behalf of the owner or lessee. [1980 c 104 § 3; 1969 ex.s. c 69 § 2.]

46.16.505 Campers—License and plates—Application—Fee. (Effective until July 1, 2011.) It shall be unlawful for a person to operate any vehicle equipped with a camper over and along a public highway of this state without first having obtained and having in full force and effect a current and proper camper license and displaying a camper license number plate therefor as required by law: PROVIDED, HOWEVER, That if a camper is part of the inventory of a manufacturer or dealer and is unoccupied at all times, and a dated demonstration permit, valid for no more than seventy-two hours is carried in the motor vehicle at all times it is operated by any such individual, such camper may be demonstrated if carried upon an appropriately licensed vehicle.

Application for an original camper license shall be made on a form furnished for the purpose by the director. Such application shall be made by the owner of the camper or his or her duly authorized agent over the signature of such owner or agent, and he or she shall certify that the statements therein are true and to the best of his or her knowledge. The application must show:

- (1) Name and address of the owner of the camper;
- (2) Trade name of the camper, model, year, and the serial number thereof;
- (3) Such other information as the director requires.

There shall be paid and collected annually for each registration year or fractional part thereof and upon each camper a license fee or, if the camper was previously licensed in this state and has not been registered in another jurisdiction in the intervening period, a renewal license fee. Such license fee shall be in the sum of four dollars and ninety cents, and such renewal license fee shall be in the sum of three dollars and fifty cents.

Except as otherwise provided for in this section, the provisions of chapter 46.16 RCW shall apply to campers in the same manner as they apply to vehicles. [2010 c 8 § 9016; 1975 1st ex.s. c 118 § 11; 1975 c 41 § 1; 1971 ex.s. c 231 § 7.]

Additional notes found at www.leg.wa.gov

46.16.560 Personalized license plates—Defined. (Effective until July 1, 2011.) Personalized license plates, as used in this chapter, means license plates that have displayed upon them the registration number assigned to the vehicle or camper for which such registration number was issued in a combination of letters or numbers, or both, requested by the owner of the vehicle or camper in accordance with this chapter. [1975 c 59 § 1; 1973 1st ex.s. c 200 § 2.]

Personalized license plates—Legislative declaration: "It is declared to be the public policy of the state of Washington to direct financial resources of this state toward the support and aid of the wildlife resources existing within the state of Washington in order that the general welfare of these inhabitants of the state be served. For the purposes of *this chapter, wildlife resources are understood to be those species of wildlife other than that managed by the department of fisheries under their existing jurisdiction as well

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as all unclassified marine fish, shellfish, and marine invertebrates which shall remain under the jurisdiction of the director of fisheries. The legislature further finds that the preservation, protection, perpetuation, and enhancement of such wildlife resources of the state is of major concern to it, and that aid for a satisfactory environment and ecological balance in this state for such wildlife resources serves a public interest, purpose, and desire.

It is further declared that such preservation, protection, perpetuation, and enhancement can be fostered through financial support derived on a voluntary basis from those citizens of the state of Washington who wish to assist in such objectives; that a desirable manner of accomplishing this is through offering personalized license plates for certain vehicles and campers the fees for which are to be directed to the state treasury to the credit of the **state game fund for the furtherance of the programs, policies, and activities of the state **game department in preservation, protection, perpetuation, and enhancement of the wildlife resources that abound within the geographical limits of the state of Washington.

In particular, the legislature recognizes the benefit of this program to be specifically directed toward those species of wildlife including but not limited to song birds, protected wildlife, rare and endangered wildlife, aquatic life, and specialized-habitat types, both terrestrial and aquatic, as well as all unclassified marine fish, shellfish, and marine invertebrates which shall remain under the jurisdiction of the director of fisheries that exist within the limits of the state of Washington." [1975 c 59 § 7; 1973 1st ex.s. c 200 § 1. Formerly RCW 77.12.175.]

Reviser's note: *(1) The term "this chapter" refers to chapter 77.12 RCW, where this section was originally codified, pursuant to legislative directive, as RCW 77.12.175. It was subsequently decodified by 1980 c 78 § 32.

** (2) References to the "state game fund" and "game department" mean the "state wildlife fund" and "department of wildlife." See note following RCW 77.04.020. The "state wildlife fund" was renamed the "state wildlife account" pursuant to 2005 c 224 § 4 and 2005 c 225 § 4.

46.16.565 Personalized license plates—Application. (Effective until July 1, 2011.) Any person who is the registered owner of a passenger motor vehicle, a motor truck, a trailer, a camper, a private bus, or a motorcycle registered with the department, excluding proportionally registered vehicles, or who makes application for an original registration or renewal registration of such vehicle or camper may, upon payment of the fee prescribed in RCW 46.16.585, apply to the department for personalized license plates, in the manner described in RCW 46.16.580, which plates shall be affixed to the vehicle or camper for which registration is sought in lieu of the regular license plates. [1985 c 173 § 1; 1983 c 27 § 4; 1975 c 59 § 2; 1973 1st ex.s. c 200 § 3.]

46.16.570 Personalized license plates—Design. (Effective until July 1, 2011.) Except for personalized plates issued under RCW 46.16.601, the personalized license plates shall be the same design as regular license plates, and shall consist of numbers or letters, or any combination thereof not exceeding seven positions unless proposed by the department and approved by the Washington state patrol and not less than one position, to the extent that there are no conflicts with existing passenger, commercial, trailer, motorcycle, or special license plates series or with the provisions of RCW 46.16.230 or 46.16.235: PROVIDED, That the maximum number of positions on personalized license plates for motorcycles shall be designated by the department. [2005 c 210 § 4; 1986 c 108 § 1; 1983 1st ex.s. c 24 § 1; 1975 c 59 § 3; 1973 1st ex.s. c 200 § 4.]

Additional notes found at www.leg.wa.gov

46.16.575 Personalized license plates—Issuance to registered owner only. (Effective until July 1, 2011.) Per-

sonalized license plates shall be issued only to the registered owner of a vehicle on which they are to be displayed. [1973 1st ex.s. c 200 § 5.]

46.16.580 Personalized license plates—Application requirements. (*Effective until July 1, 2011.*) An applicant for issuance of personalized license plates or renewal of such plates in the subsequent year pursuant to this chapter shall file an application therefor in such form and by such date as the department may require, indicating thereon the combination of letters or numbers, or both, requested as a vehicle license plate number. There shall be no duplication or conflict with existing or projected vehicle license plate series or other numbering systems for records kept by the department, and the department may refuse to issue any combination of letters or numbers, or both, that may carry connotations offensive to good taste and decency or which would be misleading or a duplication of license plates provided for in chapter 46.16 RCW. [1973 1st ex.s. c 200 § 6.]

46.16.585 Personalized license plates—Fees—Renewal—Penalty. (*Effective until July 1, 2011.*) In addition to the regular registration fee, and any other fees and taxes required to be paid upon registration, the applicant shall be charged a fee of thirty dollars. In addition to the regular renewal fee, and in addition to any other fees and taxes required to be paid, the applicant for a renewal of such plates shall be charged an additional fee of twenty dollars: PROVIDED, That any person who purchased personalized license plates containing three letters and three digits on or between the dates of August 9, 1971, and November 6, 1973, shall not be required to pay the additional annual renewal fee of twenty dollars commencing with the year 1976. All personalized license plates must be renewed on an annual basis, regardless of whether a vehicle on which they are displayed will not be driven on public highways or may also be eligible to display permanent license plates valid for the life of such vehicle without annual renewal. Personalized license plates that are not renewed must be surrendered to the department, and failure to do so is a traffic infraction. [1979 ex.s. c 136 § 51; 1975 c 59 § 4; 1973 1st ex.s. c 200 § 7.]

Additional notes found at www.leg.wa.gov

46.16.590 Personalized license plates—Transfer fees. (*Effective until July 1, 2011.*) Whenever any person who has been issued personalized license plates applies to the department for transfer of such plates to a subsequently acquired vehicle or camper eligible for personalized license plates, a transfer fee of ten dollars shall be charged in addition to all other appropriate fees. Such transfer fees shall be deposited in the motor vehicle fund. [2004 c 223 § 5; 1975 c 59 § 5; 1973 1st ex.s. c 200 § 8.]

46.16.595 Personalized license plates—Transfer or surrender upon sale or release of vehicle—Penalty. (*Effective until July 1, 2011.*) When any person who has been issued personalized license plates sells, trades, or otherwise releases ownership of the vehicle upon which the personalized license plates have been displayed, he or she shall immediately report the transfer of such plates to an acquired

vehicle or camper eligible for personalized license plates, pursuant to *RCW 46.16.590, or he or she shall surrender such plates to the department forthwith and release his or her priority to the letters or numbers, or combination thereof, displayed on the personalized license plates. Failure to surrender such plates is a traffic infraction. [2010 c 8 § 9017; 1979 ex.s. c 136 § 52; 1975 c 59 § 6; 1973 1st ex.s. c 200 § 9.]

*Reviser's note: RCW 46.16.590 was repealed by 2010 c 161 § 438, effective July 1, 2011.

Additional notes found at www.leg.wa.gov

46.16.600 Personalized license plates—Rules and regulations. (*Effective until July 1, 2011.*) (1) The director of licensing may establish such rules and regulations as may be necessary to carry out the purposes of RCW 46.16.560 through 46.16.595.

(2) Upon direction by the board, the department shall adopt a rule limiting the ability of organizations and governmental entities to apply for more than one license plate series. [2005 c 210 § 5; 1979 c 158 § 143; 1973 1st ex.s. c 200 § 10.]

46.16.601 Personalized special plates. (*Effective until July 1, 2011.*) (1) The following special license plate series created by the legislature may be personalized: (a) RCW 46.16.301 as currently law; (b) RCW 46.16.301(1) (a), (b), or (c), as it existed before amendment by section 5, chapter 291, Laws of 1997; (c) RCW 46.16.305, except those plates issued under RCW 46.16.305 (1) and (2); (d) RCW 46.16.324; (e) RCW 46.16.385; or (f) RCW 46.16.745.

(2) Personalized special plates issued under this section may be personalized only by using numbers or letters, or any combination thereof not exceeding seven positions, and not less than one position, to the extent that there are no conflicts with existing license plate series. A personalized special license plate is subject to the same requirements as personalized license plates listed in RCW 46.16.575, 46.16.580, 46.16.590, 46.16.595, and 46.16.600.

(3) In addition to any other fees and taxes due at the time of registration, applicants for a personalized special license plate must pay both the fees to purchase and renew a special plate as set out in the statute creating the special plate and the personalized plate as required in RCW 46.16.585 and 46.16.606. The special plate fee must be distributed in accordance with the requirements set out in the statute creating the special plate. The personalized plate fee must be distributed under RCW 46.16.605 and 46.16.606. The transfer of personalized special plates is to be administered under RCW 46.16.316. [2005 c 210 § 1.]

Effective date—2005 c 210 § 1: "Section 1 of this act takes effect March 1, 2007." [2005 c 210 § 9.]

46.16.605 Personalized license plates—Disposition of fees—Costs. (*Effective until July 1, 2011.*) All revenue derived from the fees provided for in RCW 46.16.585 shall be forwarded to the state treasurer and be deposited to the credit of the *state wildlife fund to be used for the preservation, protection, perpetuation, and enhancement of nongame species of wildlife including but not limited to song birds, raptors, protected wildlife, rare and endangered wildlife, aquatic life, and specialized-habitat types, both terrestrial and

aquatic, as well as all unclassified marine fish, shellfish, and marine invertebrates.

Administrative costs incurred by the department of licensing as a direct result of RCW 46.16.560 through 46.16.605 and 77.12.170 shall be appropriated by the legislature from the *state wildlife fund from those funds deposited therein resulting from the sale of personalized license plates. If the actual costs incurred by the department of licensing are less than that which has been appropriated by the legislature the remainder shall revert to the *state wildlife fund. [1988 c 36 § 27; 1983 1st ex.s. c 24 § 2; 1983 c 3 § 118; 1979 c 158 § 144; 1973 1st ex.s. c 200 § 11.]

***Reviser's note:** The "state wildlife fund" was renamed the "state wildlife account" pursuant to 2005 c 224 § 4 and 2005 c 225 § 4.

State wildlife account: RCW 77.12.170.

Additional notes found at www.leg.wa.gov

46.16.606 Personalized license plates—Additional fee. (*Effective until July 1, 2011.*) In addition to the fees imposed in RCW 46.16.585 for application and renewal of personalized license plates an additional fee of twelve dollars shall be charged. Ten dollars from the additional fee shall be deposited in the state wildlife account and used for the management of resources associated with the nonconsumptive use of wildlife. Two dollars from the additional fee shall be deposited into the wildlife rehabilitation account created under RCW 77.12.471. [2007 c 246 § 2; 1991 sp.s. c 7 § 13.]

Application—2007 c 246 § 2: "Section 2 of this act is effective for registrations due or to become due on or after January 1, 2008." [2007 c 246 § 6.]

Finding—2007 c 246: See note following RCW 77.12.467.

Additional notes found at www.leg.wa.gov

46.16.615 Commercial motor vehicle registration. (*Effective until July 1, 2011.*) (1) The department shall refuse to register a commercial motor vehicle that is owned by a motor carrier subject to RCW 46.32.080, 46.87.294, and 46.87.296 upon notification to the department by the Washington state patrol or the federal motor carrier safety administration that an out-of-service order has been placed on the department of transportation number issued to the motor carrier.

(2) The department shall revoke the vehicle registration of all commercial motor vehicles that are owned by a motor carrier subject to RCW 46.32.080, upon notification to the department by the Washington state patrol or the federal motor carrier safety administration that an out-of-service order has been placed on the department of transportation number issued to the motor carrier. The revocation must remain in effect until the department has been notified by the Washington state patrol that the out-of-service order has been rescinded.

(3) Except as provided in subsections (4) and (5) of this section, by June 30, 2009, any original or renewal application for registration of a commercial motor vehicle that is owned by a motor carrier subject to RCW 46.32.080 that is submitted to the department must be accompanied by:

(a) The department of transportation number issued to the motor carrier; and

(b) The federal taxpayer identification number of the motor carrier.

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(4) By June 30, 2010, the requirements of subsection (3) of this section apply to any original or renewal application that is submitted to the department for registration of a commercial motor vehicle that is to be operated by an entity with authority under chapter 81.66, 81.68, 81.70, or 81.77 RCW, or by a household goods carrier with authority under chapter 81.80 RCW.

(5) By June 30, 2012, the requirements of subsection (3) of this section apply to any original or renewal application that is submitted to the department for registration of a commercial motor vehicle that is owned by a motor carrier subject to RCW 46.32.080, and that has a gross vehicle weight rating of 7,258 kilograms (16,001 pounds) or more. [2009 c 46 § 5; 2007 c 419 § 5.]

Findings—Short title—2007 c 419: See notes following RCW 46.16.004.

46.16.630 Moped registration. (*Effective until July 1, 2011.*) Application for registration of a moped shall be made to the department of licensing in such manner and upon such forms as the department shall prescribe, and shall state the name and address of each owner of the moped to be registered, the vehicle identification number, and such other information as the department may require, and shall be accompanied by a registration fee of thirty dollars. Upon receipt of the application and the application fee, the moped shall be registered and a registration number assigned, which shall be affixed to the moped in the manner as provided by rules adopted by the department. The registration provided in this section shall be valid for a period of twelve months.

Every owner of a moped in this state shall renew the registration, in such manner as the department shall prescribe, for an additional period of twelve months, upon payment of a renewal fee of thirty dollars.

Any person acquiring a moped already validly registered must, within fifteen days of the acquisition or purchase of the moped, make application to the department for transfer of the registration, and the application shall be accompanied by a transfer fee of five dollars.

The registration fees provided in this section shall be in lieu of any personal property tax or the vehicle excise tax imposed by chapter 82.44 RCW.

The department shall, at the time the registration number is assigned, make available a decal or other identifying device to be displayed on the moped. A fee of one dollar and fifty cents shall be charged for the decal or other identifying device.

The provisions of RCW 46.01.130 and 46.01.140 shall apply to applications for the issuance of registration numbers or renewals or transfers thereof for mopeds as they do to the issuance of vehicle licenses, the appointment of agents, and the collection of application fees. Except for the fee collected pursuant to RCW 46.01.140, all fees collected under this section shall be deposited in the motor vehicle fund. [2002 c 352 § 9; 1997 c 241 § 11; 1979 ex.s. c 213 § 5.]

Effective dates—2002 c 352: See note following RCW 46.09.070.

Drivers' license, motorcycle endorsement, moped exemption: RCW 46.20.500.

Operation and safety standards for mopeds: RCW 46.61.710, 46.61.720.

46.16.640 Wheelchair conveyances. (*Effective until July 1, 2011.*) Wheelchair conveyances that are incapable of complying with RCW 46.37.340 shall be licensed in the manner provided for mopeds in RCW 46.16.630. [1983 c 200 § 2.]

Wheelchair conveyances

definition: RCW 46.04.710.

operator's license: RCW 46.20.109.

public roadways, operating on: RCW 46.61.730.

safety standards: RCW 46.37.610.

Additional notes found at www.leg.wa.gov

46.16.670 Boat trailers—Fee for freshwater aquatic weeds account. (*Effective until July 1, 2011.*) In addition to any other fee required under this chapter, boat trailers shall annually pay a fee of three dollars. The proceeds of this fee shall be deposited in the freshwater aquatic weeds account under RCW 43.21A.650. [1991 c 302 § 3.]

Findings—1991 c 302: See note following RCW 43.21A.650.

Additional notes found at www.leg.wa.gov

46.16.680 Kit vehicles. (*Effective until July 1, 2011.*) All kit vehicles are licensed as original transactions when first titled in Washington, and the following provisions apply:

(1) The department of licensing shall charge original licensing fees and issue new plates appropriate to the use class.

(2) An inspection by the Washington state patrol is required to determine the correct identification number, and year or make if needed.

(3) The use class is the actual use of the vehicle, i.e. passenger car or truck.

(4) The make shall be listed as "KITV," and the series and body designation must describe a discrete vehicle model.

(5) Upon payment of original licensing fees the department may license a kit vehicle under RCW 46.16.305(1) as a street rod if the vehicle is manufactured to have the same appearance as a similar vehicle manufactured before 1949.

(6) For a manufactured new vehicle kit and a manufactured body kit, the model year of the vehicle is the year reflected on the manufacturer's certificate of origin for that vehicle. If this is not available, the Washington state patrol shall assign a model year at the time of inspection.

(7) The vehicle identification number (VIN) of a new vehicle kit and body kit is the vehicle identification number as reflected on the manufacturer's certificate of origin. If the VIN is not available, the Washington state patrol shall assign a VIN at the time of inspection.

(8) The department may not deny a vehicle registration, or vehicle license plates, to an applicant who completes the requisite application, is a Washington resident as defined in RCW 46.16.028, complies with this section, and pays the requisite vehicle licensing fees and taxes. [2009 c 284 § 2; 1996 c 225 § 10.]

Finding—1996 c 225: See note following RCW 46.04.125.

46.16.685 License plate technology account. (*Effective until July 1, 2011.*) The license plate technology account is created in the state treasury. All receipts collected under RCW 46.01.140(4)(e)(ii) must be deposited into this account.

Expenditures from this account must support current and future license plate technology and systems integration upgrades for both the department and correctional industries. Moneys in the account may be spent only after appropriation. Additionally, the moneys in this account may be used to reimburse the motor vehicle account for any appropriation made to implement the digital license plate system. During the 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the license plate technology account to the highway safety account such amounts as reflect the excess fund balance of the license plate technology account. [2009 c 470 § 704; 2007 c 518 § 704; 2003 c 370 § 4.]

Effective date—2009 c 470: See note following RCW 46.68.170.

Severability—Effective date—2007 c 518: See notes following RCW 46.68.170.

46.16.690 License plate design services—Fee. (*Effective until July 1, 2011.*) The department shall offer license plate design services to organizations that are sponsoring a new special license plate series or are seeking to redesign the appearance of an existing special license plate series that they sponsored. In providing this service, the department must work with the requesting organization in determining the specific qualities of the new plate design and must provide full design services to the organization. The department shall collect from the requesting organization a fee of two hundred dollars for providing license plate design services. This fee includes one original license plate design and up to five additional renditions of the original design. If the organization requests the department to provide further renditions, in addition to the five renditions provided for under the original fee, the department shall collect an additional fee of one hundred dollars per rendition. All revenue collected under this section must be deposited into the multimodal transportation account. [2005 c 210 § 6; 2003 c 361 § 502.]

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

46.16.700 Special license plates—Intent. (*Effective until July 1, 2011.*) The legislature has seen an increase in the demand from constituent groups seeking recognition and funding through the establishment of commemorative or special license plates. The high cost of implementing a new special license plate series coupled with the uncertainty of the state's ability to recoup its costs, has led the legislature to delay the implementation of new special license plates. In order to address these issues, it is the intent of the legislature to create a mechanism that will allow for the evaluation of special license plate requests and establish a funding policy that will alleviate the financial burden currently placed on the state. Using these two strategies, the legislature will be better equipped to efficiently process special license plate legislation. [2003 c 196 § 1.]

Part headings not law—2003 c 196: "Part headings used in this act are not part of the law." [2003 c 196 § 601.]

46.16.705 Special license plate review board—Created.

Reviser's note: RCW 46.16.705 was amended by 2010 c 161 § 602 without reference to its repeal by 2010 1st sp.s. c 7 § 90. It has been decodified for publication purposes under RCW 1.12.025.

46.16.715 Special license plates—Processing—Financial reports (as amended by 2010 1st sp.s. c 7). (Effective until July 1, 2011.) ~~((+))~~ The board shall meet periodically at the call of the chair, but must meet at least one time each year within ninety days before an upcoming regular session of the legislature. The board may adopt its own rules and may establish its own procedures. It shall act collectively in harmony with recorded resolutions or motions adopted by a majority vote of the members, and it must have a quorum present to take a vote on a special license plate application.

(2) ~~The board will be compensated from the general appropriation for the department of licensing in accordance with RCW 43.03.250. Each board member will be compensated in accordance with RCW 43.03.250 and reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the board or that are incurred in the discharge of duties requested by the chair. However, in no event may a board member be compensated in any year for more than one hundred twenty days, except the chair may be compensated for not more than one hundred fifty days. Service on the board does not qualify as a service credit for the purposes of a public retirement system.~~

(3) ~~The board shall keep proper records and is subject to audit by the state auditor or other auditing entities.~~

(4) ~~The department of licensing shall (provide administrative support to the board, which must include at least the following):~~

~~((a)) Provide general staffing to meet the administrative needs of the board;~~

~~(b) Report to the board on the reimbursement status of any new special license plate series for which the state had to pay the start-up costs;~~

~~((e)) (1) Process special license plate applications and confirm that the sponsoring organization has submitted all required documentation. If an incomplete application is received, the department must return it to the sponsoring organization; and~~

~~((d)) (2) Compile the annual financial reports submitted by sponsoring organizations with active special license plate series (and present those reports to the board for review and approval). [2010 1st sp.s. c 7 § 93; 2005 c 319 § 118; 2003 c 196 § 102.]~~

Reviser's note: RCW 46.16.715 was amended twice during the 2010 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Part headings not law—2003 c 196: See note following RCW 46.16.700.

46.16.725 Department—Powers and duties with regard to special license plates—Moratorium on issuance (as amended by 2010 1st sp.s. c 7). (Effective until July 1, 2011.) (1) ~~(The creation of the board does not in any way preclude the authority of the legislature to independently propose and enact special license plate legislation.~~

~~(2)) The (board) department must review and either approve or reject special license plate applications submitted by sponsoring organizations.~~

~~((3)) (2) Duties of the (board) department include but are not limited to the following:~~

~~(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the senate and house transportation committees;~~

~~(b) Report annually to the senate and house transportation committees on the special license plate applications that were considered by the (board) department;~~

~~(c) Issue approval and rejection notification letters to sponsoring organizations, ((the department)) the chairs of the senate and house of representatives transportation committees, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application;~~

~~(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The ((board)) department may~~

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submit a recommendation to discontinue a special plate series to the chairs of the senate and house of representatives transportation committees(;

~~((e)) Provide policy guidance and directions to the department concerning the adoption of rules necessary to limit the number of special license plates that an organization or a governmental entity may apply for).~~

~~((4)) (3) Except as provided in chapter 72, Laws of 2008, in order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until July 1, 2011. During this period of time, ((the special license plate review board created in RCW 46.16.705 and)) the department of licensing ((are)) is prohibited from accepting, reviewing, processing, or approving any applications. Additionally, no special license plate may be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the board before February 15, 2005. [2010 1st sp.s. c 7 § 94; 2009 c 470 § 710; 2008 c 72 § 2; 2007 c 518 § 711. Prior: 2005 c 319 § 119; 2005 c 210 § 7; 2003 c 196 § 103.]~~

Reviser's note: RCW 46.16.725 was amended twice during the 2010 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective date—2009 c 470: See note following RCW 46.68.170.

Severability—Effective date—2007 c 518: See notes following RCW 46.68.170.

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Part headings not law—2003 c 196: See note following RCW 46.16.700.

46.16.735 Special license plates—Sponsoring organization requirements. (Effective until July 1, 2011.) (1) For an organization to qualify for a special license plate under the special license plate approval program created in RCW 46.16.705 through 46.16.765, the sponsoring organization must submit documentation in conjunction with the application to the department that verifies:

(a) That the organization is a nonprofit organization, as defined in 26 U.S.C. Sec. 501(c)(3). The department may request a copy of an Internal Revenue Service ruling to verify an organization's nonprofit status; and

(b) That the organization is located in Washington and has registered as a charitable organization with the secretary of state's office as required by law.

(2) For a governmental body to qualify for a special license plate under the special license plate approval program created in RCW 46.16.705 through 46.16.765, a governmental body must be:

(a) A political subdivision, including but not limited to any county, city, town, municipal corporation, or special purpose taxing district that has the express permission of the political subdivision's executive body to sponsor a special license plate;

(b) A federally recognized tribal government that has received the approval of the executive body of that government to sponsor a special license plate;

(c) A state agency that has received approval from the director of the agency or the department head; or

(d) A community or technical college that has the express permission of the college's board of trustees to sponsor a special license plate. [2004 c 222 § 3; 2003 c 196 § 201.]

Part headings not law—2003 c 196: See note following RCW 46.16.700.

46.16.745 Special license plates—Application requirements (as amended by 2010 1st sp.s. c 7). (Effective until July 1, 2011.) (1) A sponsoring organization meeting the requirements of *RCW 46.16.735, applying for the creation of a special license plate (~~(to the special license plate review board)~~) must, on an application supplied by the department, provide the minimum application requirements in subsection (2) of this section.

(2) The sponsoring organization shall:

(a) Submit prepayment of all start-up costs associated with the creation and implementation of the special license plate in an amount determined by the department. The department shall place this money into the special license plate applicant trust account created under **RCW 46.16.755(~~(4)~~) (3);

(b) Provide a proposed license plate design;

(c) Provide a marketing strategy outlining short and long-term marketing plans for each special license plate and a financial analysis outlining the anticipated revenue and the planned expenditures of the revenues derived from the sale of the special license plate;

(d) Provide a signature of a legislative sponsor and proposed legislation creating the special license plate;

(e) Provide proof of organizational qualifications as determined by the department as provided for in *RCW 46.16.735;

(f) Provide signature sheets that include signatures from individuals who intend to purchase the special license plate and the number of plates each individual intends to purchase. The sheets must reflect a minimum of three thousand five hundred intended purchases of the special license plate.

(3) After an application is approved by the (~~special license plate review board~~) department, the application need not be reviewed again (~~by the board~~) for a period of three years. [2010 1st sp.s. c 7 § 95; 2005 c 210 § 8; 2003 c 196 § 301.]

Reviser's note: *(1) RCW 46.16.735 was recodified as RCW 46.18.100 pursuant to 2010 c 161 § 1227, effective July 1, 2011.

***(2) RCW 46.16.755 was amended by 2010 c 161 § 607, changing subsection (3) to subsection (4) and recodified as RCW 46.18.130 pursuant to 2010 c 161 § 1227, effective July 1, 2011.

(3) RCW 46.16.745 was amended twice during the 2010 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Part headings not law—2003 c 196: See note following RCW 46.16.700.

46.16.755 Special license plates—Disposition of revenues. (Effective until July 1, 2011.) (1)(a) Revenues generated from the sale of special license plates for those sponsoring organizations who used the application process in *RCW 46.16.745 must be deposited into the motor vehicle account until the department determines that the state's implementation costs have been fully reimbursed. The department shall apply the application fee required under *RCW 46.16.745 towards those costs.

(b) When it is determined that the state has been fully reimbursed the department must notify the house of representatives and senate transportation committees, the sponsoring organization, and the treasurer, and commence the distribution of the revenue as otherwise provided by law.

(2) If reimbursement does not occur within two years from the date the plate is first offered for sale to the public, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the plate series must be discontinued immediately. Special plates issued before discontinuation are valid until replaced under **RCW 46.16.233.

(3) The special license plate applicant trust account is created in the custody of the state treasurer. All receipts from special license plate applicants, except the application fee as

provided in *RCW 46.16.745, must be deposited into the account. Only the director of the department or the director's designee may authorize disbursements from the account. The account is not subject to the allotment procedures under chapter 43.88 RCW, nor is an appropriation required for disbursements.

(4) The department shall provide the special license plate applicant with a written receipt for the payment.

(5) The department shall maintain a record of each special license plate applicant trust account deposit, including, but not limited to, the name and address of each special license plate applicant whose funds are being deposited, the amount paid, and the date of the deposit.

(6) After the department receives written notice that the special license plate applicant's application has been:

(a) Approved by the legislature, the director shall request that the money be transferred to the motor vehicle account;

(b) Denied by the department or the legislature, the director shall provide a refund to the applicant within thirty days; or

(c) Withdrawn by the special license plate applicant, the director shall provide a refund to the applicant within thirty days. [2010 1st sp.s. c 7 § 96; 2004 c 222 § 4; 2003 c 196 § 302.]

Reviser's note: *(1) RCW 46.16.745 was recodified as RCW 46.18.110 pursuant to 2010 c 161 § 1227, effective July 1, 2011.

***(2) RCW 46.16.233 was repealed by 2010 c 161 § 438, effective July 1, 2011.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Part headings not law—2003 c 196: See note following RCW 46.16.700.

46.16.765 Special license plates—Continuing requirements. (Effective until July 1, 2011.) (1) Within thirty days of legislative enactment of a new special license plate series for a qualifying organization meeting the requirements of RCW 46.16.735(1), the department shall enter into a written agreement with the organization that sponsored the special license plate. The agreement must identify the services to be performed by the sponsoring organization. The agreement must be consistent with all applicable state law and include the following provision:

"No portion of any funds disbursed under the agreement may be used, directly or indirectly, for any of the following purposes:

(a) Attempting to influence: (i) The passage or defeat of legislation by the legislature of the state of Washington, by a county, city, town, or other political subdivision of the state of Washington, or by the Congress; or (ii) the adoption or rejection of a rule, standard, rate, or other legislative enactment of a state agency;

(b) Making contributions reportable under chapter 42.17 RCW; or

(c) Providing a: (i) Gift; (ii) honoraria; or (iii) travel, lodging, meals, or entertainment to a public officer or employee."

(2) The sponsoring organization must submit an annual financial report by September 30th of each year to the department detailing actual revenues and expenditures of the reve-

nues received from sales of the special license plate. Consistent with the agreement under subsection (1) of this section, the sponsoring organization must expend the revenues generated from the sale of the special license plate series for the benefit of the public, and it must be spent within this state. Disbursement of the revenue generated from the sale of the special license plate to the sponsoring organization is contingent upon the organization meeting all reporting and review requirements as required by the department.

(3) If the sponsoring organization ceases to exist or the purpose of the special license plate series ceases to exist, revenues generated from the sale of the special license plates must be deposited into the motor vehicle account.

(4) A sponsoring organization may not seek to redesign its plate series until all of the inventory is sold or purchased by the organization itself. All cost for redesign of a plate series must be paid by the sponsoring organization. [2003 c 196 § 303.]

Part headings not law—2003 c 196: See note following RCW 46.16.700.

46.16.775 Special license plates—Nonreviewed plates. (*Effective until July 1, 2011.*) (1) A special license plate series created by the legislature after January 1, 2011, that has not been reviewed and approved by the department is subject to the following requirements:

(a) The organization sponsoring the license plate series shall, within thirty days of enactment of the legislation creating the plate series, submit prepayment of all start-up costs associated with the creation and implementation of the special license plate in an amount determined by the department. The prepayment will be credited to the motor vehicle fund. The creation and implementation of the plate series may not commence until payment is received by the department.

(b) If the sponsoring organization is not able to meet the prepayment requirements in (a) of this subsection and can demonstrate this fact to the satisfaction of the department, the revenues generated from the sale of the special license plates must be deposited in the motor vehicle account until the department determines that the state's portion of the implementation costs have been fully reimbursed. When it is determined that the state has been fully reimbursed the department must notify the treasurer to commence distribution of the revenue according to statutory provisions.

(c) The sponsoring organization must provide a proposed license plate design to the department within thirty days of enactment of the legislation creating the plate series.

(2) The state must be reimbursed for its portion of the implementation costs within two years from the date the new plate series goes on sale to the public. If the reimbursement does not occur within the two-year time frame, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the plate series must be discontinued immediately. Those plates issued before discontinuation are valid until replaced under *RCW 46.16.233.

(3) If the sponsoring organization ceases to exist or the purpose of the special plate series ceases to exist, revenues generated from the sale of the special license plates must be deposited into the motor vehicle account.

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(4) A sponsoring organization may not seek to redesign their plate series until all of the existing inventory is sold or purchased by the organization itself. All cost for redesign of a plate series must be paid by the sponsoring organization. [2010 1st sp.s. c 7 § 97; 2003 c 196 § 304.]

***Reviser's note:** RCW 46.16.233 was repealed by 2010 c 161 § 438, effective July 1, 2011.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Part headings not law—2003 c 196: See note following RCW 46.16.700.

46.16.900 Severability—1973 1st ex.s. c 132. If any provision of this 1973 amendatory act is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the amendatory act and the applicability thereof to persons and circumstances shall not be affected thereby. [1973 1st ex.s. c 132 § 24.]

Chapter 46.16A RCW REGISTRATION

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GENERAL PROVISIONS

46.16A.010 Definitions. (*Effective July 1, 2011.*) For the purposes of this chapter unless the context clearly requires otherwise:

(1) "Commercial motor vehicle," for the purposes of requiring a department of transportation number, means the same as defined in RCW 46.25.010(6), or a motor vehicle used in commerce when the motor vehicle: (a) Has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit of a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds or more); (b) has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more); or (c) is used in the transportation of hazardous materials, as defined in RCW 46.25.010(13);

(2) "Department of transportation number" means a department of transportation number from the federal motor carrier safety administration;

(3) "Interstate commercial motor vehicle" means a commercial vehicle that operates in more than one state;

(4) "Intrastate commercial motor vehicle" means a commercial vehicle that operates exclusively within the state of Washington;

(5) "Motor carrier" means a person or entity who has been issued a department of transportation number and who owns a commercial motor vehicle;

(6) "Registration year" means the effective period of a vehicle registration issued by the department. A registration year begins at 12:01 a.m. on the date of the calendar year designated by the department and ends at 12:00 a.m. the same day the following year unless otherwise specified;

(7) "Renewal notice" means the notice to renew a vehicle registration sent to the registered owner by the department. [2010 c 161 § 401; 2007 c 419 § 3. Formerly RCW 46.16.004.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Findings—2007 c 419: "The legislature finds and declares that it is the policy of the state of Washington to prevent the loss of human lives and the loss of property and vehicles, and to protect the traveling environment of the

state of Washington through sound and consistent regulatory provisions for interstate and intrastate motor carriers.

The legislature further finds and declares that it is a policy of the state of Washington to require commercial motor vehicles operating on state roadways to comply with rigorous federal and state safety regulations. The legislature also finds that intrastate and interstate commercial motor vehicles should comply with consistent state and federal commercial vehicle regulations." [2007 c 419 § 1.]

Short title—2007 c 419: "This act may be known and cited as the Tony Qamar and Daniel Johnson act." [2007 c 419 § 2.]

46.16A.020 Registration year assigned—Registration month—Registration period. (*Effective July 1, 2011.*)

(1) The department, county auditor or other agent, or subagent appointed by the director shall assign a new registration year to a vehicle if:

(a) The Washington state vehicle registration has expired and registered ownership to the vehicle is being transferred. The renewed license is valid for a full twelve-month period unless a specific expiration date is required by law, rule, or program; or

(b) The Washington vehicle registration has expired and the registered owner:

- (i) Is a member of the United States armed forces;
- (ii) Was stationed outside of Washington under military orders during the prior vehicle registration year; and
- (iii) Provides the department a copy of the military orders.

(2) Each registration year may be divided into twelve registration months. Each registration month begins at 12:01 a.m. on a day of the month assigned by the department and ends at 12:00 a.m. on the same day the following month.

(3) A registration period extends through the end of the next business day when the final day of a registration year or month falls on a Saturday, Sunday, or legal holiday. [2010 c 161 § 402; 2009 c 159 § 1; 1992 c 222 § 1; 1983 c 27 § 1; 1981 c 214 § 1; 1975 1st ex.s. c 118 § 1. Formerly RCW 46.16.006.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.16A.025 Adjustment of vehicle registration periods to stagger renewal periods. (*Effective July 1, 2011.*)

The department may by rule extend or reduce vehicle registration periods for the purpose of staggering renewal periods. The rules may exclude any classes or classifications of vehicles from the staggered renewal system and may provide for the gradual introduction of classes or classifications of vehicles into the system. The rules shall provide for the collection of proportionately increased or decreased vehicle license fees and of excise or property taxes required to be paid at the time of registration.

It is the intent of the legislature that there shall be neither a significant net gain nor loss of revenue to the state general fund or the motor vehicle fund as the result of implementing and maintaining a staggered vehicle registration system. [2010 c 161 § 431; 1986 c 18 § 15; 1979 c 158 § 140; 1975 1st ex.s. c 118 § 2. Formerly RCW 46.16.225.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.16A.030 Registration and display of plates required—Penalties—Expired registration, impoundment (as amended by 2010 c 161). (Effective July 1, 2011.) (1) Vehicles must be registered as required by this chapter and must display license plates or decals assigned by the department.

(2) It is unlawful for a person to operate any vehicle (over and along) on a public highway of this state without (first having obtained and) having in full force and effect a current and proper vehicle (license) registration and (display vehicle) displaying license (number) plates (therefor as by this chapter provided) on the vehicle.

(~~(2)~~) (3) Vehicle license plates or registration certificates, whether original issues or duplicates, may not be issued or furnished by the department until the applicant makes satisfactory application for a certificate of title or presents satisfactory evidence that a certificate of title covering the vehicle has been previously issued.

(4) Failure to make initial registration before (operation) operating a vehicle on the public highways of this state is a traffic infraction (and any). A person committing this infraction shall pay a penalty of five hundred twenty-nine dollars, (no part of) which may not be suspended (or), deferred, or reduced.

(~~(3)~~) (5) Failure to renew an expired registration before (operation) operating a vehicle on the public highways of this state is a traffic infraction.

(~~(4)~~) The licensing of) (6) It is a gross misdemeanor for a resident, as identified in RCW 46.16A.140, to register a vehicle in another state (by a resident of this state, as defined in RCW 46.16.028), evading the payment of any tax or vehicle license fee imposed in connection with registration (s). It is (a gross misdemeanor) punishable as follows:

(a) For a first offense, up to one year in the county jail and payment of a fine of five hundred twenty-nine dollars plus twice the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(b) For a second or subsequent offense, up to one year in the county jail and payment of a fine of five hundred twenty-nine dollars plus four times the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(c) For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed will be deposited in the vehicle licensing fraud account created in the state treasury;

(d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion.

(~~(5)~~) These provisions shall not apply to the following vehicles:

(a) Motorized foot scooters;

(b) Electric-assisted bicycles;

(c) Off-road vehicles operating on nonhighway roads under RCW 46.09.115;

(d) Farm vehicles if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law;

(e) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(f) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve: PROVIDED FURTHER, That these provisions shall not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;

(g) "Trams" used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have an average daily traffic of not more than 15,000 vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another;

(h) "Special highway construction equipment" defined as follows: Any vehicle which is designed and used primarily for grading of highways, pav-

ing of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (i) are in excess of the legal width, or (ii) which, because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (iii) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(6) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

(c) An off-road vehicle operated on a street, road, or highway as authorized under RCW 46.09.180.

(7)(a) A motor vehicle subject to initial or renewal registration under this section shall not be registered to a natural person unless the person at time of application:

(i) Presents an unexpired Washington state driver's license; or

(ii) Certifies that he or she is:

(A) A Washington resident who does not operate a motor vehicle on public roads; or

(B) Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

(b) For shared or joint ownership, the department will set up procedures to verify that all owners meet the requirements of this subsection.

(c) A person falsifying residency is guilty of a gross misdemeanor punishable only by a fine of five hundred twenty-nine dollars.

(d) The department may adopt rules necessary to implement this subsection, including rules under which a natural person applying for registration may be exempt from the requirements of this subsection where the person provides evidence satisfactory to the department that he or she has a valid and compelling reason for not being able to meet the requirements of this subsection.

(8)(b) (7) A vehicle with an expired registration of more than forty-five days parked on a public street may be impounded by a police officer under RCW 46.55.113(2). [2010 c 161 § 403; 2007 c 242 § 2; 2006 c 212 § 1. Prior: 2005 c 350 § 1; 2005 c 323 § 2; 2005 c 213 § 6; prior: 2003 c 353 § 8; 2003 c 53 § 238; 2000 c 229 § 1; 1999 c 277 § 4; prior: 1997 c 328 § 2; 1997 c 241 § 13; 1996 c 184 § 1; 1993 c 238 § 1; 1991 c 163 § 1; 1989 c 192 § 2; 1986 c 186 § 1; 1977 ex.s. c 148 § 1; 1973 1st ex.s. c 17 § 2; 1972 ex.s. c 5 § 2; 1969 c 27 § 3; 1967 c 202 § 2; 1963 ex.s. c 3 § 51; 1961 ex.s. c 21 § 32; 1961 c 12 § 46.16.010; prior: 1955 c 265 § 1; 1947 c 33 § 1; 1937 c 188 § 15; Rem. Supp. 1947 § 6312-15; 1929 c 99 § 5; RRS § 6324. Formerly RCW 46.16.010.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Reviser's note: RCW 46.16.010 was amended three times during the 2010 legislative session, each without reference to the other. For rule of con-

struction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2005 c 350: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 9, 2005]." [2005 c 350 § 2.]

Declaration and intent—2005 c 323: "When a person establishes residency in this state, unless otherwise exempt by statute, the person must register any vehicles to be operated on public highways, and pay all required licensing fees and taxes. Washington residents must renew vehicle registrations annually as well. The intent of this act is to increase the monetary penalties associated with failure to properly register vehicles in the state of Washington." [2005 c 323 § 1.]

Effective date—2005 c 323: "This act takes effect August 1, 2005." [2005 c 323 § 4.]

Application—2005 c 323: "This act applies to registrations due or to become due on or after January 1, 2006." [2005 c 323 § 5.]

Findings—Construction—Effective date—2005 c 213: See notes following RCW 46.09.300.

Effective date—2003 c 353: See note following RCW 46.04.320.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective date—2000 c 229: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 30, 2000]." [2000 c 229 § 9.]

Legislative intent—1989 c 192: "The legislature recognizes that there are residents of this state who intentionally register motor vehicles in other states to evade payment of taxes and fees required by the laws of this state. This results in a substantial loss of revenue to the state. It is the intent of the legislature to impose a stronger criminal penalty upon those residents who defraud the state, thereby enhancing compliance with the registration laws of this state and further enhancing enforcement and collection efforts.

In order to encourage voluntary compliance with the registration laws of this state, administrative penalties associated with failing to register a motor vehicle are waived until September 1, 1989. It is not the intent of the legislature to waive traffic infraction or criminal traffic violations imposed prior to July 23, 1989." [1989 c 192 § 1.]

Additional notes found at www.leg.wa.gov

46.16A.040 Original registration—Application—Form and contents. (Effective July 1, 2011.) (1) An owner or the owner's authorized representative must apply for an original vehicle registration to the department, county auditor or other agent, or subagent appointed by the director on a form furnished by the department. The application must contain:

(a) A description of the vehicle, including its make, model, vehicle identification number, type of body, and power to be used;

(b) The name and address of the person who is the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party;

(c) The purpose for which the vehicle is to be used;

(d) The licensed gross weight for the vehicle, which is:

(i) The adult seating capacity, including the operator, as provided for in RCW 46.16A.455(1) if the vehicle will be operated as a for hire vehicle or auto stage and has a seating capacity of more than six; or

(ii) The gross weight declared by the applicant as required in RCW 46.16A.455(2) if the vehicle will be operated as a motor truck, tractor, or truck tractor;

(e) The empty scale weight of the vehicle; and

(f) Other information that the department may require.

(2) The registered owner or the registered owner's authorized representative shall sign the application for an original vehicle registration and certify that the statements on the application are true to the best of the applicant's knowledge.

(3) The application for an original vehicle registration must be accompanied by a draft, money order, certified bank check, or cash for all fees and taxes due for the application for an original vehicle registration. [2010 c 161 § 413; 1987 c 244 § 2; 1975 c 25 § 15; 1969 ex.s. c 170 § 2. Prior: 1967 ex.s. c 83 § 59; 1967 c 32 § 16; 1961 c 12 § 46.16.040; prior: 1947 c 164 § 8; 1937 c 188 § 29; Rem. Supp. 1947 § 6312-29; 1921 c 96 § 5; 1919 c 178 § 1; 1919 c 59 § 4; 1915 c 142 § 5; RRS § 6316. Formerly RCW 46.16.040.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.16A.050 Registration—Requirements before issuance—Penalty—Rules. (Effective July 1, 2011.) (1) The department, county auditor or other agent, or subagent appointed by the director shall not issue an initial or renewal registration certificate for a motor vehicle to a natural person under this chapter unless the natural person at time of application:

(a) Presents an unexpired Washington state driver's license; or

(b) Certifies that he or she is:

(i) A Washington state resident who does not operate a motor vehicle on public roads; or

(ii) Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

(2) The department must set up procedures to verify that all owners meet the requirements of this section.

(3) A person falsifying residency is guilty of a gross misdemeanor punishable only by a fine of five hundred twenty-nine dollars.

(4) The department may adopt rules necessary to implement this section, including rules under which a natural person applying for registration may be exempt from the requirements of this section if the person provides evidence satisfactory to the department that he or she has a valid and compelling reason for not being able to meet the requirements of this section. [2010 c 161 § 405.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.060 Registration—Emission control inspections required—Exemptions—Educational information—Rules. (Effective July 1, 2011.) (1) The department, county auditor or other agent, or subagent appointed by the director may not issue or renew a motor vehicle registration or change the registered owner of a registered vehicle for any motor vehicle required to be inspected under chapter 70.120 RCW, unless the application for issuance or renewal is: (a) Accompanied by a valid certificate of compliance or a valid certificate of acceptance issued as required under chapter 70.120 RCW; or (b) exempt, as described in subsection (2) of this section. The certificates must have a date of validation

that is within twelve months of the assigned registration renewal date. Certificates for fleet or owner tested diesel vehicles may have a date of validation that is within twelve months of the assigned registration renewal date.

(2) The following motor vehicles are exempt from emission test requirements:

(a) Motor vehicles that are less than five years old or more than twenty-five years old;

(b) Motor vehicles that are a 2009 model year or newer;

(c) Motor vehicles powered exclusively by electricity, propane, compressed natural gas, or liquid petroleum gas;

(d) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles as defined in RCW 46.04.332;

(e) Farm vehicles as defined in RCW 46.04.181;

(f) Used vehicles that are offered for sale by a motor vehicle dealer licensed under chapter 46.70 RCW;

(g) Classes of motor vehicles exempted by the director of the department of ecology; and

(h) Hybrid motor vehicles that obtain a rating by the environmental protection agency of at least fifty miles per gallon of gas during city driving. For purposes of this section, a hybrid motor vehicle is one that uses propulsion units powered by both electricity and gas.

(3) The department of ecology shall provide information to motor vehicle owners:

(a) Regarding the boundaries of emission contributing areas and restrictions established under this section that apply to vehicles registered in such areas; and

(b) On the relationship between motor vehicles and air pollution and steps motor vehicle owners should take to reduce motor vehicle related air pollution.

(4) The department of licensing shall:

(a) Notify all registered motor vehicle owners affected by the emission testing program that they must have an emission test to renew their registration;

(b) Adopt rules implementing and enforcing this section, except for subsection (2)(e) of this section, as specified in chapter 34.05 RCW.

(5) A motor vehicle may not be registered, leased, rented, or sold for use in the state, starting with the model year as provided in RCW 70.120A.010, unless the vehicle:

(a) Has seven thousand five hundred miles or more; or

(b)(i) Is consistent with the vehicle emission standards and carbon dioxide equivalent emission standards adopted by the department of ecology; and

(ii) Has a California certification label for all emission standards, and carbon dioxide equivalent emission standards necessary to meet fleet average requirements.

(6) The department of licensing, in consultation with the department of ecology, may adopt rules necessary to implement this section and may provide for reasonable exemptions to these requirements. The department of ecology may exempt public safety vehicles from meeting the standards where the department finds that vehicles necessary to meet the needs of public safety agencies are not otherwise reasonably available. [2010 c 161 § 406; 2002 c 24 § 1; 1998 c 342 § 6; 1991 c 199 § 209; 1990 c 42 § 318; 1989 c 240 § 1; 1985 c 7 § 111. Prior: 1983 c 238 § 1; 1983 c 237 § 3; 1980 c 176 § 1; 1979 ex.s. c 163 § 11. Formerly RCW 46.16.015.]

(2010 Ed.)

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Finding—1991 c 199: See note following RCW 70.94.011.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Legislative finding—1983 c 237: See note following RCW 46.37.467.

Additional notes found at www.leg.wa.gov

46.16A.070 Registration—Cancellation, refusal, etc.—Appeals. (Effective July 1, 2011.) (1) The department may refuse to issue or may cancel a registration at any time when the department determines that an applicant for registration is not entitled to one. Notice of cancellation may be accomplished by sending a notice by first-class mail using the last known address in department records for the registered or legal owner or owners, and completing an affidavit of first-class mail. It is unlawful for any person to remove, drive, or operate the vehicle until a proper registration certificate has been issued. A person removing, driving, or operating a vehicle after the refusal to issue or cancellation of the registration is guilty of a gross misdemeanor.

(2) The suspension, revocation, cancellation, or refusal by the director of a registration certificate provided under this chapter is conclusive unless the person whose registration or certificate is suspended, revoked, canceled, or refused appeals to the superior court of Thurston county or the person's county of residence.

(a) Notice of appeal must be filed within ten days after receipt of the notice of suspension, revocation, cancellation, or refusal. Upon the filing of the notice of appeal, the court shall issue an order to the director to show cause why the registration should not be granted or reinstated and return the order not less than ten days after the date of service to the director. Service must be in the same manner as prescribed for the service of a summons and complaint in other civil actions.

(b) Upon the hearing on the order to show cause, the court shall hear evidence concerning matters with reference to the suspension, revocation, cancellation, or refusal of the registration and shall enter judgment either affirming or setting aside the suspension, revocation, cancellation, or refusal. [2010 c 161 § 414.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.080 Registration—Exemptions. (Effective July 1, 2011.) The following vehicles are not required to be registered under this chapter:

(1) Converter gears used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle;

(2) Electric-assisted bicycles;

(3)(a) Farm implements, tractors, trailers, and other farm vehicles (i) operated within a radius of fifteen miles of the farm where it is principally used or garaged, including trailers designed as cook or bunk houses, (ii) used exclusively for animal herding, and (iii) temporarily operating or drawn upon the public highways, and (b) trailers used exclusively to

transport farm implements from one farm to another during daylight hours or at night when the trailer is equipped with lights that comply with applicable law;

(4) Forklifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses they serve;

(5) Motor vehicles operated solely within a national recreation area that is not accessible by a state highway, including motorcycles, motor homes, passenger cars, and sport utility vehicles. This exemption applies only after initial registration;

(6) Motorized foot scooters;

(7) Nurse rigs or equipment auxiliary for the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(8) Off-road vehicles operated on a street, road, or highway as authorized under RCW 46.09.360, or nonhighway roads under RCW 46.09.450;

(9) Special highway construction equipment;

(10) Dump trucks and tractor-dump trailer combinations that are:

(a) Designed and used primarily for construction work on highways;

(b) Not designed or used primarily for the transportation of persons or property on a public highway; and

(c) Only incidentally operated or moved over the highways;

(11) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation;

(12) Tow dollies;

(13) Trams used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have average daily traffic of not more than fifteen thousand vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another; and

(14) Vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks. [2010 c 161 § 404.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.090 Registration—Voluntary and opt-out donations. (Effective July 1, 2011.) (1) The department, county auditor or other agent, or subagent appointed by the director shall provide an opportunity for a vehicle owner to make a voluntary donation as provided in this section when applying for an initial or renewal vehicle registration.

(2)(a) A vehicle owner who registers a vehicle under this chapter may donate one dollar or more to the organ and tissue donation awareness account to promote the donation of

organs and tissues under the uniform anatomical gift act as described in chapter 68.64 RCW. The donation of one or more dollars is voluntary and may be refused by the vehicle owner.

(b) The department, county auditor or other agent, or subagent appointed by the director shall:

(i) Ask a vehicle owner applying for a vehicle registration if the owner would like to donate one dollar or more;

(ii) Inform a vehicle owner of the option for organ and tissue donations as required under RCW 46.20.113; and

(iii) Make information booklets or other informational material available regarding the importance of organ and tissue donations to vehicle owners.

(c) All reasonable costs associated with the creation of the donation program created under this section must be paid proportionally or by another agreement by a participating Washington state organ procurement organization established for organ and tissue donation awareness purposes by the Washington state organ procurement organizations. For the purposes of this section, "reasonable costs" and "Washington state organ procurement organization" have the same meaning as in RCW 68.64.010.

(3) The department shall collect from a vehicle owner who pays a vehicle license fee under RCW 46.17.350(1) (a), (d), (e), (g), (h), (j), (n), (o), or (q) or who registers a vehicle under RCW 46.16A.455 with a declared gross weight of ten thousand pounds or less a voluntary donation of five dollars. The donation may not be collected from any vehicle owner actively opting not to participate in the donation program. The department shall ensure that the opt-out donation under this section is clear, visible, and prominently displayed in both paper and online vehicle registration renewals. Notification of intent to not participate in the donation program must be provided annually at the time of vehicle registration renewal. The donation must be deposited in the state parks renewal and stewardship account established in RCW 79A.05.215 to be used for the operation and maintenance of state parks. [2010 c 161 § 420; 2009 c 512 § 1; 2007 c 340 § 1. Formerly RCW 46.16.076.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.100 Registration—Federal heavy vehicle use tax. (Effective July 1, 2011.) The department may refuse registration of a vehicle if the applicant has failed to furnish proof, acceptable to the department, that the federal heavy vehicle use tax imposed by section 4481 of the internal revenue code of 1954 has been paid.

The department may adopt rules as deemed necessary to administer this section. [1985 c 79 § 1. Formerly RCW 46.16.073.]

46.16A.110 Registration renewal—Exemptions. (Effective July 1, 2011.) (1) A registered owner or the registered owner's authorized representative must apply for a renewal vehicle registration to the department, county auditor or other agent, or subagent appointed by the director on a form approved by the director. The application for a renewal vehicle registration must be accompanied by a draft, money order, certified bank check, or cash for all fees and taxes

required by law for the application for a renewal vehicle registration.

(2) An application and the fees and taxes for a renewal vehicle registration must be handled in the same manner as an original vehicle registration application. The registration does not need to show the name of the lien holder when the application for renewal vehicle registration becomes the renewal registration upon validation.

(3) A person expecting to be out of state during the normal renewal period of a vehicle registration may renew a vehicle registration and have license plates or tabs preissued by applying for a renewal as described in subsection (1) of this section. A vehicle registration may be renewed for the subsequent registration year up to eighteen months before the current expiration date and must be displayed from the date of issue or from the day of the expiration of the current registration year, whichever date is later.

(4) An application for a renewal vehicle registration is not required for those vehicles owned, rented, or leased by:

(a) The state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington; or

(b) A governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior. [2010 c 161 § 428; 2010 c 8 § 9012; 2001 c 206 § 1; 1997 c 241 § 8; 1994 c 262 § 9; 1977 c 8 § 1. Prior: 1975 1st ex.s. c 169 § 6; 1975 1st ex.s. c 118 § 8; 1969 ex.s. c 75 § 1; 1961 c 12 § 46.16.210; prior: 1957 c 273 § 5; 1955 c 89 § 2; 1953 c 252 § 3; 1947 c 164 § 11; 1937 c 188 § 34; Rem. Supp. 1947 § 6312-34. Formerly RCW 46.16.210.]

Reviser's note: This section was amended by 2010 c 8 § 9012 and by 2010 c 161 § 428, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Rental cars: RCW 46.87.023.

Additional notes found at www.leg.wa.gov

46.16A.120 Forwarding and payment of standing, stopping, and parking violations and other infractions required before registration renewal. (Effective July 1, 2011.) (1) Each court and government agency located in this state having jurisdiction over standing, stopping, and parking violations, the use of a *photo enforcement system under RCW 46.63.160, and the use of automated traffic safety cameras under RCW 46.63.170 may forward to the department any outstanding:

(a) Standing, stopping, and parking violations;

(b) Photo enforcement infractions issued under **RCW 46.63.030(1)(d); and

(c) Automated traffic safety camera infractions issued under ***RCW 46.63.030(1)(e).

(2) Violations and infractions described in subsection (1) of this section must be reported to the department in the manner described in RCW 46.20.270(3).

(3) The department shall:

(a) Record the violations and infractions on the matching vehicle records; and

(2010 Ed.)

(b) Send notice approximately one hundred twenty days in advance of the current vehicle registration expiration date to the registered owner listing the dates and jurisdictions in which the violations occurred, the amounts of unpaid fines and penalties, and the surcharge to be collected. Only those violations and infractions received by the department one hundred twenty days or more before the current vehicle registration expiration date will be included in the notice. Violations and infractions received by the department later than one hundred twenty days before the current vehicle registration expiration date that are not satisfied will be delayed until the next vehicle registration expiration date.

(4) The department, county auditor or other agent, or subagent appointed by the director shall not renew a vehicle registration if there are any outstanding standing, stopping, and parking violations, and other infractions issued under **RCW 46.63.030(1)(d) for the vehicle unless:

(a) The outstanding, standing, [stopping,] or parking violations were received by the department within one hundred twenty days before the current vehicle registration expiration;

(b) There is a change in registered ownership; or

(c) The registered owner presents proof of payment of each violation and infraction provided in this section and the registered owner pays the surcharge required under RCW 46.17.030.

(5) The department shall:

(a) Forward a change in registered ownership information to the court or government agency who reported the outstanding violations or infractions; and

(b) Remove the outstanding violations and infractions from the vehicle record. [2010 c 161 § 430; 2004 c 231 § 4; 1990 2nd ex.s. c 1 § 401; 1984 c 224 § 1. Formerly RCW 46.16.216.]

Reviser's note: *(1) "Photo enforcement system" was renamed "photo toll system" pursuant to 2010 c 249 § 6.

** (2) RCW 46.63.030 was amended by 2010 c 249 § 5, deleting subsection (1)(d).

*** (3) RCW 46.63.030 was amended by 2010 c 249 § 5, changing subsection (1)(e) to subsection (1)(d).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.16A.130 Notice of liability insurance requirement. (Effective July 1, 2011.) The department shall notify motor vehicle owners of the liability insurance requirements described in RCW 46.30.020 through 46.30.040 at the time of issuance of an original motor vehicle registration and when the department sends a motor vehicle registration renewal notice. [2010 c 161 § 429; 1989 c 353 § 10. Formerly RCW 46.16.212.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.16A.140 "Resident" defined—Natural person residency requirements—Vehicle registration required. (Effective July 1, 2011.) (1) For the purposes of vehicle registration, a resident is a person who manifests an intent to live or be located in this state on more than a temporary or tran-

sient basis. Evidence of residency includes, but is not limited to:

- (a) Becoming a registered voter in this state;
- (b) Receiving benefits under one of the Washington public assistance programs; or
- (c) Declaring residency for the purpose of obtaining a state license or tuition fees at resident rates.

(2) A natural person may be a resident of this state even though that person has or claims residency or domicile in another state or intends to leave this state at some future time. A natural person is presumed a resident if the natural person meets at least two of the following conditions:

- (a) Maintains a residence in this state for personal use;
- (b) Has a Washington state driver's license or a Washington state resident hunting or fishing license;
- (c) Uses a Washington state address for federal income tax or state tax purposes;
- (d) Has previously maintained a residence in this state for personal use and has not established a permanent residence outside the state of Washington, such as a person who retires and lives in a motor home or vessel that is not permanently attached to any property;
- (e) Claims this state as his or her residence for obtaining eligibility to hold a public office or for judicial actions;
- (f) Is a custodial parent with a child attending public schools in this state.

(3) "Washington public assistance programs," as referred to in subsection (1)(b) of this section, includes only public assistance programs for which more than fifty percent of the combined costs of benefits and administration are paid from state funds. "Washington public assistance programs" does not include: The food stamp program under the federal food stamp act of 1964; programs under the child nutrition act of 1966, 42 U.S.C. Secs. 1771 through 1788; and temporary assistance for needy families.

(4) A resident of the state shall apply for a certificate of title under chapter 46.12 RCW and register under this chapter a vehicle to be operated on the highways of the state. New Washington residents are allowed thirty days from the date they become residents as defined in this section to obtain Washington registration for their vehicles. This thirty-day period may not be combined with any other period of reciprocity provided for in this chapter or chapter 46.85 RCW. [2010 c 161 § 410; 1997 c 59 § 7; 1987 c 142 § 1; 1986 c 186 § 2; 1985 c 353 § 1. Formerly RCW 46.16.028.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.16A.150 Purchasing a vehicle with foreign plates. (Effective July 1, 2011.) A person may not purchase a vehicle displaying foreign license plates without removing and destroying the license plates unless:

- (1) The out-of-state vehicle is sold to a Washington resident by a resident of a jurisdiction where the license plates follow the owner;
- (2) The out-of-state license plates may be returned to the jurisdiction of issuance by the owner for refund purposes; or

(3) For other reasons as determined by the department by rule. [2010 c 161 § 411; 1987 c 142 § 2. Formerly RCW 46.16.029.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.160 Nonresident exemption—Reciprocity—Rules. (Effective July 1, 2011.) (1) The provisions of this chapter relating to the registration of vehicles and display of license plates and registration certificates do not apply to vehicles owned by nonresidents of this state if:

(a) The owner has complied with the law requiring the registration of vehicles in the names of the owners in force in the state, foreign country, territory, or federal district of residence; and

(b) The license plate showing the initial or abbreviation of the name of the state, foreign country, territory, or federal district is displayed on the vehicle substantially as required in this state.

(2) This section applies only if the laws of the state, foreign country, territory, or federal district of the nonresident's residence allow similar exemptions and privileges to vehicles registered under the laws of the foreign state, country, territory, or federal district.

(3) Foreign businesses owning, maintaining, or operating places of business in this state and using vehicles in connection with those places of business shall comply with this chapter. Under provisions of the international registration plan, the nonmotor vehicles of member and nonmember jurisdictions that are properly based and registered in such jurisdictions have reciprocity in this state as provided in RCW 46.87.070.

(4) The director may adopt and enforce rules for the registration of nonresident vehicles on a reciprocal basis and with respect to any character or class of operation. [2010 c 161 § 412; 1991 c 163 § 2; 1990 c 42 § 110; 1967 c 32 § 15; 1961 c 12 § 46.16.030. Prior: 1937 c 188 § 23; RRS § 6312-23; 1931 c 120 § 1; 1929 c 99 § 4; 1921 c 96 § 11; 1919 c 59 § 6; 1917 c 155 § 7; 1915 c 142 § 11; RRS § 6322. Formerly RCW 46.16.030.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

46.16A.170 Exemptions from vehicle license fees—State and publicly owned vehicles. (Effective July 1, 2011.) (1) The following vehicles are exempt from the payment of vehicle license fees:

(a) Any vehicle owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington and used exclusively by them;

(b) Vehicles owned or leased with an option to purchase by the United States government, or by the government of foreign countries, or by international bodies to which the United States government is a signatory by treaty;

(c) Vehicles owned or leased by the governing body of an Indian tribe located within this state and recognized as a

governmental entity by the United States department of the interior, and used exclusively in its service;

(d) Any bus or vehicle owned and operated by a private school or schools meeting the requirements of RCW 28A.195.010 and used by that school or schools primarily to transport children to and from school or to transport children in connection with school activities. A registration issued by the department for these buses or vehicles is exempt from the motor vehicle excise tax provided in chapter 82.44 RCW;

(e) Vehicles owned and used exclusively by the United States government and are clearly identified by displaying registration numbers or license plates assigned by the United States government if the vehicle is registered and displays license plates assigned to it by the United States government; and

(f) Except for payment of the license plate fee required under RCW 46.17.240, vehicles owned and used exclusively by the United States government and are clearly identified by displaying registration numbers or license plates assigned by the state of Washington if the vehicle is registered and displays license plates assigned to it by the state of Washington.

(2) The department shall assign a license plate or plates to each vehicle or may assign a block of license plates to an agency or political subdivision for further assignment by the agency or political subdivision to individual vehicles registered to it. The agency, political subdivision, or Indian tribe, except a foreign government or international body, shall pay the fee required in RCW 46.17.240 for the license plate or plates for each vehicle.

(3) An Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior is not entitled to register any tribal government service vehicle under this section if that tribe itself registers any tribal government service vehicles under tribal law.

(4) A vehicle registration or license plates may not be issued to any vehicle under this section for the transportation of school children unless the vehicle has been first inspected by the director or the director's authorized representative. [2010 c 161 § 407; 1986 c 30 § 1; 1975 1st ex.s. c 169 § 5; 1973 1st ex.s. c 132 § 22; 1967 c 32 § 14; 1965 ex.s. c 106 § 1; 1961 c 12 § 46.16.020. Prior: 1939 c 182 § 4; 1937 c 188 § 21; RRS § 6312-21; 1925 ex.s. c 47 § 1; 1921 c 96 § 17; 1919 c 46 § 2; 1917 c 155 § 12; 1915 c 142 § 17; RRS § 6329. Formerly RCW 46.16.020.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Marking of publicly owned vehicles: RCW 46.08.065 through 46.08.068.

Special license plates issued without fee

Congressional Medal of Honor recipients: RCW 46.18.230.

surviving spouse or surviving domestic partner of deceased prisoner of war: RCW 73.04.115.

veterans with disabilities, prisoners of war: RCW 46.18.235.

Additional notes found at www.leg.wa.gov

46.16A.175 Exemptions from vehicle license fees—Vehicles owned by Indian tribes—Conditions. (*Effective July 1, 2011.*) (1) The provisions of this chapter relating to registering vehicles by this state, including the display of license plates and registration certificates, do not apply to

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vehicles owned or leased by the governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior if:

(a) The vehicle is used exclusively in tribal government service;

(b) The vehicle has been registered under a law adopted by the tribal government;

(c) License plates issued by the tribe showing the initial or abbreviation of the name of the tribe are displayed on the vehicle as required in this state;

(d) The tribe has not elected to receive Washington state license plates for tribal government service vehicles as authorized in RCW 46.16A.170; and

(e) If required by the department, the tribe provides the department with vehicle description and ownership information similar to that required for vehicles registered in this state, which may include the model year, make, model series, body type, type of power, vehicle identification number, and the license plate number assigned to each government service vehicle registered by that tribe.

(2) This section applies only if the laws of the tribe:

(a) Allow similar exemptions and privileges to all vehicles registered under the laws of this state on all tribal roads within the tribe's reservation; and

(b) Do not require persons operating vehicles registered by this state to pay a registration fee or to carry or display license plates or a registration certificate issued by the tribe. [2010 c 161 § 408; 1986 c 30 § 2. Formerly RCW 46.16.022.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.180 Registration certificates—Requirements—Penalty—Exception. (*Effective July 1, 2011.*) (1) A registration certificate must be:

(a) Signed by the registered owner, or if a firm or corporation, the signature of one of its officers or other authorized agent, to be valid;

(b) Carried in the vehicle for which it is issued; and

(c) Provided to law enforcement and the department by the operator of the vehicle upon demand.

(2) It is unlawful for any person to operate or be in possession of a vehicle without carrying a registration certificate for the vehicle. Any person in charge of a vehicle shall, upon demand of any of the local authorities or of any police officer or of any representative of the department, permit an inspection of the vehicle registration certificate. This section does not apply to a vehicle for which registration is not required to be renewed annually and is a publicly owned vehicle marked as required under RCW 46.08.065. [2010 c 161 § 432; 2010 c 8 § 9014; 1986 c 18 § 16; 1979 ex.s. c 113 § 3; 1969 ex.s. c 170 § 11; 1967 c 32 § 19; 1961 c 12 § 46.16.260. Prior: 1955 c 384 § 18; 1937 c 188 § 8; RRS § 6312-8. Formerly RCW 46.16.260.]

Reviser's note: This section was amended by 2010 c 8 § 9014 and by 2010 c 161 § 432, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.185 Requirement for commercial motor vehicle registration certificate. (*Effective July 1, 2011.*) The registration certificate for a commercial vehicle must include a statement that the owner or person operating a commercial vehicle must be in compliance with the requirements of the United States department of transportation federal motor carrier safety regulations contained in 49 C.F.R. Part 382. [2010 c 161 § 434.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.190 Replacement registration certificates. (*Effective July 1, 2011.*) A registered owner or the registered owner's authorized representative shall promptly apply for a duplicate registration certificate if a registration certificate is lost, stolen, mutilated, or destroyed, or becomes illegible. The application for a duplicate registration certificate must include information required by the department and be accompanied by the fee required in RCW 46.17.320. The duplicate registration certificate must contain the word, "duplicate."

A person recovering a registration certificate for which a duplicate has been issued shall promptly return the recovered registration certificate to the department. [2010 c 161 § 433; 1997 c 241 § 6. Formerly RCW 46.16.265.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.200 License plates. (*Effective July 1, 2011.*) (1) **Design.** All license plates may be obtained by the director from the metal working plant of a state correctional facility or from any source in accordance with existing state of Washington purchasing procedures. License plates:

- (a) May vary in background, color, and design;
- (b) Must be legible and clearly identifiable as a Washington state license plate;
- (c) Must designate the name of the state of Washington without abbreviation;
- (d) Must be treated with fully reflectorized materials designed to increase visibility and legibility at night;
- (e) Must be of a size and color and show the registration period as determined by the director; and
- (f) May display a symbol or artwork approved by the special license plate review board and the legislature.

(2) **Exceptions to reflectorized materials.** License plates issued before January 1, 1968, are not required to be treated with reflectorized materials.

(3) **Dealer license plates.** License plates issued to a dealer must contain an indication that the license plates have been issued to a vehicle dealer.

(4)(a) **Furnished.** The director shall furnish to all persons making satisfactory application for a vehicle registration:

- (i) Two identical license plates each containing the license plate number; or
- (ii) One license plate if the vehicle is a trailer, semi-trailer, camper, moped, collector vehicle, horseless carriage, or motorcycle.

(b) The director may adopt types of license plates to be used as long as the license plates are legible.

(5)(a) **Display.** License plates must be:

- (i) Attached conspicuously at the front and rear of each vehicle if two license plates have been issued;
- (ii) Attached to the rear of the vehicle if one license plate has been issued;
- (iii) Kept clean and be able to be plainly seen and read at all times; and
- (iv) Attached in a horizontal position at a distance of not more than four feet from the ground.

(b) The Washington state patrol may grant exceptions to this subsection if the body construction of the vehicle makes compliance with this section impossible.

(6) **Change of license classification.** A person who has altered a vehicle that makes the current license plate or plates invalid for the vehicle's use shall:

- (a) Surrender the current license plate or plates to the department, county auditor or other agent, or subagent appointed by the director;
- (b) Apply for a new license plate or plates; and
- (c) Pay a change of classification fee required under RCW 46.17.310.

(7) **Unlawful acts.** It is unlawful to:

(a) Display a license plate or plates on the front or rear of any vehicle that were not issued by the director for the vehicle;

(b) Display a license plate or plates on any vehicle that have been changed, altered, or disfigured, or have become illegible;

(c) Use holders, frames, or other materials that change, alter, or make a license plate or plates illegible. License plate frames may be used on license plates only if the frames do not obscure license tabs or identifying letters or numbers on the plates and the license plates can be plainly seen and read at all times;

(d) Operate a vehicle unless a valid license plate or plates are attached as required under this section;

(e) Transfer a license plate or plates issued under this chapter between two or more vehicles without first making application to transfer the license plates. A violation of this subsection (7)(e) is a traffic infraction subject to a fine not to exceed five hundred dollars. Any law enforcement agency that determines that a license plate or plates have been transferred between two or more vehicles shall confiscate the license plate or plates and return them to the department for nullification along with full details of the reasons for confiscation. Each vehicle identified in the transfer will be issued a new license plate or plates upon application by the owner or owners and the payment of full fees and taxes; or

(f) Fail, neglect, or refuse to endorse the registration certificate and deliver the license plate or plates to the purchaser or transferee of the vehicle, except as authorized under this section.

(8) **Transfer.** (a) Standard issue license plates follow the vehicle when ownership of the vehicle changes unless the registered owner wishes to retain the license plates and transfer them to a replacement vehicle of the same use. A registered owner wishing to keep standard issue license plates shall pay the license plate transfer fee required under RCW 46.17.200(1)(c) when applying for license plate transfer.

(b) Special license plates may be treated in the same manner as described in (a) of this subsection unless otherwise limited by law.

(c) License plates issued to the state or any county, city, town, school district, or other political subdivision entitled to exemption as provided by law may be treated in the same manner as described in (a) of this subsection.

(9) **Replacement.** (a) An owner or the owner's authorized representative shall apply for a replacement license plate or plates if the current license plate or plates assigned to the vehicle have been lost, defaced, or destroyed, or if one or both plates have become so illegible or are in such a condition as to be difficult to distinguish. An owner or the owner's authorized representative may apply for a replacement license plate or plates at any time the owner chooses.

(b) The application for a replacement license plate or plates must:

(i) Be on a form furnished or approved by the director; and

(ii) Be accompanied by the fee required under RCW 46.17.200(1)(a).

(c) The department shall not require the payment of any fee to replace a license plate or plates for vehicles owned, rented, or leased by foreign countries or international bodies to which the United States government is a signatory by treaty.

(10)(a) **Periodic replacement.** License plates must be replaced periodically to ensure maximum legibility and reflectivity. The department shall:

(i) Use empirical studies documenting the longevity of the reflective materials used to make license plates;

(ii) Determine how frequently license plates must be replaced; and

(iii) Offer to owners the option of retaining the current license plate number when obtaining replacement license plates for the fee required in RCW 46.17.200(1)(b).

(b) Commercial motor vehicles with a gross weight in excess of twenty-six thousand pounds are exempt from periodic license plate replacement.

(11) **Periodic replacement—Exceptions.** The following license plates are not required to be periodically replaced as required in subsection (10) of this section:

(a) Horseless carriage license plates issued under RCW 46.18.255 before January 1, 1987;

(b) Congressional Medal of Honor license plates issued under RCW 46.18.230;

(c) License plates for commercial motor vehicles with a gross weight greater than twenty-six thousand pounds.

(12) **Rules.** The department may adopt rules to implement this section.

(13) **Tabs or emblems.** The director may issue tabs or emblems to be attached to license plates or elsewhere on the vehicle to signify initial registration and renewals. Renewals become effective when tabs or emblems have been issued and properly displayed on license plates. [2010 c 161 § 422.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.210 Emblems—Material, display requirements. (*Effective July 1, 2011.*) Vehicle license plate

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emblems and veteran remembrance emblems shall use fully reflectorized materials designed to provide visibility at night. Emblems shall be designed to be affixed to a vehicle license number plate by pressure-sensitive adhesive so as not to obscure the plate identification numbers or letters.

Emblems will be issued for display on the front and rear license number plates. Single emblems will be issued for vehicles authorized to display one license number plate. [1990 c 250 § 8. Formerly RCW 46.16.327.]

Additional notes found at www.leg.wa.gov

46.16A.215 Military emblems—Fees. (*Effective July 1, 2011.*) (1) The director may adopt fees to be charged by the department for emblems issued by the department under *RCW 46.16.319.

(2) The fee for each remembrance emblem issued under *RCW 46.16.319 shall be in an amount sufficient to offset the costs of production of remembrance emblems and the administration of that program by the department plus an amount for use by the department of veterans affairs, not to exceed a total fee of twenty-five dollars per emblem.

(3) The veterans' emblem account is created in the custody of the state treasurer. All receipts by the department from the issuance of remembrance emblems under *RCW 46.16.319 shall be deposited into this fund. Expenditures from the fund may be used only for the costs of production of remembrance emblems and administration of the program by the department of licensing, with the balance used only by the department of veterans affairs for projects that pay tribute to those living veterans and to those who have died defending freedom in our nation's wars and conflicts and for the upkeep and operations of existing memorials, as well as for planning, acquiring land for, and constructing future memorials. Only the director of licensing, the director of veterans affairs, or their designees may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. [1994 c 194 § 5; 1990 c 250 § 9. Formerly RCW 46.16.332.]

***Reviser's note:** RCW 46.16.319 was recodified as RCW 46.18.295 pursuant to 2010 c 161 § 1228, effective July 1, 2011.

Additional notes found at www.leg.wa.gov

46.16A.220 Rules. (*Effective July 1, 2011.*) The director may make and enforce rules to implement this chapter. [1986 c 30 § 4. Formerly RCW 46.16.276.]

PERMITS AND USES

46.16A.300 Temporary permits—Authority—Dealer fees—Secure system. (*Effective July 1, 2011.*) (1) The department may authorize vehicle dealers properly licensed under chapters 46.09, 46.10, and 46.70 RCW to issue temporary permits to operate vehicles under rules adopted by the department.

(2) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under RCW 46.17.400(1)(a) for each temporary permit application sold to an authorized vehicle dealer.

(3) The payment of vehicle license fees to an authorized dealer is considered payment to the state of Washington.

(4) The department shall provide access to a secure system that allows temporary permits issued by vehicle dealers properly licensed under chapters 46.09, 46.10, and 46.70 RCW to be generated and printed on demand. By July 1, 2011, all such permits must be generated using the designated system. [2010 c 161 § 415; 2008 c 51 § 1; 2007 c 155 § 1; 1990 c 198 § 1; 1973 1st ex.s. c 132 § 23; 1961 c 12 § 46.16.045. Prior: 1959 c 66 § 1. Formerly RCW 46.16.045.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2007 c 155: "This act takes effect August 1, 2007." [2007 c 155 § 3.]

Additional notes found at www.leg.wa.gov

46.16A.305 Temporary permits—Application form and contents—Display and duration—Application fee. (Effective July 1, 2011.)

(1) The department, county auditor or other agent, or subagent appointed by the director may grant a temporary permit to operate a vehicle for which an application for registration has been made. The application for a temporary permit must be made by the owner or the owner's representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished by the department and must contain:

- (a) A full description of the vehicle, including its make, model, vehicle identification number, and type of body;
- (b) The name and address of the applicant;
- (c) The date of application; and
- (d) Other information that the department may require.

(2) Temporary permits must:

- (a) Be consecutively numbered;
- (b) Be displayed where it is visible from outside of the vehicle, such as on the inside left side of the rear window; and
- (c) Remain on the vehicle only until the receipt of permanent license plates.

(3) The application must be accompanied by the fee required under RCW 46.17.400(1)(b). [2010 c 161 § 416; 2010 c 8 § 9011; 1961 c 12 § 46.16.047. Prior: 1959 c 66 § 2. Formerly RCW 46.16.047.]

Reviser's note: This section was amended by 2010 c 8 § 9011 and by 2010 c 161 § 416, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.320 Vehicle trip permits—Restrictions and requirements—Fee—Penalty—Rules. (Effective July 1, 2011.)

(1)(a) A vehicle owner may operate an unregistered vehicle on public highways under the authority of a trip permit issued by this state. For purposes of trip permits, a vehicle is considered unregistered if:

- (i) Under reciprocal relations with another jurisdiction, the owner would be required to register the vehicle in this state;
- (ii) The license tabs have expired; or
- (iii) The current gross weight license is insufficient for the load being carried. The licensed gross weight may not

exceed eighty thousand pounds for a combination of vehicles or forty thousand pounds for a single unit vehicle with three or more axles.

(b) Trip permits are required to move mobile homes or park model trailers and may only be issued if property taxes are paid in full.

(2) Trip permits may not be:

(a) Issued to vehicles registered under RCW 46.16A.455(5) in lieu of further registration within the same registration year; or

(b) Used for commercial motor vehicles owned by a motor carrier subject to RCW 46.32.080 if the motor carrier's department of transportation number has been placed out of service by the Washington state patrol. A violation of or a failure to comply with this subsection is a gross misdemeanor, subject to a minimum monetary penalty of two thousand five hundred dollars for the first violation and five thousand dollars for each subsequent violation.

(3)(a) Each trip permit authorizes the operation of a single vehicle at the maximum legal weight limit for the vehicle for a period of three consecutive days beginning with the day of first use. No more than three trip permits may be used for any one vehicle in any thirty consecutive day period. No more than two trip permits may be used for any one recreational vehicle, as defined in RCW 43.22.335, in a one-year period. Every trip permit must:

- (i) Identify the vehicle for which it is issued;
- (ii) Be completed in its entirety;
- (iii) Be signed by the operator before operation of the vehicle on the public highways of this state;
- (iv) Not be altered or corrected. Altering or correcting data on the trip permit invalidates the trip permit; and
- (v) Be displayed on the vehicle for which it is issued as required by the department.

(b) Vehicles operating under the authority of trip permits are subject to all laws, rules, and regulations affecting the operation of similar vehicles in this state.

(4) Prorate operators operating commercial vehicles on trip permits in Washington shall retain the customer copy of each permit for four years.

(5) Trip permits may be obtained from field offices of the department of transportation, department of licensing, county auditors or other agents, and subagents appointed by the department for the fee provided in RCW 46.17.400(1)(h). Exchanges, credits, or refunds may not be given for trip permits after they have been purchased.

(6) Except as provided in subsection (2)(b) of this section, a violation of or a failure to comply with this section is a gross misdemeanor.

(7) The department may adopt rules necessary to administer this section. [2010 c 161 § 425; 2007 c 419 § 6. Prior: 2002 c 352 § 8; 2002 c 168 § 5; 1999 c 270 § 1; 1996 c 184 § 2; 1993 c 102 § 2; 1987 c 244 § 6; 1981 c 318 § 1; 1977 ex.s. c 22 § 5; 1975-'76 2nd ex.s. c 64 § 6; 1969 ex.s. c 170 § 8; 1961 c 306 § 1; 1961 c 12 § 46.16.160; prior: 1957 c 273 § 3; 1955 c 384 § 17; 1949 c 174 § 1; 1947 c 176 § 1; 1937 c 188 § 24; Rem. Supp. 1949 § 6312-24. Formerly RCW 46.16.160.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Findings—Short title—2007 c 419: See notes following RCW 46.16A.010.

Effective dates—2002 c 352: See note following RCW 46.09.410.

Additional notes found at www.leg.wa.gov

46.16A.330 Farm vehicle trip permits—Restrictions and requirements—Fee—Rules. (Effective July 1, 2011.)

(1) The owner of a farm vehicle registered under RCW 46.16A.425 purchasing a monthly registration under RCW 46.16A.455(5) may operate the farm vehicle under the authority of a farm vehicle trip permit if:

(a) There is less than one full month remaining in the first month of the registration; or

(b) A previously issued monthly registration has expired.

(2) A vehicle operating under the authority of a farm vehicle trip permit is subject to all laws and rules affecting the operation of similar vehicles in this state. The licensed gross weight of a vehicle operating under a farm vehicle trip permit may not exceed eighty thousand pounds for a combination of vehicles or forty thousand pounds for a single unit vehicle with three or more axles.

(3) Each farm vehicle trip permit authorizes the operation of a single vehicle at the maximum legal weight limit for the vehicle for thirty days, beginning with the day of first use. No more than four farm vehicle trip permits may be used for any one vehicle in any twelve-month period. Every farm vehicle trip permit must:

(a) Identify the vehicle for which it is issued;

(b) Be completed in its entirety;

(c) Be signed by the operator before operation of the vehicle on the public highways of this state;

(d) Not be altered or corrected. Altering or correcting data on the farm vehicle trip permit invalidates the permit; and

(e) Be displayed on the vehicle to which it is issued as required by the department.

(4) Farm vehicle trip permits may be obtained from the department, county auditors or other agents, or subagents appointed by the director for the fee provided in RCW 46.17.400(1)(c). Exchanges, credits, or refunds may not be given for farm vehicle trip permits after they have been purchased.

(5) The department may adopt rules as it deems necessary to administer this section. [2010 c 161 § 426; 2009 c 452 § 1; 2006 c 337 § 3; 2005 c 314 § 206. Formerly RCW 46.16.162.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective dates—2005 c 314 §§ 110 and 201-206: See note following RCW 46.68.035.

Application—2005 c 314 §§ 201-206, 301, and 302: See note following RCW 46.68.035.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

46.16A.340 Temporary permits for nonresident members of armed forces—Fee—Rules. (Effective July 1, 2011.)

(1) A nonresident member of the armed forces of the United States may apply to the department, county auditor or other agent, or subagent appointed by the director for a tem-

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porary permit for a recently purchased motor vehicle. The permit:

(a) Allows the motor vehicle to be used in Washington state while the owner applies for out-of-state registration;

(b) Is valid for forty-five days; and

(c) Must be carried on the motor vehicle so that it is clearly visible from outside of the motor vehicle.

(2) A person applying for the forty-five day permit provided in subsection (1) of this section is not subject to sales and use taxes or motor vehicle excise taxes during or after the forty-five day period of the permit unless the motor vehicle is:

(a) Still in Washington state after the forty-five day period of the permit; or

(b) Returned to Washington state within one year after the forty-five day permit has expired.

(3) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under RCW 46.17.400(1)(d) when issuing the forty-five day permit described in this section.

(4) The department shall adopt rules to implement this section. Those rules may require proof that the nonresident member of the armed forces of the United States qualifies for the forty-five day permit before the permit may be issued. [2010 c 161 § 435; 1979 c 158 § 141; 1967 c 202 § 4. Formerly RCW 46.16.460.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.350 Temporary letter of authority for movement of unregistered vehicle for special community activity. (Effective July 1, 2011.)

The department may issue a temporary letter of authority authorizing the movement of an unregistered vehicle or the temporary use of a special plate for the purpose of promoting or participating in an event such as a parade, pageant, fair, convention, or other special community activity. The letter of authority may not be issued to or used by anyone for personal gain, but public identification of the sponsor or owner of the donated vehicle shall not be considered to be personal gain. [2010 c 161 § 417; 1977 c 25 § 2. Formerly RCW 46.16.048.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.360 Thirty, sixty, or ninety-day permits for registered out-of-state commercial vehicles. (Effective July 1, 2011.)

The owner of a commercial vehicle properly registered in another state may apply to the department, county auditor or other agent, or subagent appointed by the director for an out-of-state commercial vehicle intrastate permit when operating the commercial vehicle in Washington state for periods less than one year. The permit may be issued for a thirty, sixty, or ninety-day period. For each thirty-day period, the cost of each permit is one-twelfth of the fees required under chapter 82.44 RCW if the vehicle is subject to locally imposed motor vehicle excise taxes and (1) under RCW 46.17.355(1) if the vehicle is a motor vehicle or (2) under RCW 46.17.350(1)(c) if the vehicle is a commercial trailer. [2010 c 161 § 427.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

SPECIFIC VEHICLES

46.16A.405 Campers, mopeds, and wheelchair conveyances. (Effective July 1, 2011.) This chapter applies to the following:

(1) Campers are considered vehicles for the purposes of vehicle registration and license plate display, except for campers held as part of a manufacturer's or dealer's inventory that:

- (a) Are unoccupied at all times;
- (b) Have been issued a dated demonstration permit that is valid for no more than seventy-two hours. The permit must be carried in the vehicle on which the camper is mounted; and
- (c) Are mounted on a properly registered vehicle.

(2) Mopeds are considered vehicles for the purposes of vehicle registration and license plate display. Mopeds are exempt from personal property taxes and vehicle excise taxes imposed under chapter 82.44 RCW.

(3) Wheelchair conveyances are considered vehicles for the purposes of vehicle registration and license plate display. Wheelchair conveyances that do not meet braking equipment requirements described in RCW 46.37.340 must be registered as mopeds. [2010 c 161 § 437.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.410 Commercial motor vehicles. (Effective July 1, 2011.) (1) The department shall refuse to register a commercial motor vehicle that is owned by a motor carrier subject to RCW 46.32.080, 46.87.294, and 46.87.296 upon notification to the department by the Washington state patrol or the federal motor carrier safety administration that an out-of-service order has been placed on the department of transportation number issued to the motor carrier.

(2) The department shall revoke the vehicle registration of all commercial motor vehicles that are owned by a motor carrier subject to RCW 46.32.080, upon notification to the department by the Washington state patrol or the federal motor carrier safety administration that an out-of-service order has been placed on the department of transportation number issued to the motor carrier. The revocation must remain in effect until the department has been notified by the Washington state patrol that the out-of-service order has been rescinded.

(3) Except as provided in subsections (4) and (5) of this section, by June 30, 2009, any original or renewal application for registration of a commercial motor vehicle that is owned by a motor carrier subject to RCW 46.32.080 that is submitted to the department must be accompanied by:

- (a) The department of transportation number issued to the motor carrier; and
- (b) The federal taxpayer identification number of the motor carrier.

(4) By June 30, 2010, the requirements of subsection (3) of this section apply to any original or renewal application that is submitted to the department for registration of a com-

mercial motor vehicle that is to be operated by an entity with authority under chapter 81.66, 81.68, 81.70, or 81.77 RCW, or by a household goods carrier with authority under chapter 81.80 RCW.

(5) By June 30, 2012, the requirements of subsection (3) of this section apply to any original or renewal application that is submitted to the department for registration of a commercial motor vehicle that is owned by a motor carrier subject to RCW 46.32.080, and that has a gross vehicle weight rating of 7,258 kilograms (16,001 pounds) or more. [2009 c 46 § 5; 2007 c 419 § 5. Formerly RCW 46.16.615.]

Findings—Short title—2007 c 419: See notes following RCW 46.16A.010.

46.16A.420 Farm vehicles—Farm exempt decal—Fee—Rules. (Effective July 1, 2011.) (1) A farmer shall apply to the department, county auditor or other agent, or subagent appointed by the director for a farm exempt decal for a farm vehicle if the farm vehicle is exempt under RCW 46.16A.080(3). The farm exempt decal:

(a) Allows the farm vehicle to be operated within a radius of fifteen miles of the farm where it is principally used or garaged;

(b) Must be displayed on the farm vehicle so that it is clearly visible from outside of the farm vehicle; and

(c) Must identify that the farm vehicle is exempt from the registration requirements of this chapter.

(2) A farmer or the farmer's representative must apply for a farm exempt decal on a form furnished or approved by the department. The application must show:

(a) The name and address of the person who is the owner of the vehicle;

(b) A full description of the vehicle, including its make, model, year, the motor number or the vehicle identification number if the vehicle is a motor vehicle, or the serial number if the vehicle is a trailer;

(c) The purpose for which the vehicle is principally used;

(d) The place where the farm vehicle is principally used or garaged; and

(e) Other information as required by the department upon application.

(3) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under RCW 46.17.325 when issuing a farm exempt decal.

(4) A farm exempt decal may not be renewed. The status as an exempt vehicle continues until suspended or revoked for misuse, or when the vehicle is no longer used as a farm vehicle.

(5) The department may adopt rules to implement this section. [2010 c 161 § 409; 2010 c 8 § 9010; 1979 c 158 § 139; 1967 c 202 § 3. Formerly RCW 46.16.025]

Reviser's note: This section was amended by 2010 c 8 § 9010 and by 2010 c 161 § 409, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.425 Farm vehicles based on gross weight—Farm tabs—Penalty. (Effective July 1, 2011.) (1) Motor trucks, truck tractors, and tractors owned and operated by farmers may receive a reduction in gross weight license fees as described in RCW 46.17.330 only if the vehicle is used exclusively to transport:

(a) The farmer's own farm, orchard, dairy, or private sector cultured aquatic products as defined in RCW 15.85.020, from point of production to market or warehouse. Fish other than private sector cultured aquatic products or forestry products are not considered farm products;

(b) Supplies used on the farmer's farm; or

(c) Products owned by the farm as listed in (a) of this subsection for another farmer in the neighborhood on a seasonal or infrequent basis. This may only be for compensation other than money.

(2) Farm vehicles that meet the requirements provided in subsection (1)(a) through (c) of this section may receive a reduction in gross weight license fees if the farm is exempt from property taxes under RCW 84.36.630. The reduction is the reduced gross weight license fee provided in RCW 46.17.330. To qualify for the additional gross weight license fee reduction, the farmer must submit copies of the forms as required under RCW 84.36.630.

(3) An additional eight thousand pounds gross weight within the legal limits on farm vehicles may be used if the farmer is transporting the farmer's own farm machinery between the farmer's own farm or farms and for a distance of not more than thirty-five miles.

(4) The application for a reduced gross weight license fee must be made by the farmer or the farmer's authorized representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain a statement that the vehicle will be used subject to the limitations of this section.

(5) The department, county auditor or other agent, or subagent appointed by the director shall issue a unique series of license tabs for farm vehicles registered under this section. Farm tabs must be placed on all farm vehicles registered under this section to indicate that the vehicle is registered as a farm vehicle. The department may substitute a special license plate for farm vehicles.

(6) It is a traffic infraction to operate a farm vehicle registered under this section on the public highways in violation of the limitations of this section. [2010 c 161 § 423; 1989 c 156 § 3; 1986 c 18 § 10. Prior: 1985 c 457 § 16; 1985 c 380 § 18; 1979 ex.s. c 136 § 45; 1977 c 25 § 1; 1969 ex.s. c 169 § 1; 1961 c 12 § 46.16.090; prior: 1957 c 273 § 13; 1955 c 363 § 6; prior: 1953 c 227 § 1; 1951 c 269 § 12; 1950 ex.s. c 15 § 1, part; 1949 c 220 § 10, part; 1947 c 200 § 15, part; 1941 c 224 § 1, part; 1939 c 182 § 3, part; 1937 c 188 § 17, part; Rem. Supp. 1949 § 6312-17, part; 1931 c 140 § 1, part; 1921 c 96 § 15, part; 1919 c 46 § 1, part; 1917 c 155 § 10, part; 1915 c 142 § 15, part; RRS § 6326, part. Formerly RCW 46.16.090.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Unprocessed agricultural products, license for transport: RCW 20.01.120.

Additional notes found at www.leg.wa.gov

(2010 Ed.)

46.16A.440 Private use, single-axle trailers—Reduced license fee. (Effective July 1, 2011.) Private use single-axle trailers of two thousand pounds scale weight or less may qualify for a reduced vehicle license fee described in RCW 46.17.350(1)(k). To qualify for the reduced vehicle license fee:

(1) The trailer must be operated upon public highways;

(2) The vehicle license fee must be collected annually for each registration year or fraction of a registration year; and

(3) The trailer must be operated for personal use of the owner and not held for rental to the public or used in any commercial or business endeavor. [2010 c 161 § 421; 2006 c 337 § 2; 2005 c 314 § 203. Formerly RCW 46.16.086.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective dates—2005 c 314 §§ 110 and 201-206: See note following RCW 46.68.035.

Application—2005 c 314 §§ 201-206, 301, and 302: See note following RCW 46.68.035.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

Boat trailer fee: RCW 46.17.305.

46.16A.450 Trailers—Permanent license plates and registration—Penalty—Rules. (Effective July 1, 2011.)

(1) Trailers that are towed in combination with a truck, motor truck, truck tractor, road tractor, or tractor and used to transport loads in excess of forty thousand pounds combined gross weight may be issued a permanent license plate and registration. The permanent license plate and registration is valid until the trailer is sold, permanently removed from the state, or otherwise disposed of by the registered owner. The owner of the trailer shall:

(a) Apply for the permanent license plate and registration with the department, county auditor or other agent, or subagent;

(b) Pay the combination trailer license plate fee required under RCW 46.17.250 in addition to any other fee or taxes due by law; and

(c) Return the license plate and registration certificate to the department if the trailer is sold, permanently removed from the state, or otherwise disposed of.

(2) The permanent license plate and registration authorized in subsection (1) of this section may not be issued to trailers that haul logs.

(3) A violation of this section or misuse of a permanent license plate may subject the registered owner to prosecution or denial, or both, of future permanent registration of any trailer.

(4) The department may adopt rules to implement this section for leased vehicles and other applications as necessary. [2010 c 161 § 418; 1998 c 321 § 32 (Referendum Bill No. 49, approved November 3, 1998); 1993 c 123 § 4. Formerly RCW 46.16.068.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Purpose—Severability—1998 c 321: See notes following RCW 82.14.045.

Additional notes found at www.leg.wa.gov

[Title 46 RCW—page 139]

46.16A.455 Trucks, buses, and for hire vehicles based on gross weight. (Effective July 1, 2011.) (1) **Auto stage, bus, for hire vehicle - more than six seats.** The declared gross weight for an auto stage, bus, or for hire vehicle, except taxicabs, with a seating capacity of more than six is determined by:

(a) Multiplying the number of seats, including the driver, times one hundred fifty pounds per seat;

(b) Adding the scale weight to the product derived in (a) of this subsection; and

(c) Locating the sum derived in (b) of this subsection in the registration fee based on declared gross weight table provided in RCW 46.17.355 and rounding up to the next greater weight.

(2) **Motor truck, road tractor, truck, truck tractor - sufficient declared gross weight required.** The declared gross weight for a motor truck, road tractor, truck, or truck tractor must have a sufficient declared gross weight, as required under chapter 46.44 RCW, to cover:

(a) Its empty scale weight plus the maximum load it will carry; and

(b) The empty scale weight of any trailer it will tow and the maximum load that the trailer will carry. The declared gross weight of the motor vehicle does not need to include the trailer if:

(i) The empty scale weight of the trailer and the maximum load the trailer will carry does not exceed four thousand pounds; or

(ii) The trailer is for personal use, such as a horse trailer, travel trailer, or utility trailer.

(3) **Motor truck, road tractor, truck, and truck tractor -exceeding six thousand pounds empty scale weight.** Every truck, motor truck, truck tractor, and tractor exceeding six thousand pounds empty scale weight registered under chapter 46.16 or 46.87 RCW must be licensed for not less than one hundred fifty percent of its empty weight unless:

(a) The amount would exceed the legal limits described in RCW 46.44.041 or 46.44.042, in which event the vehicle must be licensed for the maximum weight authorized for the vehicle; or

(b) The vehicle is a fixed load vehicle.

(4) **Increasing declared gross weight.** The following provisions apply when increasing declared gross weight for a motor vehicle licensed under this section:

(a) The declared gross weight must be increased to the end of the current registration year when the declared gross weight remains at 12,000 pounds or less.

(b) For motor vehicles increasing to a declared gross weight of 14,000 pounds or more, the declared gross weight must be increased, at a minimum, to the expiration of the current declared gross weight license.

(c) The new license fee is one-twelfth of the annual license fee listed in RCW 46.17.355 for each of the number of months remaining in the registration period. The department shall:

(i) Apply credit to any gross weight license fees already paid for the full months remaining in the registration period;

(ii) Charge the monthly declared gross weight license fee required under RCW 46.17.360, in addition to any other fees or taxes due; and

(iii) Not apply credit to monthly declared gross weight license fees already used.

(d) (c) of this subsection does not apply to motor vehicles described in (a) of this subsection.

(e) Upon surrender of the current registration certificate or cab card, credit must be applied as described in (c) of this subsection.

(5) **Monthly license—Authorized.** The annual license fees required in RCW 46.17.355 for any motor vehicle or combination of vehicles having a declared gross weight of twelve thousand one pounds or more may be paid for any full registration month or months at one-twelfth of the annual license fee plus the monthly declared gross weight license fee required in RCW 46.17.360. This sum must be multiplied by the number of full months for which the fees are paid if for less than a full year.

(6) **Monthly license—Penalty.** Operation of a vehicle registered under subsection (5) of this section by any person upon the public highways after the expiration of the monthly license is a traffic infraction. The person shall pay a license fee for the vehicle involved covering an entire registration year's operation, less the fees for any registration month or months of the registration year already paid. If, within five days, a license fee for a full registration year has not been paid as required, the Washington state patrol, county sheriff, or city police shall impound the vehicle until the fees have been paid.

(7) **Camper, school bus—Exemptions.** (a) The weight of a camper must not be included when determining declared gross weight.

(b) Motor vehicles used for the transportation of school children or teachers to and from school and other school activities are exempt from subsection (1) of this section and the seating capacity fee provided in RCW 46.17.340. If the motor vehicle is used for any other purpose, it must be appropriately registered as required under this chapter.

(8) **Credit for unused license fee.** A registered owner of a motor vehicle with a declared gross weight of more than twelve thousand pounds may obtain credit for the unused portion of the license fee paid or transfer the credit to a new owner under the following conditions:

(a) The motor vehicle must have been recently sold or transferred to another owner, is no longer in the possession of the owner, or is reported destroyed under RCW 46.12.600;

(b) The available credit must be fifteen dollars or more;

(c) Credit will be given for any unused months of the declared gross weight license already purchased at the rate of one-twelfth for each full or partial month of registration;

(d) Credit only applies to license fees due under RCW 46.17.355 for the registration year for which it was purchased;

(e) Credit as used in this section may not be refunded. [2010 c 161 § 419; 2005 c 314 § 204. Prior: 2003 c 361 § 201; 2003 c 1 § 3 (Initiative Measure No. 776, approved November 5, 2002); 1994 c 262 § 8; 1993 sp.s. c 23 § 60; prior: 1993 c 123 § 5; 1993 c 102 § 1; 1990 c 42 § 105; 1989 c 156 § 1; prior: 1987 1st ex.s. c 9 § 4; 1987 c 244 § 3; 1986 c 18 § 4; 1985 c 380 § 15; 1975-'76 2nd ex.s. c 64 § 1; 1969 ex.s. c 281 § 54; 1967 ex.s. c 118 § 1; 1967 ex.s. c 83 § 56; 1961 ex.s. c 7 § 11; 1961 c 12 § 46.16.070; prior: 1957 c 273 § 1; 1955 c 363 § 2; prior: 1951 c 269 § 9; 1950 ex.s. c 15 §

1, part; 1939 c 182 § 3, part; 1937 c 188 § 17, part; 1931 c 140 § 1, part; 1921 c 96 § 15, part; 1919 c 46 § 1, part; 1917 c 155 § 10, part; 1915 c 142 § 15, part; Rem. Supp. 1949 § 6312-17, part; RRS § 6326, part. Formerly RCW 46.16.070.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective dates—2005 c 314 §§ 110 and 201-206: See note following RCW 46.68.035.

Application—2005 c 314 §§ 201-206, 301, and 302: See note following RCW 46.68.035.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

Application—2003 c 361 § 201: "Section 201 of this act is effective with registrations that are due or will become due August 1, 2003, and thereafter." [2003 c 361 § 704.]

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

Policies and purposes—2003 c 1 (Initiative Measure No. 776): "This measure would require license tab fees to be \$30 per year for motor vehicles and light trucks and would repeal certain government-imposed charges, including excise taxes and fees, levied on motor vehicles. Politicians promised "\$30 license tabs are here to stay" and promised any increases in vehicle-related taxes, fees and surcharges would be put to a public vote. Politicians should keep their promises. As long as taxpayers must pay incredibly high sales taxes when buying motor vehicles (meaning state and local governments receive huge windfalls of sales tax revenue from these transactions), the people want license tab fees to not exceed the promised \$30 per year. Without this follow-up measure, "tab creep" will continue until license tab fees are once again obscenely expensive, as they were prior to Initiative 695. The people want a public vote on any increases in vehicle-related taxes, fees and surcharges to ensure increased accountability. Voters will require more cost-effective use of existing revenues and fundamental reforms before approving higher charges on motor vehicles (such changes may remove the need for any increases). Also, dramatic changes to transportation plans and programs previously presented to voters must be resubmitted. This measure provides a strong directive to all taxing districts to obtain voter approval before imposing taxes, fees and surcharges on motor vehicles. However, if the legislature ignores this clear message, a referendum will be filed to protect the voters' rights. Politicians should just do the right thing and keep their promises." [2003 c 1 § 1 (Initiative Measure No. 776, approved November 5, 2002).]

Construction—2003 c 1 (Initiative Measure No. 776): "The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act." [2003 c 1 § 9 (Initiative Measure No. 776, approved November 5, 2002).]

Intent—2003 c 1 (Initiative Measure No. 776): "The people have made clear through the passage of numerous initiatives and referenda that taxes need to be reasonable and tax increases should always be a last resort. However, politicians throughout the state of Washington continue to ignore these repeated mandates.

The people expect politicians to keep their promises. The legislative intent of this measure is to ensure that they do.

Politicians are reminded:

(1) Washington voters want license tab fees to be \$30 per year for motor vehicles unless voters authorize higher vehicle-related charges at an election.

(2) All political power is vested in the people, as stated in Article I, section 1 of the Washington state Constitution.

(3) The first power reserved by the people is the initiative, as stated in Article II, section 1 of the Washington state Constitution.

(4) When voters approve initiatives, politicians have a moral, ethical, and constitutional obligation to fully implement them. When politicians ignore this obligation, they corrupt the term "public servant."

(5) Any attempt to violate the clear intent and spirit of this measure undermines the trust of the people in their government and will increase the likelihood of future tax limitation measures." [2003 c 1 § 11 (Initiative Measure No. 776, approved November 5, 2002).]

Severability—Savings—2003 c 1 (Initiative Measure No. 776): See note following RCW 81.104.160.

(2010 Ed.)

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

LIABILITY AND VIOLATIONS

46.16A.500 Liability of operator, owner, lessee for violations. (Effective July 1, 2011.) Both a person operating a vehicle with the express or implied permission of the owner and the owner of the vehicle are responsible for any act or omission that is declared unlawful in this chapter. The primary responsibility is the owner's.

If the person operating the vehicle at the time of the unlawful act or omission is not the owner of the vehicle, the operator may accept the citation and execute the promise to appear on behalf of the owner. [2010 c 161 § 436; 1980 c 104 § 3; 1969 ex.s. c 69 § 2. Formerly RCW 46.16.500.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.16A.510 Immunity from liability for licensing nonroadworthy vehicle. (Effective July 1, 2011.) The director, the state of Washington, and its political subdivisions shall be immune from civil liability arising from the issuance of a vehicle license to a nonroadworthy vehicle. [1986 c 186 § 5. Formerly RCW 46.16.012.]

46.16A.520 Allowing unauthorized person to drive—Penalty. (Effective July 1, 2011.) It is unlawful for any person in whose name a vehicle is registered knowingly to permit another person to drive the vehicle when the other person is not authorized to do so under the laws of this state. A violation of this section is a misdemeanor. [1987 c 388 § 10. Formerly RCW 46.16.011.]

Allowing unauthorized child to drive: RCW 46.20.024.

Additional notes found at www.leg.wa.gov

46.16A.530 Unlawful to carry passengers for hire without license. (Effective July 1, 2011.) It shall be unlawful for the owner or operator of any vehicle not licensed annually for hire or as an auto stage and for which additional seating capacity fee as required by this chapter has not been paid, to carry passengers therein for hire. [1961 c 12 § 46.16.180. Prior: 1937 c 188 § 20; RRS § 6312-20. Formerly RCW 46.16.180.]

46.16A.540 Overloading licensed capacity—Additional license—Penalties—Exceptions. (Effective July 1, 2011.) It is a traffic infraction for any person to operate, or cause, permit, or suffer to be operated upon a public highway of this state any bus, auto stage, motor truck, truck tractor, or tractor, with passengers, or with a maximum gross weight, in excess of that for which the motor vehicle or combination is licensed.

Any person who operates or causes to be operated upon a public highway of this state any motor truck, truck tractor, or tractor with a maximum gross weight in excess of the maximum gross weight for which the vehicle is licensed shall be deemed to have set a new maximum gross weight and shall, in addition to any penalties otherwise provided, be required

to purchase a new license covering the new maximum gross weight, and any failure to secure such new license is a traffic infraction. No such person may be permitted or required to purchase the new license for a gross weight or combined gross weight which would exceed the maximum gross weight or combined gross weight allowed by law. This section does not apply to for hire vehicles, buses, or auto stages operating principally within cities and towns. [1986 c 18 § 13; 1979 ex.s. c 136 § 47; 1961 c 12 § 46.16.140. Prior: 1955 c 384 § 16; 1951 c 269 § 18; 1937 c 188 § 25, part; RRS § 6312-25, part. Formerly RCW 46.16.140.]

Additional notes found at www.leg.wa.gov

46.16A.545 Overloading licensed capacity—Penalties. (*Effective July 1, 2011.*) Any person violating any of the provisions of *RCW 46.16.140 shall, upon a first offense, pay a penalty of not less than twenty-five dollars nor more than fifty dollars; upon a second offense pay a penalty of not less than fifty dollars nor more than one hundred dollars, and in addition the court may suspend the certificate of license registration of the vehicle for not more than thirty days; upon a third and subsequent offense pay a penalty of not less than one hundred dollars nor more than two hundred dollars, and in addition the court shall suspend the certificate of license registration of the vehicle for not less than thirty days nor more than ninety days.

Upon ordering the suspension of any certificate of license registration, the court or judge shall forthwith secure such certificate and mail it to the director. [1979 ex.s. c 136 § 48; 1975-'76 2nd ex.s. c 64 § 5; 1961 c 12 § 46.16.145. Prior: 1951 c 269 § 19; 1937 c 188 § 25, part; RRS § 6312-25, part. Formerly RCW 46.16.145.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

***Reviser's note:** RCW 46.16.140 was recodified as RCW 46.16A.540 pursuant to 2010 c 161 § 1218, effective July 1, 2011.

Additional notes found at www.leg.wa.gov

Chapter 46.17 RCW

VEHICLE FEES

(Formerly: Vehicle weight fees)

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FILING AND SERVICE FEES

46.17.005 Filing fees. (*Effective July 1, 2011.*) (1) A person who applies for a vehicle registration or for any other right to operate a vehicle on the highways of this state shall pay a three dollar filing fee in addition to any other fees and taxes required by law.

(2) A person who applies for a certificate of title shall pay a four dollar filing fee in addition to any other fees and taxes required by law.

(3) The filing fees established in this section must be distributed under RCW 46.68.400. [2010 c 161 § 501.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.010 Vehicle weight fee—Motor vehicles, except motor homes. (*Effective until July 1, 2011.*) (1) There shall be paid and collected annually for motor vehicles subject to the fee under RCW 46.16.0621, except motor homes, a vehicle weight fee. The amount of the fee shall be based upon the vehicle scale weight, which is correlated with vehicle size and roadway lane usage. Fees imposed under this section must be used for transportation purposes, and shall not be used for the general support of state government. The vehicle weight fee shall be that portion of the fee as reflected on the scale weight set forth in schedule B provided in RCW 46.16.070 that is in excess of the fee imposed under RCW 46.16.0621. This fee is due at the time of initial and renewal of vehicle registration.

(2) If the resultant weight according to this section is not listed in schedule B provided in RCW 46.16.070, it shall be increased to the next higher weight pursuant to chapter 46.44 RCW.

(3) For the purpose of administering this section, the department shall rely on the vehicle empty scale weights as provided by vehicle manufacturers, or other sources defined by the department, to determine the weight of each vehicle. The department shall adopt rules for determining weight for vehicles without manufacturer empty scale weights.

(4) The vehicle weight fee under this section is imposed to provide funds to mitigate the impact of vehicle loads on the

state roads and highways and is separate and distinct from other vehicle license fees. Proceeds from the fee may be used for transportation purposes, or for facilities and activities that reduce the number of vehicles or load weights on the state roads and highways.

(5) The vehicle weight fee collected under this section shall be deposited as follows:

(a) On July 1, 2006, six million dollars shall be deposited into the freight mobility multimodal account created in RCW 46.68.310, and the remainder collected from June 7, 2006, through June 30, 2006, shall be deposited into the multimodal transportation account;

(b) Beginning July 1, 2007, and every July 1st thereafter, three million dollars shall be deposited into the freight mobility multimodal account created in RCW 46.68.310, and the remainder shall be deposited into the multimodal transportation account. [2006 c 337 § 9; 2005 c 314 § 201.]

Effective dates—2005 c 314 §§ 110 and 201-206: "(1) Section 110 of this act takes effect July 1, 2006.

(2) Sections 201 through 206 of this act take effect January 1, 2006." [2005 c 314 § 403.]

Application—2005 c 314 §§ 201-206, 301, and 302: "Sections 201 through 206, 301, and 302 of this act apply to vehicle registrations that are due or become due on or after January 1, 2006." [2005 c 314 § 402.]

Part headings not law—2005 c 314: "Part headings used in this act are not part of the law." [2005 c 314 § 407.]

46.17.015 License plate technology fee. (Effective July 1, 2011.) (1) A person who applies for a vehicle registration or for any other right to operate a vehicle on the highways of this state shall pay a twenty-five cent license plate technology fee in addition to any other fees and taxes required by law. The license plate technology fee must be distributed under RCW 46.68.370.

(2) A vehicle registered under RCW 46.16A.455 or 46.17.330 is not subject to the license plate technology fee. [2010 c 161 § 502.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.020 Vehicle weight fee—Motor homes. (Effective until July 1, 2011.) In addition to any other fees or charges, there shall be paid and collected annually for motor homes a vehicle weight fee of seventy-five dollars. This fee is due at the time of initial and renewal of vehicle registration. The fee collected under this section shall be deposited in the multimodal transportation account. [2005 c 314 § 202.]

Effective dates—2005 c 314 §§ 110 and 201-206: See note following RCW 46.17.010.

Application—2005 c 314 §§ 201-206, 301, and 302: See note following RCW 46.17.010.

Part headings not law—2005 c 314: See note following RCW 46.17.020.

46.17.025 License service fee. (Effective July 1, 2011.) (1) A person who applies for a vehicle registration or for any other right to operate a vehicle on the highways of this state shall pay a fifty cent license service fee in addition to any other fees and taxes required by law. The license service fee must be distributed under RCW 46.68.220.

(2010 Ed.)

(2) A vehicle registered under RCW 46.16A.455 or 46.17.330 is not subject to the license service fee. [2010 c 161 § 503.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.030 Parking ticket surcharge. (Effective July 1, 2011.) The department, county auditor or other agent, or subagent appointed by the director shall require a person who applies for a vehicle registration for a vehicle subject to RCW 46.16A.120 to pay a fifteen dollar parking ticket surcharge. The fifteen dollar surcharge must be distributed under RCW 46.68.445. [2010 c 161 § 504.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.040 Subagent service fees. (Effective July 1, 2011.) A subagent appointed by the director shall collect a service fee of:

(1) Ten dollars for changes in a certificate of title, with or without registration renewal, or for verification of record and preparation of an affidavit of lost title other than at the time of the certificate of title application or transfer; and

(2) Four dollars for a registration renewal, issuing a transit permit, or any other service under this section. [2010 c 161 § 506.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.050 Fees associated with a report of sale. (Effective July 1, 2011.) Before accepting a report of sale filed under RCW 46.12.650(2), the county auditor or other agent or subagent appointed by the director shall require the applicant to pay:

(1) The filing fee under RCW 46.17.005(1), the license plate technology fee under RCW 46.17.015, and the license service fee under RCW 46.17.025 to the county auditor or other agent; and

(2) The subagent service fee under RCW 46.17.040(2) to the subagent. [2010 c 161 § 505.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.060 Fees associated with a transitional ownership record. (Effective July 1, 2011.) Before accepting a transitional ownership record filed under RCW 46.12.660, the county auditor or other agent or subagent appointed by the director shall require the applicant to pay:

(1) The filing fee under RCW 46.17.005(1), the license plate technology fee under RCW 46.17.015, and the license service fee under RCW 46.17.025 to the county auditor or other agent; and

(2) The subagent service fee under RCW 46.17.040(2) to the subagent. [2010 c 161 § 507.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

CERTIFICATE OF TITLE FEES

46.17.100 Application fee. (Effective July 1, 2011.)

Before accepting an application for a certificate of title as required in this title, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a five dollar application fee in addition to any other fees and taxes required by law. The certificate of title application fee must be distributed under RCW 46.68.020. [2010 c 161 § 508.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.110 Emergency medical services fee. (Effective July 1, 2011.) (1) Before accepting an application for a certificate of title for a motor vehicle as required in this title, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a six dollar and fifty cent emergency medical services fee for the following transactions:

(a) All retail sales or leases of any new or used motor vehicles; and

(b) Original and transfer certificate of title transactions.

(2) The emergency medical services fee:

(a) Is not considered a violation of RCW 46.70.180(2);

(b) Does not apply to motor vehicles declared a total loss by an insurer or self-insurer unless an application for certificate of title is made to the department, county auditor or other agent, or subagent appointed by the director after the declaration of total loss; and

(c) Must be distributed under RCW 46.68.440. [2010 c 161 § 509.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.120 Stolen vehicle check fee. (Effective July 1, 2011.) Before accepting an application for a certificate of title for a vehicle previously registered in any other state or country, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a fee of fifteen dollars. The fifteen dollar fee must be distributed under RCW 46.68.020. [2010 c 161 § 513.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.130 Vehicle identification number inspection fee. (Effective July 1, 2011.) Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay a sixty-five dollar inspection fee if an inspection of the vehicle was completed by the Washington state patrol. The inspection fee must be distributed under RCW 46.68.020. [2010 c 161 § 514.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.135 Vehicle identification number reassignment fee. (Effective July 1, 2011.) Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay a five dollar vehicle identification number reassignment fee if the Washington state patrol has reassigned an identification number as authorized under RCW 46.12.560. The reassignment fee must be deposited in the motor vehicle fund created in RCW 46.68.070. [2010 c 161 § 515.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.140 Late transfer of title penalty. (Effective July 1, 2011.) The penalty for a late transfer under RCW 46.12.650(7) is twenty-five dollars assessed on the sixteenth day after the date of delivery and two dollars for each additional day thereafter, but the total penalty must not exceed one hundred dollars. The penalty must be distributed under RCW 46.68.020. [2010 c 161 § 512.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.150 Manufactured home title transfer fee. (Effective July 1, 2011.) Before accepting an application for a transfer of certificate of title for a new or used manufactured home as required in this title and chapter 65.20 RCW, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a fifteen dollar fee in addition to any other fees and taxes required by law. The fifteen dollar fee must be forwarded to the state treasurer, who shall deposit the fee in the manufactured housing account created in RCW 59.22.070. [2010 c 161 § 510.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.155 Manufactured home transaction fee. (Effective July 1, 2011.) (1) Before accepting an application for a certificate of title for an original or transfer manufactured home transaction as required in this title or chapter 65.20 RCW, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a one hundred dollar fee in addition to any other fees and taxes required by law if the manufactured home:

(a) Is located in a mobile home park;

(b) Is one year old or older;

(c) Is new or ownership changes, excluding changes that involve adding or deleting spouse or domestic partner coregistered owners or legal owners; and

(d) Sales price is five thousand dollars or more.

(2) The one hundred dollar fee must be forwarded to the state treasurer, who shall deposit the fee in the mobile home park relocation fund created in RCW 59.21.050.

(3) The department and the state treasurer may adopt rules necessary to carry out this section. [2010 c 161 § 511.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

LICENSE PLATE FEES

46.17.200 Reflectivity fee—Replacement fees—Retention fee—Transfer fees—Recovery fee for nonvehicular use. (Effective July 1, 2011.) (1) In addition to all other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge:

(a) The following license plate fees for each license plate, unless the owner or type of vehicle is exempt from payment:

FEE TYPE	FEE	DISTRIBUTION
Reflectivity	\$ 2.00	RCW 46.68.070
Replacement	\$10.00	RCW 46.68.070
Replacement, motorcycle	\$ 2.00	RCW 46.68.070

(b) A license plate retention fee, as required under RCW 46.16A.200(10)(a)(iii), of twenty dollars if the owner wishes to retain the current license plate number upon license plate replacement, unless the owner or type of vehicle is exempt from payment. The twenty dollar fee must be deposited in the multimodal transportation account created in RCW 47.66.070.

(c) A ten dollar license plate transfer fee, as required under RCW 46.16A.200(8)(a), when transferring standard issue license plates from one vehicle to another, unless the owner or type of vehicle is exempt from payment. The ten dollar license plate transfer fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

(d) Former prisoner of war license plates, as described in RCW 46.18.235, may be transferred to a replacement vehicle upon payment of a five dollar license plate fee, in addition to any other fee required by law.

(2) The department may, upon request, provide license plates that have been used and returned to the department to individuals for nonvehicular use. The department may charge a fee of up to five dollars per license plate to cover costs or recovery for postage and handling. The department may waive the fee for license plates used in educational projects and may, by rule, provide standards for the fee waiver and restrictions on the number of license plates provided to any one person. The fee must be deposited in the motor vehicle fund created in RCW 46.68.070. [2010 c 161 § 518.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.210 Personalized license plate fees. (Effective July 1, 2011.) In addition to all fees and taxes required to be paid upon application for a vehicle registration under *chapter 46.16 RCW, the holder of a personalized license plate shall pay an initial fee of forty-two dollars and thirty-two dollars for each renewal. The personalized license plate fee must be distributed as provided in RCW 46.68.435. [2010 c 161 § 520.]

***Reviser’s note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter (2010 Ed.)

46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.220 Special license plate fees. (Effective July 1, 2011.) (1) In addition to all fees and taxes required to be paid upon application for a vehicle registration in *chapter 46.16 RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

PLATE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(a) Amateur radio license	\$ 5.00	N/A	RCW 46.68.070
(b) Armed forces	\$ 40.00	\$ 30.00	RCW 46.68.425
(c) Baseball stadium	\$ 40.00	\$ 30.00	Subsection (2) of this section
(d) Collector vehicle	\$ 35.00	N/A	RCW 46.68.030
(e) Collegiate	\$ 40.00	\$ 30.00	RCW 46.68.430
(f) Endangered wildlife	\$ 40.00	\$ 30.00	RCW 46.68.425
(g) Gonzaga University alumni	\$ 40.00	\$ 30.00	RCW 46.68.420
(h) Helping kids speak	\$ 40.00	\$ 30.00	RCW 46.68.420
(i) Horseless carriage	\$ 35.00	N/A	RCW 46.68.030
(j) Keep kids safe	\$ 45.00	\$ 30.00	RCW 46.68.425
(k) Law enforcement memorial	\$ 40.00	\$ 30.00	RCW 46.68.420
(l) Military affiliate radio system	\$ 5.00	N/A	RCW 46.68.070
(m) Professional firefighters and paramedics	\$ 40.00	\$ 30.00	RCW 46.68.420
(n) Ride share	\$ 25.00	N/A	RCW 46.68.030
(o) Share the road	\$ 40.00	\$ 30.00	RCW 46.68.420
(p) Ski and ride Washington	\$ 40.00	\$ 30.00	RCW 46.68.420
(q) Square dancer	\$ 40.00	N/A	RCW 46.68.070
(r) Washington lighthouses	\$ 40.00	\$ 30.00	RCW 46.68.420
(s) Washington state parks	\$ 40.00	\$ 30.00	RCW 46.68.425
(t) Washington’s national parks	\$ 40.00	\$ 30.00	RCW 46.68.420
(u) Washington’s wildlife collection	\$ 40.00	\$ 30.00	RCW 46.68.425
(v) We love our pets	\$ 40.00	\$ 30.00	RCW 46.68.420
(w) Wild on Washington	\$ 40.00	\$ 30.00	RCW 46.68.425

(2) After deducting administration and collection expenses for the sale of baseball stadium license plates, the remaining proceeds must be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund. [2010 c 161 § 521.]

***Reviser’s note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.230 Replacement license tab and windshield emblem fee. (Effective July 1, 2011.) Before accepting an application for a replacement license tab, the department, county auditor or other agent, or subagent appointed by the director shall charge a one dollar fee for each pair of tabs or windshield emblem. The license tab or windshield emblem replacement fee must be deposited in the motor vehicle fund created in RCW 46.68.070. [2010 c 161 § 519.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.240 Government vehicle license plate fee. (Effective July 1, 2011.) State agencies, political subdivisions, Indian tribes, and the United States government, except foreign governments or international bodies, shall pay a fee of two dollars for a license plate or plates for each vehicle when the department assigns license plates for further assignment by the entity. [2010 c 161 § 517.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.250 Combination trailer license plate fee. (Effective July 1, 2011.) Before accepting an application for a combination trailer license plate authorized under RCW 46.16A.450, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay a thirty-six dollar license plate fee. The thirty-six dollar license plate fee must be deposited and distributed under RCW 46.68.035. [2010 c 161 § 516.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

VEHICLE LICENSE FEES

46.17.305 Boat trailer fee. (Effective July 1, 2011.) Before accepting an application for a vehicle registration for a boat trailer, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a three dollar aquatic weed fee in addition to any other fees and taxes required by law. The three dollar fee must be deposited in the freshwater aquatic weeds account created in RCW 43.21A.650. [2010 c 161 § 522.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.310 Change of class fee. (Effective July 1, 2011.) Before accepting an application for a change of class as required under RCW 46.16A.200(6), the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a one dollar fee. The one dollar fee must be deposited in the motor vehicle fund created in RCW 46.68.070. [2010 c 161 § 523.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.315 Commercial vehicle safety enforcement fee. (Effective July 1, 2011.) (1) Before accepting an appli-

cation for a motor vehicle base plated in the state of Washington that is subject to highway inspections and compliance reviews under RCW 46.32.080 or the international registration plan if base plated in a foreign jurisdiction, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a sixteen dollar commercial vehicle safety enforcement fee in addition to any other fees and taxes required by law. The sixteen dollar fee:

(a) Must be apportioned for those vehicles operating interstate and registered under the international registration plan;

(b) Does not apply to trailers; and

(c) Is not refundable when the motor vehicle is no longer subject to RCW 46.32.080.

(2) The department may deduct an amount equal to the cost of administering the program. All remaining fees must be deposited with the state treasurer and credited to the state patrol highway account of the motor vehicle fund created in RCW 46.68.070. [2010 c 161 § 524.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.320 Duplicate registration fees. (Effective July 1, 2011.) Before accepting an application for a duplicate registration as required under RCW 46.16A.190, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a one dollar and twenty-five cent fee in addition to any other fees and taxes required by law. The one dollar and twenty-five cent fee must be deposited in the motor vehicle fund created in RCW 46.68.070. [2010 c 161 § 525.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.325 Farm exempt decal fee. (Effective July 1, 2011.) Before accepting an application for a farm exempt decal as required under RCW 46.16A.420, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a five dollar fee in addition to any other fees and taxes required by law. The five dollar fee must be deposited in the motor vehicle fund created in RCW 46.68.070. [2010 c 161 § 526.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.330 Farm vehicle reduced gross weight license fee. (Effective July 1, 2011.) (1) In lieu of the vehicle license fee required under RCW 46.17.350 and before accepting an application for a vehicle registration for farm vehicles described in RCW 46.16A.425, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant, unless specifically exempt, to pay the following farm vehicle reduced gross weight license fee by weight:

WEIGHT	SCHEDULE A	SCHEDULE B
4,000 pounds	\$24.50	\$24.50
6,000 pounds	\$24.50	\$24.50

8,000 pounds	\$24.50	\$24.50
10,000 pounds	\$40.50	\$40.50
12,000 pounds	\$49.00	\$49.00
14,000 pounds	\$54.50	\$54.50
16,000 pounds	\$60.50	\$60.50
18,000 pounds	\$86.50	\$86.50
20,000 pounds	\$95.00	\$95.00
22,000 pounds	\$102.00	\$102.00
24,000 pounds	\$109.50	\$109.50
26,000 pounds	\$115.00	\$115.00
28,000 pounds	\$134.00	\$134.00
30,000 pounds	\$153.00	\$153.00
32,000 pounds	\$182.50	\$182.50
34,000 pounds	\$193.50	\$193.50
36,000 pounds	\$209.00	\$209.00
38,000 pounds	\$228.50	\$228.50
40,000 pounds	\$260.00	\$260.00
42,000 pounds	\$270.00	\$315.00
44,000 pounds	\$275.50	\$320.50
46,000 pounds	\$295.50	\$340.50
48,000 pounds	\$307.50	\$352.50
50,000 pounds	\$333.00	\$378.00
52,000 pounds	\$349.50	\$394.50
54,000 pounds	\$376.50	\$421.50
56,000 pounds	\$397.00	\$442.00
58,000 pounds	\$412.50	\$457.50
60,000 pounds	\$439.00	\$484.00
62,000 pounds	\$470.00	\$515.00
64,000 pounds	\$480.00	\$525.00
66,000 pounds	\$533.50	\$578.50
68,000 pounds	\$556.00	\$601.00
70,000 pounds	\$598.00	\$643.00
72,000 pounds	\$639.00	\$684.00
74,000 pounds	\$693.50	\$738.50
76,000 pounds	\$748.50	\$793.50
78,000 pounds	\$816.50	\$861.50
80,000 pounds	\$880.50	\$925.50
82,000 pounds	\$941.00	\$986.00
84,000 pounds	\$1,001.00	\$1,046.00
86,000 pounds	\$1,061.50	\$1,106.50
88,000 pounds	\$1,122.00	\$1,167.00
90,000 pounds	\$1,182.50	\$1,127.50
92,000 pounds	\$1,242.50	\$1,287.50
94,000 pounds	\$1,303.00	\$1,348.00
96,000 pounds	\$1,363.50	\$1,408.50
98,000 pounds	\$1,424.00	\$1,469.00
100,000 pounds	\$1,484.00	\$1,529.00
102,000 pounds	\$1,544.50	\$1,589.50

104,000 pounds	\$1,605.00	\$1,650.00
105,500 pounds	\$1,665.50	\$1,710.50

(2) Schedule A applies to vehicles either used exclusively for hauling logs or that do not tow trailers. Schedule B applies to vehicles that tow trailers and are not covered under Schedule A.

(3) If the resultant gross weight is not listed in the table provided in subsection (1) of this section, it must be increased to the next higher weight.

(4) The farm vehicle reduced gross weight license fees provided in subsection (1) of this section are in addition to the filing fee required under RCW 46.17.005 and any other fee or tax required by law.

(5) The farm vehicle reduced gross weight license fee as provided in subsection (1) of this section must be distributed under RCW 46.68.030. [2010 c 161 § 527.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.335 Fixed load motor vehicle registration fees. (Effective July 1, 2011.) Before accepting an application for a fixed load motor vehicle registration, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay:

(1) The license fee based on declared gross weight as provided in RCW 46.17.355. The declared gross weight must be equal to the scale weight of the motor vehicle, rounded up to the next higher amount in the schedule provided in RCW 46.17.355, up to the legal limit provided in chapter 46.44 RCW; or

(2) A twenty-five dollar capacity fee if the vehicle is equipped for lifting or towing any abandoned, disabled, or impounded vehicle or parts of vehicles. The twenty-five dollar capacity fee is in lieu of the license fee based on declared gross weight as provided in RCW 46.17.355 and must be deposited under RCW 46.68.030. [2010 c 161 § 528.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.340 For hire vehicle and auto stage seating capacity fee. (Effective July 1, 2011.) (1) Before accepting an application for a vehicle registration for a for hire vehicle or auto stage with a seating capacity of six or less, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a fifteen dollar seating capacity fee. The seating capacity fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

(2) The for hire vehicle and auto stage seating capacity fee imposed in subsection (1) of this section does not apply to taxicabs. [2010 c 161 § 529.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.350 License fees by vehicle type. (Effective July 1, 2011.) (1) Before accepting an application for a vehicle registration, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant,

unless specifically exempt, to pay the following vehicle license fee by vehicle type:

VEHICLE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(a) Auto stage, six seats or less	\$ 30.00	\$ 30.00	RCW 46.68.030
(b) Camper	\$ 4.90	\$ 3.50	RCW 46.68.030
(c) Commercial trailer	\$ 34.00	\$ 30.00	RCW 46.68.035
(d) For hire vehicle, six seats or less	\$ 30.00	\$ 30.00	RCW 46.68.030
(e) Mobile home (if registered)	\$ 30.00	\$ 30.00	RCW 46.68.030
(f) Moped	\$ 30.00	\$ 30.00	RCW 46.68.030
(g) Motor home	\$ 30.00	\$ 30.00	RCW 46.68.030
(h) Motorcycle	\$ 30.00	\$ 30.00	RCW 46.68.030
(i) Off-road vehicle	\$ 18.00	\$ 18.00	RCW 46.68.045
(j) Passenger car	\$ 30.00	\$ 30.00	RCW 46.68.030
(k) Private use single-axle trailer	\$ 15.00	\$ 15.00	RCW 46.68.035(2)
(l) Snowmobile	\$ 30.00	\$ 30.00	RCW 46.68.350
(m) Snowmobile, vintage	\$ 12.00	\$ 12.00	RCW 46.68.350
(n) Sport utility vehicle	\$ 30.00	\$ 30.00	RCW 46.68.030
(o) Tow truck	\$ 30.00	\$ 30.00	RCW 46.68.030
(p) Trailer, over 2000 pounds	\$ 30.00	\$ 30.00	RCW 46.68.030
(q) Travel trailer	\$ 30.00	\$ 30.00	RCW 46.68.030

(2) The vehicle license fee required in subsection (1) of this section is in addition to the filing fee required under RCW 46.17.005, and any other fee or tax required by law. [2010 c 161 § 531.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.355 License fees by weight. (Effective July 1, 2011.) (1) In lieu of the vehicle license fee required under RCW 46.17.350 and before accepting an application for a vehicle registration for motor vehicles described in RCW 46.16A.455, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant, unless specifically exempt, to pay the following license fee by weight:

WEIGHT	SCHEDULE A	SCHEDULE B
4,000 pounds	\$ 38.00	\$ 38.00
6,000 pounds	\$ 48.00	\$ 48.00
8,000 pounds	\$ 58.00	\$ 58.00
10,000 pounds	\$ 60.00	\$ 60.00
12,000 pounds	\$ 77.00	\$ 77.00
14,000 pounds	\$ 88.00	\$ 88.00
16,000 pounds	\$ 100.00	\$ 100.00
18,000 pounds	\$ 152.00	\$ 152.00
20,000 pounds	\$ 169.00	\$ 169.00
22,000 pounds	\$ 183.00	\$ 183.00
24,000 pounds	\$ 198.00	\$ 198.00
26,000 pounds	\$ 209.00	\$ 209.00
28,000 pounds	\$ 247.00	\$ 247.00

30,000 pounds	\$ 285.00	\$ 285.00
32,000 pounds	\$ 344.00	\$ 344.00
34,000 pounds	\$ 366.00	\$ 366.00
36,000 pounds	\$ 397.00	\$ 397.00
40,000 pounds	\$ 499.00	\$ 499.00
42,000 pounds	\$ 519.00	\$ 609.00
44,000 pounds	\$ 530.00	\$ 620.00
46,000 pounds	\$ 570.00	\$ 660.00
48,000 pounds	\$ 594.00	\$ 684.00
50,000 pounds	\$ 645.00	\$ 735.00
52,000 pounds	\$ 678.00	\$ 768.00
54,000 pounds	\$ 732.00	\$ 822.00
56,000 pounds	\$ 773.00	\$ 863.00
58,000 pounds	\$ 804.00	\$ 894.00
60,000 pounds	\$ 857.00	\$ 947.00
62,000 pounds	\$ 919.00	\$ 1,009.00
64,000 pounds	\$ 939.00	\$ 1,029.00
66,000 pounds	\$ 1,046.00	\$ 1,136.00
68,000 pounds	\$ 1,091.00	\$ 1,181.00
70,000 pounds	\$ 1,175.00	\$ 1,265.00
72,000 pounds	\$ 1,257.00	\$ 1,347.00
74,000 pounds	\$ 1,366.00	\$ 1,456.00
76,000 pounds	\$ 1,476.00	\$ 1,566.00
78,000 pounds	\$ 1,612.00	\$ 1,702.00
80,000 pounds	\$ 1,740.00	\$ 1,830.00
82,000 pounds	\$ 1,861.00	\$ 1,951.00
84,000 pounds	\$ 1,981.00	\$ 2,071.00
86,000 pounds	\$ 2,102.00	\$ 2,192.00
88,000 pounds	\$ 2,223.00	\$ 2,313.00
90,000 pounds	\$ 2,344.00	\$ 2,434.00
92,000 pounds	\$ 2,464.00	\$ 2,554.00
94,000 pounds	\$ 2,585.00	\$ 2,675.00
96,000 pounds	\$ 2,706.00	\$ 2,796.00
98,000 pounds	\$ 2,827.00	\$ 2,917.00
100,000 pounds	\$ 2,947.00	\$ 3,037.00
102,000 pounds	\$ 3,068.00	\$ 3,158.00
104,000 pounds	\$ 3,189.00	\$ 3,279.00
105,500 pounds	\$ 3,310.00	\$ 3,400.00

(2) Schedule A applies to vehicles either used exclusively for hauling logs or that do not tow trailers. Schedule B applies to vehicles that tow trailers and are not covered under Schedule A.

(3) If the resultant gross weight is not listed in the table provided in subsection (1) of this section, it must be increased to the next higher weight.

(4) The license fees provided in subsection (1) of this section are in addition to the filing fee required under RCW 46.17.005 and any other fee or tax required by law.

(5) The license fee based on declared gross weight as provided in subsection (1) of this section must be distributed under RCW 46.68.035. [2010 c 161 § 530.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.360 Monthly declared gross weight license fees. (Effective July 1, 2011.) A person applying for a monthly declared gross weight license as authorized in RCW 46.16A.455 shall pay an additional two dollars for each month of the declared gross weight license, plus an additional two dollars. These two dollar fees must be deposited in the motor vehicle fund created in RCW 46.68.070. [2010 c 161 § 532.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.365 Motor vehicle weight fee—Motor home vehicle weight fee. (Effective July 1, 2011.) (1) A person applying for a motor vehicle registration and paying the vehicle license fee required in RCW 46.17.350(1) (a), (d), (e), (h), (j), (n), and (o) shall pay a motor vehicle weight fee in addition to all other fees and taxes required by law. The motor vehicle weight fee:

- (a) Must be based on the motor vehicle scale weight;
- (b) Is the difference determined by subtracting the vehicle license fee required in RCW 46.17.350 from the license fee in Schedule B of RCW 46.17.355, plus two dollars; and
- (c) Must be distributed under RCW 46.68.415.

(2) A person applying for a motor home vehicle registration shall, in lieu of the motor vehicle weight fee required in subsection (1) of this section, pay a motor home vehicle weight fee of seventy-five dollars in addition to all other fees and taxes required by law. The motor home vehicle weight fee must be distributed under RCW 46.68.415.

(3) The department shall:

- (a) Rely on motor vehicle empty scale weights provided by vehicle manufacturers, or other sources defined by the department, to determine the weight of each motor vehicle; and
- (b) Adopt rules for determining weight for vehicles without manufacturer empty scale weights. [2010 c 161 § 533.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.375 Recreational vehicle sanitary disposal fee. (Effective July 1, 2011.) (1) Before accepting an application for registration for a recreational vehicle, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay a three dollar fee in addition to any other fees and taxes required by law. The recreational vehicle sanitary disposal fee must be deposited in the RV account created in RCW 46.68.170.

(2) For the purposes of this section, "recreational vehicle" means a camper, motor home, or travel trailer. [2010 c 161 § 534.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Fee increase by department of transportation authorized: RCW 47.01.460.

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PERMIT AND TRANSFER FEES

46.17.400 Permit fees by permit type. (Effective July 1, 2011.) (1) Before accepting an application for one of the following permits, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay the following permit fee by permit type in addition to any other fee or tax required by law:

PERMIT TYPE	FEE	AUTHORITY	DISTRIBUTION
(a) Dealer temporary	\$15.00	RCW 46.16A.300	RCW 46.68.030
(b) Department temporary	\$.50	RCW 46.16A.305	RCW 46.68.450
(c) Farm vehicle trip	\$6.25	RCW 46.16A.330	RCW 46.68.035
(d) Nonresident military	\$10.00	RCW 46.16A.340	RCW 46.68.070
(e) Nonresident temporary snowmobile	\$5.00	RCW 46.10.450	RCW 46.68.350
(f) Special fuel trip	\$25.00	RCW 82.38.100	RCW 46.68.460
(g) Temporary ORV use	\$7.00	RCW 46.09.430	RCW 46.68.045
(h) Vehicle trip	\$25.00	RCW 46.16A.320	RCW 46.68.455

(2) Permit fees as provided in subsection (1) of this section are in addition to the filing fee required under RCW 46.17.005, except an additional filing fee may not be charged for:

- (a) Dealer temporary permits;
- (b) Special fuel trip permits; and
- (c) Vehicle trip permits.

(3) Five dollars of the fifteen dollar dealer temporary permit fee provided in subsection (1)(a) of this section must be credited to the payment of vehicle license fees at the time application for registration is made. The remainder must be deposited to the state patrol highway account created in RCW 46.68.030.

(4) A surcharge of five dollars must be collected when issuing a special fuel trip permit or vehicle trip permit as provided in subsection (1) of this section and must be distributed as follows:

- (a) Under RCW 46.68.460 for special fuel trip permits; and
- (b) Under RCW 46.68.455 for vehicle trip permits. [2010 c 161 § 535.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.410 Off-road vehicle registration transfer fee. (Effective July 1, 2011.) Before accepting an application for a transfer of an off-road vehicle registration as required under RCW 46.09.410, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a five dollar off-road vehicle registration transfer fee. The five dollar off-road vehicle registration transfer fee must be distributed under RCW 46.68.020. [2010 c 161 § 536.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.17.420 Snowmobile registration transfer fee. (Effective July 1, 2011.) Before accepting an application for a transfer of a snowmobile registration as required under

RCW 46.10.400, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a five dollar snowmobile registration transfer fee. The five dollar snowmobile registration transfer fee must be distributed under RCW 46.68.350. [2010 c 161 § 537.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Chapter 46.18 RCW SPECIAL LICENSE PLATES

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GENERAL PROVISIONS

46.18.005 Intent. (Effective July 1, 2011.) The legislature has seen an increase in the demand from constituent groups seeking recognition and funding through the establishment of commemorative or special license plates. The high cost of implementing a new special license plate series coupled with the uncertainty of the state's ability to recoup its costs has led the legislature to delay the implementation of new special license plates. In order to address these issues, it is the intent of the legislature to create a mechanism that will allow for the evaluation of special license plate requests and establish a funding policy that will alleviate the financial burden currently placed on the state. Using these two strategies,

the legislature will be better equipped to efficiently process special license plate legislation. [2010 c 161 § 601; 2003 c 196 § 1. Formerly RCW 46.16.700.]

Reviser's note: 2010 c 161 § 1226 directed that RCW 46.16.700 be recodified under the subchapter heading "review board" under chapter 46.18 RCW. However, recodification under the subchapter heading "general provisions" appears to be more appropriate.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Part headings not law—2003 c 196: "Part headings used in this act are not part of the law." [2003 c 196 § 601.]

46.18.010 Application. (Effective July 1, 2011.) Persons applying to the department for special license plates shall apply on forms obtained from the department and in accordance with *RCW 46.16.040. The applicant shall provide all information as is required by the department in order to determine the applicant's eligibility for the special license plates. [1997 c 291 § 7; 1990 c 250 § 3. Formerly RCW 46.16.309.]

***Reviser's note:** RCW 46.16.040 was recodified as RCW 46.16A.040 pursuant to 2010 c 161 § 1215, effective July 1, 2011.

Additional notes found at www.leg.wa.gov

46.18.020 Rules. (Effective July 1, 2011.) The director shall adopt rules to implement chapter 46.18 RCW, including setting of fees. [2010 c 161 § 631; 1990 c 250 § 10. Formerly RCW 46.16.335.]

Reviser's note: RCW 46.16.335 was amended by 2010 c 161 § 631 without cognizance of its repeal by 2010 c 161 § 438. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.18.030 Authority to continue. (Effective July 1, 2011.) The department has the sole discretion, based upon the number of sales to date, to determine whether or not to continue issuing license plates in a special series created before January 1, 2003. [2003 c 196 § 501; 1997 c 291 § 9. Formerly RCW 46.16.314.]

Part headings not law—2003 c 196: See note following RCW 46.18.005.

REVIEW BOARD

46.18.050 Administration (as amended by 2010 c 161). (Effective July 1, 2011.) (1) The board shall meet periodically at the call of the chair, but must meet at least (~~(one time)~~) once each year within ninety days before an upcoming regular session of the legislature. The board may adopt its own rules and may establish its own procedures. It shall act collectively in harmony with recorded resolutions or motions adopted by a majority vote of the members, and it must have a quorum present to take a vote on a special license plate application.

(2) The board will be compensated from the general appropriation for the department (~~(of licensing)~~) in accordance with RCW 43.03.250. Each board member will be compensated in accordance with RCW 43.03.250 and reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the board or that are incurred in the discharge of duties requested by the chair. However, (~~(in no event may)~~) a board member may not be compensated in any year for more than one hundred twenty days, except the chair may be compensated for not more than

one hundred fifty days. Service on the board does not qualify as a service credit for the purposes of a public retirement system.

(3) The board shall keep proper records and is subject to audit by the state auditor or other auditing entities.

(4) The department (~~(of licensing)~~) shall provide administrative support to the board, which must include at least the following:

(a) Provide general staffing to meet the administrative needs of the board;

(b) Report to the board on the reimbursement status of any new special license plate series for which the state had to pay the start-up costs;

(c) Process special license plate applications and confirm that the sponsoring organization has submitted all required documentation. If an incomplete application is received, the department must return it to the sponsoring organization; and

(d) Compile the annual financial reports submitted by sponsoring organizations with active special license plate series and present those reports to the board for review and approval. [2010 c 161 § 603; 2005 c 319 § 118; 2003 c 196 § 102. Formerly RCW 46.16.715.]

Reviser's note: RCW 46.16.715 was amended twice during the 2010 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Part headings not law—2003 c 196: See note following RCW 46.18.005.

46.18.060 Powers and duties—Moratorium on issuance of special license plates (as amended by 2010 c 161). (Effective July 1, 2011.) (1) The creation of the board does not in any way preclude the authority of the legislature to independently propose and enact special license plate legislation.

(2) The board must review and either approve or reject special license applications submitted by sponsoring organizations.

(3) Duties of the board include but are not limited to the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the senate and house transportation committees;

(b) Report annually to the senate and house of representatives transportation committees on the special license plate applications that were considered by the board;

(c) Issue approval and rejection notification letters to sponsoring organizations, the department, the chairs of the senate and house of representatives transportation committees, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application;

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The board may submit a recommendation to discontinue a special plate series to the chairs of the senate and house of representatives transportation committees; and

(e) Provide policy guidance and directions to the department concerning the adoption of rules necessary to limit the number of special license plates (~~(that)~~ for which an organization or a governmental entity may apply (~~(for)~~).

(4) Except as provided in (~~chapter 72, Laws of 2008~~) RCW 46.18.245, in order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until July 1, 2011. During this period of time, the special license plate review board created in *RCW 46.16.705 and the department (~~(of licensing)~~) are prohibited from accepting, reviewing, processing, or approving any applications. Additionally, (~~(no)~~) a special license plate may not be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the board before February 15, 2005. [2010 c 161 § 604; 2009 c 470 § 710; 2008 c 72 § 2; 2007 c 518 § 711. Prior: 2005 c 319 § 119; 2005 c 210 § 7; 2003 c 196 § 103. Formerly RCW 46.16.725.]

Reviser's note: *(1) RCW 46.16.705 was amended by 2010 c 161 § 602, without cognizance of its repeal by 2010 1st sp.s. c 7 § 90. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

(2) RCW 46.16.725 was amended twice during the 2010 legislative

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session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2009 c 470: See note following RCW 46.68.170.

Severability—Effective date—2007 c 518: See notes following RCW 46.68.170.

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Part headings not law—2003 c 196: See note following RCW 46.18.005.

REQUIREMENTS AND PROCEDURES

46.18.100 Sponsoring organization requirements. (Effective July 1, 2011.) (1) For an organization to qualify for a special license plate under the special license plate approval program created in this chapter, the sponsoring organization must submit documentation in conjunction with the application to the department that verifies that the organization is:

(a) A nonprofit organization, as defined in 26 U.S.C. Sec. 501(c)(3). The department may request a copy of an Internal Revenue Service ruling to verify an organization's nonprofit status; and

(b) Located in Washington state and has registered as a charitable organization with the secretary of state's office as required by law.

(2) For a governmental body to qualify for a special license plate under the special license plate approval program created in this chapter, a governmental body must be:

(a) A political subdivision including, but not limited to, any county, city, town, municipal corporation, or special purpose taxing district that has the express permission of the political subdivision's executive body to sponsor a special license plate;

(b) A federally recognized tribal government that has received the approval of the executive body of that government to sponsor a special license plate;

(c) A state agency that has received approval from the director of the agency or the department head; or

(d) A community or technical college that has the express permission of the college's board of trustees to sponsor a special license plate. [2010 c 161 § 605; 2004 c 222 § 3; 2003 c 196 § 201. Formerly RCW 46.16.735.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Part headings not law—2003 c 196: See note following RCW 46.18.005.

46.18.110 Application requirements (as amended by 2010 c 161). (Effective July 1, 2011.) (1) A sponsoring organization meeting the requirements of RCW 46.18.100, applying for the creation of a special license plate to the special license plate review board must, on an application supplied by the department, provide the minimum application requirements in subsection (2) of this section.

(2) The sponsoring organization shall:

(a) Submit prepayment of all start-up costs associated with the creation and implementation of the special license plate in an amount determined by the department. The department shall place this money into the special

license plate applicant trust account created under ((RCW 46.16.755(4)) RCW 46.68.380;

(b) Provide a proposed license plate design;

(c) Provide a marketing strategy outlining short and long-term marketing plans for each special license plate and a financial analysis outlining the anticipated revenue and the planned expenditures of the revenues derived from the sale of the special license plate;

(d) Provide a signature of a legislative sponsor and proposed legislation creating the special license plate;

(e) Provide proof of organizational qualifications as determined by the department as provided for in RCW 46.18.100;

(f) Provide signature sheets that include signatures from individuals who intend to purchase the special license plate and the number of plates each individual intends to purchase. The sheets must reflect a minimum of three thousand five hundred intended purchases of the special license plate.

(3) After an application is approved by the special license plate review board, the application need not be reviewed again by the board for a period of three years. [2010 c 161 § 606; 2005 c 210 § 8; 2003 c 196 § 301. Formerly RCW 46.16.745.]

Reviser's note: RCW 46.16.745 was amended twice during the 2010 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Part headings not law—2003 c 196: See note following RCW 46.18.005.

46.18.120 Written agreement—Financial report. (Effective July 1, 2011.) (1) Within thirty days of legislative enactment of a new special license plate series for a qualifying organization meeting the requirements of RCW 46.18.100(1), the department shall enter into a written agreement with the organization that sponsored the special license plate. The agreement must identify the services to be performed by the sponsoring organization. The agreement must be consistent with all applicable state law and include the following provision:

"No portion of any funds disbursed under the agreement may be used, directly or indirectly, for any of the following purposes:

(a) Attempting to influence: (i) The passage or defeat of legislation by the legislature of the state of Washington, by a county, city, town, or other political subdivision of the state of Washington, or by the Congress; or (ii) the adoption or rejection of a rule, standard, rate, or other legislative enactment of a state agency;

(b) Making contributions reportable under chapter 42.17 RCW; or

(c) Providing a: (i) Gift; (ii) honoraria; or (iii) travel, lodging, meals, or entertainment to a public officer or employee."

(2) The sponsoring organization must submit an annual financial report by September 30th of each year to the department detailing actual revenues and expenditures of the revenues received from sales of the special license plate. Consistent with the agreement under subsection (1) of this section, the sponsoring organization must expend the revenues generated from the sale of the special license plate series for the benefit of the public, and it must be spent within this state. Disbursement of the revenue generated from the sale of the special license plate to the sponsoring organization is contin-

gent upon the organization meeting all reporting and review requirements as required by the department.

(3) If the sponsoring organization ceases to exist or the purpose of the special license plate series ceases to exist, revenues generated from the sale of the special license plates must be deposited into the motor vehicle fund created in RCW 46.68.070.

(4) A sponsoring organization may not seek to redesign its special license plate series until the entire inventory is sold or purchased by the organization itself. All costs for the redesign of a special license plate series must be paid by the sponsoring organization. [2010 c 161 § 608; 2003 c 196 § 303. Formerly RCW 46.16.765.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Part headings not law—2003 c 196: See note following RCW 46.18.005.

46.18.130 Disposition of revenues. (Effective July 1, 2011.) (1) Revenues generated from the sale of special license plates for those sponsoring organizations who used the application process in RCW 46.68.110 must be deposited into the motor vehicle fund created in RCW 46.68.070 until the department determines that the state's implementation costs have been fully reimbursed.

(2) When it is determined that the state has been fully reimbursed the department must notify the house of representatives and senate transportation committees, the sponsoring organization, and the state treasurer, and begin distributing the revenue as otherwise provided by law.

(3) If reimbursement does not occur within two years from the date the special license plate is first offered for sale to the public, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the special license plate series must be discontinued immediately. Special license plates issued before discontinuation are valid until replaced under RCW 46.16A.200(10).

(4) The special license plate applicant trust account is created in the custody of the state treasurer. All receipts from special license plate applicants must be deposited into the account. Only the director of the department or the director's designee may authorize disbursements from the account. The account is not subject to the allotment procedures under chapter 43.88 RCW, nor is an appropriation required for disbursements.

(5) The department shall:

(a) Provide the special license plate applicant with a written receipt for the payment; and

(b) Maintain a record of each special license plate applicant trust account deposit including, but not limited to, the name and address of each special license plate applicant whose funds are being deposited, the amount paid, and the date of the deposit.

(6) After the department receives written notice that the special license plate applicant's application has been approved by the legislature, the director shall request that the money be transferred to the motor vehicle fund created in RCW 46.68.070.

(7) After the department receives written notice that the special license plate applicant's application has been denied by the department or the legislature, the director shall provide a refund to the applicant within thirty days.

(8) After the department receives written notice that the special license plate applicant's application has been withdrawn by the special license plate applicant, the director shall provide a refund to the applicant within thirty days. [2010 1st sp.s. c 7 § 96; 2010 c 161 § 607; 2004 c 222 § 4; 2003 c 196 § 302. Formerly RCW 46.16.755.]

Reviser's note: This section was amended by 2010 c 161 § 607 and by 2010 1st sp.s. c 7 § 96, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Part headings not law—2003 c 196: See note following RCW 46.18.005.

46.18.140 Nonreviewed special license plates. (Effective July 1, 2011.) (1) A special license plate series created by the legislature after January 1, 2011, that has not been reviewed and approved by the department is subject to the following requirements:

(a) The organization sponsoring the license plate series shall, within thirty days of enactment of the legislation creating the special license plate series, submit prepayment of all start-up costs associated with the creation and implementation of the special license plate in an amount determined by the department. The prepayment will be credited to the motor vehicle fund created in RCW 46.68.070. The creation and implementation of the special license plate series may not begin until payment is received by the department.

(b) If the sponsoring organization is not able to meet the prepayment requirements in (a) of this subsection and can demonstrate this fact to the satisfaction of the department, the revenues generated from the sale of the special license plates must be deposited in the motor vehicle fund created in RCW 46.68.070 until the department determines that the state's portion of the implementation costs have been fully reimbursed. When it has determined that the state has been fully reimbursed, the department must notify the treasurer to commence distribution of the revenue according to statutory provisions.

(c) The sponsoring organization must provide a proposed special license plate design to the department within thirty days of enactment of the legislation creating the special license plate series.

(2) The state must be reimbursed for its portion of the implementation costs within two years from the date the new special license plate series goes on sale to the public. If the reimbursement does not occur within the two-year time frame, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the special license plate series must be discontinued immediately. Those special license plates issued before discontinuation are valid until replaced under RCW 46.16A.200(10).

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(3) If the sponsoring organization ceases to exist or the purpose of the special license plate series ceases to exist, revenues generated from the sale of the special license plates must be deposited into the motor vehicle fund created in RCW 46.68.070.

(4) A sponsoring organization may not seek to redesign its special license plate series until the entire existing inventory is sold or purchased by the organization itself. All costs for the redesign of a special license plate series must be paid by the sponsoring organization. [2010 1st sp.s. c 7 § 97; 2010 c 161 § 609; 2003 c 196 § 304. Formerly RCW 46.16.775.]

Reviser's note: This section was amended by 2010 c 161 § 609 and by 2010 1st sp.s. c 7 § 97, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Part headings not law—2003 c 196: See note following RCW 46.18.005.

46.18.150 Design services—Fees. (Effective July 1, 2011.) The department shall offer special license plate design services to organizations that are sponsoring a new special license plate series and organizations seeking to redesign the appearance of an existing special license plate series that they sponsored. In providing this service, the department must work with the requesting organization in determining the specific qualities of the new special license plate design and must provide full design services to the organization. The department shall collect from the requesting organization a fee of two hundred dollars for providing special license plate design services. This fee includes one original special license plate design and up to five additional renditions of the original design. If the organization requests the department to provide further renditions, in addition to the five renditions provided for under the original fee, the department shall collect an additional fee of one hundred dollars per rendition. All revenue collected under this section must be deposited into the multimodal transportation account created in RCW 47.66.070. [2010 c 161 § 610; 2005 c 210 § 6; 2003 c 361 § 502. Formerly RCW 46.16.690.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

PLATE TYPES, DECALS, AND EMBLEMS

46.18.200 Board-approved plate types. (Effective July 1, 2011.) (1) The legislature recognizes that the special license plate review board established in *RCW 46.16.705 reviews and approves applications for special license plate series.

(2) Special license plate series reviewed and approved by the special license plate review board:

(a) May be issued in lieu of standard issue or personalized license plates for vehicles required to display one and two license plates unless otherwise specified;

(b) Must be issued under terms and conditions established by the department;

(c) Must not be issued for vehicles registered under chapter 46.87 RCW; and

(d) Must display a symbol or artwork approved by the special license plate review board.

(3) The special license plate review board approves, and the department shall issue, the following special license plates:

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
Armed forces collection	Recognizes the contribution of veterans, active duty military personnel, reservists, and members of the national guard, and includes six separate designs, each containing a symbol representing a different branch of the armed forces to include army, navy, air force, marine corps, coast guard, and national guard.
Endangered wildlife	Displays a symbol or artwork, approved by the special license plate review board and the legislature.
Gonzaga University alumni	Recognizes the Gonzaga University alumni association.
Helping kids speak	Recognizes an organization that supports programs that provide no-cost speech pathology programs to children.
Keep kids safe	Recognizes efforts to prevent child abuse and neglect.
Law enforcement memorial	Honors law enforcement officers in Washington killed in the line of duty.
Professional firefighters and paramedics	Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.
Share the road	Recognizes an organization that promotes bicycle safety and awareness education.
Skii & ride Washington	Recognizes the Washington snowsports industry.
Washington lighthouses	Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.
Washington state parks	Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.
Washington's national park fund	Builds awareness of Washington's national parks and supports priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.
Washington's wildlife collection	Recognizes Washington's wildlife.
We love our pets	Recognizes an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets to reduce pet overpopulation.
Wild on Washington	Symbolizes wildlife viewing in Washington state.

(4) Applicants for initial and renewal professional firefighters and paramedics special license plates must show proof eligibility by providing a certificate of current membership from the Washington state council of firefighters. [2010 c 161 § 611.]

***Reviser's note:** RCW 46.16.705 was amended by 2010 c 161 § 602, without cognizance of its repeal by 2010 1st sp.s. c 7 § 90. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.205 Amateur radio license plates. (Effective July 1, 2011.) (1) A registered owner may apply to the department for special license plates showing the official amateur radio call letters assigned by the federal communications commission. The amateur radio operator must:

(a) Provide a copy of the current valid federal communications commission amateur radio license;

(b) Pay the amateur radio license plate fee required under RCW 46.17.220(1)(a), in addition to any other fees and taxes due; and

(c) Be recorded as the registered owner of the vehicle on which the amateur radio license plates will be displayed.

(2) Amateur radio license plates must be issued only for motor vehicles owned by persons who have a valid official radio operator license issued by the federal communications commission.

(3) The department shall not issue or may refuse to issue amateur radio license plates that display the consecutive letters "WSP."

(4) A person who has been issued amateur radio operator license plates as provided in this section must:

(a) Notify the department within thirty days after the federal communications commission license assigned is canceled or expires, and return the amateur radio license plates; and

(b) Provide a copy of the renewed federal communications commission license to the department after it is renewed.

(5) Amateur radio license plates may be transferred from one motor vehicle to another motor vehicle owned by the amateur radio operator upon application to the department, county auditor or other agent, or subagent appointed by the director.

(6) Facilities of official amateur radio stations may be utilized to the fullest extent in the work of governmental agencies. The director shall furnish the state military department, the department of commerce, the Washington state patrol, and all county sheriffs a list of the names, addresses, and license plate or official amateur radio call letters of each person possessing the amateur radio license plates.

(7) Failure to return the amateur radio license plates as required under subsection (4) of this section is a traffic infraction. [2010 c 161 § 616.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.210 Armed forces license plates. (Effective July 1, 2011.) (1) A registered owner may apply to the department

for special armed forces license plates for motor vehicles representing the following:

- (a) Air force;
 - (b) Army;
 - (c) Coast guard;
 - (d) Marine corps;
 - (e) National guard; or
 - (f) Navy.
- (2) Armed forces license plates may be purchased by:
- (a) Active duty military personnel;
 - (b) Families of veterans and service members;
 - (c) Members of the national guard;
 - (d) Reservists; or
 - (e) Veterans, as defined in RCW 41.04.007.

(3) A person who applies for special armed forces license plates shall provide:

- (a) DD-214 or discharge papers if the applicant is a veteran;
 - (b) A military identification card or retired military identification card; or
 - (c) A declaration of fact attesting to the applicant's eligibility as required under this section.
- (4) For the purposes of this section:
- (a) "Child" includes stepchild, adopted child, foster child, grandchild, or son or daughter-in-law.
 - (b) "Family" or "families" includes an individual's spouse, child, parent, sibling, aunt, uncle, or cousin.
 - (c) "Parent" includes stepparent, grandparent, or in-laws.
 - (d) "Sibling" includes brother, half brother, stepbrother, sister, half sister, stepsister, or brother or sister-in-law.

(5) Armed forces license plates are not free of charge to disabled veterans, former prisoners of war, or spouses or domestic partners of deceased former prisoners of war under RCW 46.18.235. [2010 c 161 § 612.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.212 Armed forces decals. (Effective July 1, 2011.) (1) The department must make available, upon request by a purchaser of special armed forces license plates, at no additional cost, a decal indicating the purchaser's military status. The list of available decals must include, but is not limited to:

- (a) Active duty;
- (b) Disabled veteran;
- (c) Reservist;
- (d) Retiree;
- (e) Veteran; or
- (f) Other decals established in cooperation with the department of veterans affairs.

(2) Armed forces decals must be made available only for standard six-inch by twelve-inch license plates. The department may specify where the decal may be placed on the license plate.

(3) The department of veterans affairs must enter into an agreement with the department to reimburse the department for the costs associated with providing military status decals described in this section. [2010 c 161 § 613.]

(2010 Ed.)

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.215 Baseball stadium license plates. (Effective July 1, 2011.) The department shall create, design, and issue a special baseball stadium license plate that may be used in lieu of standard issue or personalized license plates for motor vehicles required to display two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special license plates commemorate the construction of a baseball stadium, as defined in RCW 82.14.0485. The department shall also issue to each recipient of a special baseball stadium license plate a certificate of participation in the construction of the baseball stadium. [2010 c 161 § 614; 1997 c 291 § 5; 1995 3rd sp.s. c 1 § 102; 1994 c 194 § 2; 1990 c 250 § 1. Formerly RCW 46.16.301.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Finding—1997 c 291: "The legislature finds that the proliferation of special license plate series has decreased the ready identification of vehicles by law enforcement, and increased the amount of computer programming conducted by the department of licensing, thereby increasing costs. Furthermore, rarely has the actual demand for special license plates met the requesters' projections. Most importantly, special plates detract from the primary purpose of license plates, that of vehicle identification." [1997 c 291 § 1.]

State contribution for baseball stadium limited: RCW 82.14.0486.

Additional notes found at www.leg.wa.gov

46.18.220 Collector vehicle license plates. (Effective July 1, 2011.) (1) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a collector vehicle license plate for a motor vehicle that is at least thirty years old. The motor vehicle must be operated primarily as a collector vehicle and be in good running order. The applicant for the collector vehicle license plate shall:

(a) Purchase a registration for the motor vehicle as required under chapters *46.16 and 46.17 RCW; and

(b) Pay the special license plate fee established under RCW 46.17.220(1)(d), in addition to any other fees or taxes required by law.

(2) A person applying for a collector vehicle license plate may:

(a) Receive a collector vehicle license plate assigned by the department; or

(b) Provide a Washington state issued license plate designated for general use in the year of the vehicle's manufacture.

(3) Collector vehicle license plates:

(a) Are valid for the life of the motor vehicle;

(b) Are not required to be renewed; and

(c) Must be displayed on the rear of the motor vehicle.

(4) A collector vehicle registered under this section may only be used for participation in club activities, exhibitions, tours, parades, and occasional pleasure driving.

(5) Collector vehicle license plates may be transferred from one motor vehicle to another motor vehicle described in subsection (1) of this section upon application to the depart-

ment, county auditor or other agent, or subagent appointed by the director. [2010 c 161 § 617.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.225 Collegiate license plates. (Effective July 1, 2011.) A state university, regional university, or state college as defined in RCW 28B.10.016 may apply to the department, in a form approved by the department and request the department to issue a series of collegiate license plates, for display on motor vehicles, depicting the name and mascot or symbol of the college or university, as submitted and approved for use by the requesting institution. [2010 c 161 § 615; 1994 c 194 § 3. Formerly RCW 46.16.324.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.230 Congressional medal of honor license plates. (Effective July 1, 2011.) (1) A registered owner who has been awarded the Congressional Medal of Honor may apply to the department for special license plates for use on a passenger vehicle. The Congressional Medal of Honor recipient must:

(a) Provide proof from the Washington state department of veterans affairs showing receipt of the medal; and

(b) Be recorded as the registered owner of the vehicle on which the Congressional Medal of Honor license plates will be displayed.

(2) Congressional Medal of Honor license plates must be issued:

(a) Only for a personal passenger motor vehicle owned by persons who have received the Congressional Medal of Honor; and

(b) Without payment of vehicle license fees, license plate fees, and motor vehicle excise taxes.

(3) Congressional Medal of Honor license plates must be replaced, free of charge, if the license plates become lost, stolen, damaged, defaced, or destroyed.

(4) Congressional Medal of Honor license plates may be transferred, free of charge, from one motor vehicle to another motor vehicle owned by the Congressional Medal of Honor recipient upon application to the department, county auditor or other agent, or subagent appointed by the director. [2010 c 161 § 618.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.235 Disabled American veteran or former prisoner of war license plates. (Effective July 1, 2011.) (1) A registered owner who is a veteran, as defined in RCW 41.04.007, may apply to the department for disabled American veteran or former prisoner of war license plates, for use on one personal use motor vehicle. The veteran must be recorded as the registered owner of the vehicle on which the

disabled American veteran or former prisoner of war license plates will be displayed and:

(a) Provide certification from the veterans administration or the military service from which the veteran was discharged that the veteran has a service-connected disability rating;

(b) Have lost the use of both hands or one foot;

(c) Have been captured and incarcerated by an enemy of the United States during a period of war with the United States and have received a prisoner of war medal;

(d) Have become blind in both eyes as the result of military service; or

(e) Be rated by the veterans administration or the military service from which the veteran was discharged and be receiving service-connected compensation at the one hundred percent rate that is expected to exist for more than one year.

(2) The special license plates under this section must:

(a) Display distinguishing marks, letters, or numerals indicating that the registered owner is a disabled American veteran or former prisoner of war; and

(b) Be issued for one personal use vehicle without the payment of any vehicle license fees, license plate fees, or excise taxes.

(3) A registered owner who is a veteran, as defined in RCW 41.04.007, may, in lieu of applying for the special license plates under this section, apply for regular issue or any qualifying special license plate and receive the full benefit of the vehicle license fee and excise tax exemption provided in subsection (2)(b) of this section.

(4) The department may periodically verify the one hundred percent rate as described in subsection (1)(e) of this section.

(5) A veteran who has been issued disabled American veteran or former prisoner of war license plates under this section before July 1, 1983, continues to be eligible for the vehicle license fee and excise tax exemption described in subsection (2)(b) of this section.

(6) Disabled American veteran and former prisoner of war license plates may be transferred from one motor vehicle to another motor vehicle owned by the veteran upon application to the department, county auditor or other agent, or subagent appointed by the director.

(7) For the purposes of this section:

(a) "Blind" means the definition of "blind" used by the state of Washington in determining eligibility for financial assistance to the blind under Title 74 RCW; and

(b) "Special license plates" does not include any plate from the armed forces license plate collection established in RCW 46.18.200(3).

(8) Any unauthorized use of a special license plate under this section is a gross misdemeanor. [2010 c 161 § 619.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.240 Foreign organization license plates. (Effective July 1, 2011.) (1) A registered owner who is an officer of the Taipei economic and cultural office may apply to the department for special license plates for a motor vehicle owned or leased by the officer. The special license plates must:

- (a) Be issued for passenger vehicles having a manufacturer's rated carrying capacity of one ton or less;
- (b) Show the words "Foreign Organization";
- (c) Be in a distinguishing color and a separate numerical series;
- (d) Be returned to the department when no longer in use or when the owner or lessee is relieved of his or her duties as a representative of the recognized foreign organization; and
- (e) Be removed from the vehicle when the officer of the Taipei economic and cultural office transfers or assigns the interest or certificate of title in the motor vehicle for which the special license plates were issued.

(2) Motor vehicles described in subsection (1) of this section are exempt from the vehicle license fees under RCW 46.17.350.

(3) Foreign organization license plates may be transferred from one motor vehicle to another motor vehicle owned by the officer as described in subsection (1) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

(4) The Taipei economic and cultural office shall bear the entire cost of production of the special license plates described in subsection (1) of this section. [2010 c 161 § 620.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.245 Gold star license plates. (Effective July 1, 2011.) (1) A registered owner who is the mother or father of a member of the United States armed forces who died while in service to his or her country, or as a result of his or her service, may apply to the department for special gold star license plates for use on a motor vehicle. The registered owner must:

- (a) Be a resident of this state;
- (b) Provide certification from the Washington state department of veterans affairs that the registered owner qualifies for the special license plate under this section;
- (c) Be recorded as the registered owner of the motor vehicle on which the gold star license plates will be displayed; and
- (d) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Gold star license plates must be issued:

- (a) Only for motor vehicles owned by qualifying applicants; and
 - (b) Without payment of any license plate fee.
- (3) Gold star license plates must be replaced, free of charge, if the license plates become lost, stolen, damaged, defaced, or destroyed.

(4) Gold star license plates may be transferred from one motor vehicle to another motor vehicle owned by the mother or father, as described in subsection (1) of this section, upon application to the department, county auditor or other agent, or subagent appointed by the director. [2010 c 161 § 621.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.250 Honorary consul special license plates. (Effective July 1, 2011.) (1) A registered owner who is an (2010 Ed.)

honorary consul or official representative of any foreign government may apply to the department for special license plates for a motor vehicle owned or leased by the honorary consul or official representative. The honorary consul or official representative must be a citizen of the United States, pay all required vehicle license fees and taxes, and either (a) provide a copy of the honorary consul identification card or (b) show the exequatur issued by the United States department of state.

(2) The special honorary consul license plates must be:

- (a) A distinguishing color and separate numerical series;
- (b) Returned to the department when no longer in use or when the honorary consul or official representative is relieved of his or her official duties; and
- (c) Removed from the vehicle when the honorary consul or official representative transfers or assigns the interest or certificate of title in the motor vehicle for which the special license plates were issued.

(3) The special honorary consul license plates may be transferred to a replacement vehicle. The honorary consul or official representative shall immediately notify the department of the transfer of the special license plates. [2010 c 161 § 622.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.255 Horseless carriage license plates. (Effective July 1, 2011.) (1) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a horseless carriage license plate for a motor vehicle that is at least forty years old. The motor vehicle must be operated primarily as a collector vehicle and be in good running order. The applicant for the horseless carriage license plate shall:

- (a) Purchase a registration for the motor vehicle as required under chapters *46.16 and 46.17 RCW; and
- (b) Pay the special license plate fee established under RCW 46.17.220(1)(i), in addition to any other fees or taxes required by law.

(2) Horseless carriage license plates:

- (a) Are valid for the life of the motor vehicle;
 - (b) Are not required to be renewed;
 - (c) Are not transferrable to any other motor vehicle; and
 - (d) Must be displayed on the rear of the motor vehicle.
- [2010 c 161 § 623.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.265 Military affiliate radio system license plates. (Effective July 1, 2011.) (1) A registered owner who has a valid military affiliate radio system station license may apply to the department for special license plates for use on only one motor vehicle owned by the qualified applicant. The applicant must:

- (a) Be a resident of this state;

(b) Provide a copy of the current official military affiliate radio system station license authorized by the department of defense and issued by the United States army, air force, navy, or marine corps;

(c) Be recorded as the registered owner of the motor vehicle on which the military affiliate radio system license plates will be displayed; and

(d) Pay the military affiliate radio system license plate fee required under RCW 46.17.220(1)(l), in addition to any other fees or taxes required by law.

(2) A person who has been issued military affiliate radio system license plates as provided in this section must:

(a) Notify the department if the military affiliate radio system station license assigned is canceled or expires; and

(b) Provide a copy of the renewed military affiliate radio system station license to the department when it is renewed.

(3) Military affiliate radio system license plates:

(a) Are not available for motorcycles; and

(b) May be transferred from one motor vehicle to another motor vehicle owned by the military affiliate radio system operator upon application to the department, county auditor or other agent, or subagent appointed by the director. [2010 c 161 § 624.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.270 Pearl Harbor survivor license plates. (Effective July 1, 2011.) (1) A registered owner who has survived the attack on Pearl Harbor on December 7, 1941, may apply to the department for special license plates for use on only one motor vehicle owned by the qualified applicant. The applicant must:

(a) Be a resident of this state;

(b) Have been a member of the United States armed forces on December 7, 1941;

(c) Have been on station on December 7, 1941, between the hours of 7:55 a.m. and 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three miles;

(d) Have received an honorable discharge from the United States armed forces;

(e) Provide certification by a Washington state chapter of the Pearl Harbor survivors association showing that qualifications in (c) of this subsection have been met;

(f) Be recorded as the registered owner of the vehicle on which the Pearl Harbor survivor license plates will be displayed; and

(g) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Pearl Harbor survivor license plates must be issued without the payment of any license plate fee.

(3) Pearl Harbor survivor license plates must be replaced, free of charge, if the license plates have become lost, stolen, damaged, defaced, or destroyed.

(4) Pearl Harbor survivor license plates may be issued to the surviving spouse or domestic partner of a Pearl Harbor survivor who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new

domestic partnership, he or she must return the special plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(5) Pearl Harbor survivor license plates may be transferred from one motor vehicle to another motor vehicle owned by the Pearl Harbor survivor or the surviving spouse or domestic partner as described in subsection (4) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director. [2010 c 161 § 625.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.275 Personalized license plates. (Effective July 1, 2011.) (1) A registered owner may apply to the department for a personalized license plate for any vehicle required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The application for personalized license plates must contain the combination of letters or numbers, or both, requested by the registered owner.

(2) Personalized license plates must:

(a) Be the same design as standard issue license plates;

(b) Consist of numbers or letters or any combination of numbers or letters;

(c) Not exceed seven positions unless proposed by the department and approved by the Washington state patrol; and

(d) Not contain less than one character.

(3) A person who purchased personalized license plates containing three letters and three digits on or between the dates of August 9, 1971, and November 6, 1973, is not required to pay the additional annual renewal fee described in RCW 46.17.210.

(4) The department shall not issue or may refuse to issue personalized license plates that:

(a) Duplicate or conflict with an existing or projected vehicle license plate series or other numbering systems for records kept by the department; or

(b) May carry connotations offensive to good taste and decency or which would be misleading.

(5) Personalized license plates must be issued only to the registered owner of the vehicle on which they are to be displayed. The registered owner must:

(a) Pay the personalized license plate fee required under RCW 46.17.210, in addition to any other fee or taxes due;

(b) Renew personalized license plates annually, regardless of whether or not the vehicle on which the personalized license plates are displayed will be driven on the public highways;

(c) Surrender personalized license plates that have not been renewed to the department. The failure to surrender expired personalized license plates is a traffic infraction; and

(d) Immediately report to the department when personalized license plates have been transferred to another vehicle or another owner.

(6) The department may establish rules as necessary to carry out this section including, but not limited to, identifying the maximum number of positions on personalized license plates for motorcycles. [2010 c 161 § 626.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.277 Personalized special license plates. (Effective July 1, 2011.) (1) A registered owner may purchase personalized license plates with a special license plate background for any vehicle required to display one or two vehicle license plates, excluding:

- (a) Amateur radio license plates;
- (b) Collector vehicle license plates;
- (c) Disabled American veteran license plates;
- (d) Former prisoner of war license plates;
- (e) Horseless carriage license plates;
- (f) Congressional Medal of Honor license plates;
- (g) Military affiliate radio system license plates;
- (h) Pearl Harbor survivor license plates;
- (i) Restored license plates; and
- (j) Vehicles registered under chapter 46.87 RCW.

(2) Personalized special license plates issued under this section must:

- (a) Consist of numbers or letters or any combination of numbers or letters;
- (b) Not exceed seven characters; and
- (c) Not contain less than one character.

(3) The department may not issue or may refuse to issue personalized special license plates that:

- (a) Duplicate or conflict with existing or projected vehicle license plate series or other numbering systems for records kept by the department; or
- (b) May carry connotations offensive to good taste and decency or which would be misleading.

(4) Personalized special license plates must be issued only to the registered owner of the vehicle on which they are to be displayed. The registered owner must:

(a) Pay both the personalized license plate fee required under RCW 46.17.210 and the special license plate fee required under the applicable special license plate provision, in addition to any other fee or taxes due. License plate fees must be distributed as provided in chapter 46.68 RCW;

(b) Renew personalized special license plates annually, regardless of whether or not the vehicle on which the personalized special license plates are displayed will be driven on the public highways;

(c) Surrender personalized special license plates that have not been renewed to the department. The failure to surrender expired personalized special license plates is a traffic infraction; and

(d) Immediately report to the department when personalized special license plates have been transferred to another vehicle or another owner.

(5) The department may establish rules as necessary to carry out this section including, but not limited to, identifying the maximum number of positions on personalized special license plates for motorcycles. [2010 c 161 § 627.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.280 Purple heart license plates. (Effective July 1, 2011.) (1) A registered owner who has been awarded a

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Purple Heart medal by any branch of the United States armed forces, including the merchant marines and the women's air forces service pilots may apply to the department for special license plates for use on only one motor vehicle owned by the qualified applicant. The applicant must:

- (a) Be a resident of this state;
- (b) Have been wounded during one of this nation's wars or conflicts identified in RCW 41.04.005;
- (c) Have received an honorable discharge from the United States armed forces;
- (d) Provide a copy of the armed forces document showing the recipient was awarded the Purple Heart medal;
- (e) Be recorded as the registered owner of the vehicle on which the Purple Heart survivor license plates will be displayed; and
- (f) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Purple Heart license plates must be issued without the payment of any special license plate fee.

(3) Purple Heart license plates may be issued to the surviving spouse or domestic partner of a Purple Heart recipient who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new domestic partnership, he or she must return the special plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(4) Purple Heart license plates may be transferred from one motor vehicle to another motor vehicle owned by the Purple Heart recipient or the surviving spouse or domestic partner as described in subsection (3) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director. [2010 c 161 § 628.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.285 Ride share license plates. (Effective July 1, 2011.) [(1)] A registered owner who uses a passenger motor vehicle for commuter ride sharing or ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, shall apply to the director, county auditor or other agent, or subagent appointed by the director for special ride share license plates. The registered owner must qualify for the tax exemptions provided in RCW 82.08.0287, 82.12.0282, or 82.44.015, and pay the special ride share license plate fee required under RCW 46.17.220(1)(n) when the special ride share license plates are initially issued.

(2) The special ride share license plates:

(a) Must be of a distinguishing separate numerical series or design as defined by the department;

(b) Must be returned to the department when no longer in use or when the registered owner no longer qualifies for the tax exemptions provided in subsection (1) of this section; and

(c) Are not required to be renewed annually for motor vehicles described in RCW 46.16A.170.

(3) Special ride share license plates may be transferred from one motor vehicle to another motor vehicle as described in subsection (1) of this section upon application to the

department, county auditor or other agent, or subagent appointed by the director.

(4) Any person who knowingly makes a false statement of a material fact in the application for a special license plate under subsection (1) of this section is guilty of a gross misdemeanor. [2010 c 161 § 629.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.290 Square dancer license plates. (Effective July 1, 2011.) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a square dancer license plate. The registered owner shall pay the special license plate fee required under RCW 46.17.220(1)(q), in addition to any other fee or tax required by law. The square dancer license plate may be issued in lieu of standard issue or personalized license plates for vehicles required to display two license plates, but may not be issued for vehicles registered under chapter 46.87 RCW. [2010 c 161 § 630.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.18.295 Veterans and military personnel emblems. (Effective July 1, 2011.) (1) Veterans discharged under honorable conditions (veterans) and individuals serving on active duty in the United States armed forces (active duty military personnel) may purchase a veterans remembrance emblem or campaign medal emblem. The emblem is to be displayed on vehicle license plates in the manner described by the department, existing vehicular licensing procedures, and current laws.

(2) Veterans and active duty military personnel who served during periods of war or armed conflict may purchase a remembrance emblem depicting campaign ribbons which they were awarded.

(3) The following campaign ribbon remembrance emblems are available:

- (a) World War I victory medal;
- (b) World War II Asiatic-Pacific campaign medal;
- (c) World War II European-African Middle East campaign medal;
- (d) World War II American campaign medal;
- (e) Korean service medal;
- (f) Vietnam service medal;
- (g) Armed forces expeditionary medal awarded after 1958; and
- (h) Southwest Asia medal.

The director may issue additional campaign ribbon emblems by rule as authorized decorations by the United States department of defense.

(4) Veterans or active duty military personnel requesting a veteran remembrance emblem or campaign medal emblem or emblems must:

- (a) Pay a prescribed fee set by the department; and
- (b) Show proof of eligibility through:
 - (i) Providing a DD-214 or discharge papers if a veteran;
 - (ii) Providing a copy of orders awarding a campaign ribbon if an individual serving on military active duty; or

(ii) Attesting in a notarized affidavit of their eligibility as required under this section.

(5) Veterans or active duty military personnel who purchase a veteran remembrance emblem or a campaign medal emblem must be the legal or registered owner of the vehicle on which the emblem is to be displayed. [1997 c 234 § 1; 1991 c 339 § 11; 1990 c 250 § 6. Formerly RCW 46.16.319.]

Additional notes found at www.leg.wa.gov

Chapter 46.19 RCW

SPECIAL PARKING PRIVILEGES FOR PERSONS WITH DISABILITIES

Sections

- 46.19.010 Criteria for natural persons—Application—Identification cards, placards, and license plates.
- 46.19.020 Eligible organizations—Rules.
- 46.19.030 Display and design of placards, license plates, and year tabs.
- 46.19.040 Renewal—Rules.
- 46.19.050 Restrictions—Prohibitions—Violations—Penalties.
- 46.19.060 Special license plates for persons with disabilities, special license plates with a special year tab for persons with disabilities—Fees—Renewal—Transfer.
- 46.19.070 Special plate or card issued by another jurisdiction.

46.19.010 Criteria for natural persons—Application—Identification cards, placards, and license plates. (Effective July 1, 2011.) (1) A natural person who has a disability that meets one of the following criteria may apply for special parking privileges:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Has such a severe disability that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Uses portable oxygen;

(e) Is restricted by lung disease to an extent that forced expiratory respiratory volume, when measured by spirometry, is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American heart association;

(g) Has a disability resulting from an acute sensitivity to automobile emissions that limits or impairs the ability to walk. The personal physician, advanced registered nurse practitioner, or physician assistant of the applicant shall document that the disability is comparable in severity to the others listed in this subsection;

(h) Has limited mobility and has no vision or whose vision with corrective lenses is so limited that the person requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by persons with normal vision;

(i) Has an eye condition of a progressive nature that may lead to blindness; or

(j) Is restricted by a form of porphyria to the extent that the applicant would significantly benefit from a decrease in exposure to light.

(2) The disability must be determined by either:

- (a) A licensed physician;
- (b) An advanced registered nurse practitioner licensed under chapter 18.79 RCW; or
- (c) A physician assistant licensed under chapter 18.71A or 18.57A RCW.

(3) The application for special parking privileges for persons with disabilities must contain:

(a) The following statement immediately below the physician's, advanced registered nurse practitioner's, or physician assistant's signature: "A parking permit for a person with disabilities may be issued only for a medical necessity that severely affects mobility or involves acute sensitivity to light (RCW 46.19.010). Knowingly providing false information on this application is a gross misdemeanor. The penalty is up to one year in jail and a fine of up to \$5,000 or both"; and

(b) Other information as required by the department.

(4) A natural person who has a disability described in subsection (1) of this section and is expected to improve within six months may be issued a temporary placard for a period not to exceed six months. If the disability exists after six months, a new temporary placard must be issued upon receipt of a new application with certification from the person's physician. Special license plates for persons with disabilities may not be issued to a person with a temporary disability.

(5) A natural person who qualifies for special parking privileges under this section must receive an identification card showing the name and date of birth of the person to whom the parking privilege has been issued and the serial number of the placard.

(6) A natural person who qualifies for permanent special parking privileges under this section may receive one of the following:

(a) Up to two parking placards;

(b) One set of special license plates for persons with disabilities if the person with the disability is the registered owner of the vehicle on which the license plates will be displayed;

(c) One parking placard and one set of special license plates for persons with disabilities if the person with the disability is the registered owner of the vehicle on which the license plates will be displayed; or

(d) One special parking year tab for persons with disabilities and one parking placard.

(7) Parking placards and identification cards described in this section must be issued free of charge.

(8) The parking placard and identification card must be immediately returned to the department upon the placard holder's death. [2010 c 161 § 701.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.19.020 Eligible organizations—Rules. (Effective July 1, 2011.) (1) The following organizations may apply for special parking privileges:

- (a) Public transportation authorities;
- (b) Nursing homes licensed under chapter 18.51 RCW;
- (c) Boarding homes licensed under chapter 18.20 RCW;

(d) Senior citizen centers;

(e) Private nonprofit corporations, as defined in RCW 24.03.005; and

(f) Cabulance companies that regularly transport persons with disabilities who have been determined eligible for special parking privileges under this section and who are registered with the department under chapter 46.72 RCW.

(2) An organization that qualifies for special parking privileges may receive, upon application, parking license plates or placards, or both, for persons with disabilities as defined by the department.

(3) Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit corporations, and cabulance services are responsible for ensuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

(4) The department shall adopt rules to determine organization eligibility. [2010 c 161 § 702.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.19.030 Display and design of placards, license plates, and year tabs. (Effective July 1, 2011.) (1) The department shall design special license plates for persons with disabilities, parking placards, and year tabs displaying the international symbol of access.

(2) Special license plates for persons with disabilities must be displayed on the motor vehicle as standard issue license plates as described in RCW 46.16A.200.

(3) Parking placards must be displayed when the motor vehicle is parked by suspending it from the rearview mirror. In the absence of a rearview mirror, the parking placard must be displayed on the dashboard.

(4) Special year tabs for persons with disabilities must be displayed on license plates as defined by the department.

(5) Persons who have been issued special license plates for persons with disabilities, parking placards, or special license plates with a special year tab for persons with disabilities may park in places reserved for persons with physical disabilities. [2010 c 161 § 704.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.19.040 Renewal—Rules. (Effective July 1, 2011.) (1) Parking privileges for persons with disabilities must be renewed at least every five years, as required by the director, by satisfactory proof of the right to continued use of the privileges.

(2) The department shall match and purge its database of parking permits issued to persons with disabilities with available death record information at least every twelve months.

(3) The department shall adopt rules to administer the parking privileges for persons with disabilities program. [2010 c 161 § 703.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.19.050 Restrictions—Prohibitions—Violations—Penalties. (Effective July 1, 2011.) (1) **False information.** Knowingly providing false information in conjunction with the application for special parking privileges for persons with disabilities is a gross misdemeanor punishable under chapter 9A.20 RCW.

(2) **Unauthorized use.** Any unauthorized use of the special placard, special license, or identification card issued under this chapter is a traffic infraction with a monetary penalty of two hundred fifty dollars.

(3) **Inaccessible access.** It is a parking infraction, with a monetary penalty of two hundred fifty dollars, for a person to make inaccessible the access aisle located next to a space reserved for persons with physical disabilities. The clerk of the court shall report all violations related to this subsection to the department.

(4) **Parking without placard/plate.** It is a parking infraction, with a monetary penalty of two hundred fifty dollars, for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for persons with physical disabilities without a placard or special license plate issued under this chapter. If a person is charged with a violation, the person will not be determined to have committed an infraction if the person produces in court or before the court appearance the placard or special license plate issued under this chapter as required under this chapter. A local jurisdiction providing nonmetered, on-street parking places reserved for persons with physical disabilities may impose by ordinance time restrictions of no less than four hours on the use of these parking places.

(5) **Time restrictions.** A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards or special license plates issued under this chapter. All time restrictions must be clearly posted.

(6) **Use of funds - reimbursement.** Funds from the penalties imposed under subsections (3) and (4) of this section must be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs that it may have incurred in the removal and storage of the improperly parked vehicle.

(7) **Illegal obtainment.** Except as provided in subsection (1) of this section, it is a traffic infraction with a monetary penalty of two hundred fifty dollars for any person willfully to obtain a special license plate, placard, or identification card issued under this chapter in a manner other than that established under this chapter.

(8) **Volunteer appointment.** A law enforcement agency authorized to enforce parking laws may appoint volunteers, with a limited commission, to issue notices of infractions for violations of RCW 46.19.010 and 46.19.030 or 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications that the agency deems desirable.

(a) An agency appointing volunteers under this section must provide training to the volunteers before authorizing them to issue notices of infractions.

(b) A notice of infraction issued by a volunteer appointed under this subsection has the same force and effect as a notice of infraction issued by a police officer for the same offense.

(c) A police officer or a volunteer may request a person to show the person’s identification card or special parking placard when investigating the possibility of a violation of this section. If the request is refused, the person in charge of the vehicle may be issued a notice of infraction for a violation of this section.

(9) **Community restitution.** For second or subsequent violations of this section, in addition to a monetary penalty, the violator must complete a minimum of forty hours of:

(a) Community restitution for a nonprofit organization that serves persons with disabilities or disabling diseases; or

(b) Any other community restitution that may sensitize the violator to the needs and obstacles faced by persons with disabilities.

(10) **Fine suspension.** The court may not suspend more than one-half of any fine imposed under subsection (2), (3), (4), or (7) of this section. [2010 c 161 § 706.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.19.060 Special license plates for persons with disabilities, special license plates with a special year tab for persons with disabilities—Fees—Renewal—Transfer. (Effective July 1, 2011.) (1) An additional fee may not be charged for special license plates for persons with disabilities except for any other fees and taxes required to be paid upon registration of a motor vehicle.

(2) A registered owner who qualifies for special parking privileges as described in RCW 46.19.010 may apply to the department for special license plates for persons with disabilities or special license plates with a special year tab for persons with disabilities. Special license plates with a special year tab for persons with disabilities are available on the following special license plate designs:

PLATE TYPE	ISSUED UNDER
Armed forces collection	RCW 46.18.210
Baseball stadium	RCW 46.18.215
Collegiate	RCW 46.18.225
Disabled American veteran	RCW 46.18.235
Endangered wildlife	RCW 46.18.200
Former prisoner of war	RCW 46.18.235
Helping kids speak	RCW 46.18.200
Keep kids safe	RCW 46.18.200
Law enforcement memorial	RCW 46.18.200
Pearl Harbor survivor	RCW 46.18.270
Personalized	RCW 46.18.275
Professional firefighters and paramedics	RCW 46.18.200
Purple Heart	RCW 46.18.280
Share the road	RCW 46.18.200
Ski & ride Washington	RCW 46.18.200
Square dancer	RCW 46.18.290

Washington lighthouses	RCW 46.18.200
Washington's national park fund	RCW 46.18.200
Washington state parks	RCW 46.18.200
Washington's wildlife collection	RCW 46.18.200
We love our pets	RCW 46.18.200
Wild on Washington	RCW 46.18.200

(3) A registered owner who chooses to purchase special license plates as described in subsection (2) of this section shall pay the applicable special license plate fee, in addition to any other fees or taxes required for registering a motor vehicle.

(4) Special license plates for persons with disabilities or special license plates with a special year tab for persons with disabilities must be renewed in the same manner and at the time required for the renewal of standard motor vehicle license plates under *chapter 46.16 RCW.

(5) Special license plates for persons with disabilities or special license plates with a special year tab for persons with disabilities may be transferred from one motor vehicle to another motor vehicle owned by the person with the parking privilege upon application to the department, county auditor or other agent, or subagent appointed by the director.

(6) Special license plates for persons with disabilities or special license plates with a special year tab for persons with disabilities must be removed from the motor vehicle when the person with disabilities transfers or assigns his or her interest in the motor vehicle. [2010 c 161 § 705.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.19.070 Special plate or card issued by another jurisdiction. (Effective July 1, 2011.) A special license plate or card issued by another state or country that indicates that an occupant of a vehicle has disabilities entitles the vehicle on or in which it is displayed and being used to transport the person with disabilities to lawfully park in a parking place reserved for persons with physical disabilities pursuant to chapter 70.92 RCW. [2010 c 161 § 707; 2005 c 390 § 4; 1991 c 339 § 22; 1984 c 51 § 1. Formerly RCW 46.16.390.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Chapter 46.20 RCW

DRIVERS' LICENSES—IDENTICARDS

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(2010 Ed.)

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DRIVER'S LICENSE AND PERMIT REQUIREMENTS

46.20.001 License required—Rights and restriction.

(1) No person may drive a motor vehicle upon a highway in this state without first obtaining a valid driver's license issued to Washington residents under this chapter. The only exceptions to this requirement are those expressly allowed by RCW 46.20.025.

(2) A person licensed as a driver under this chapter:

(a) May exercise the privilege upon all highways in this state;

(b) May not be required by a political subdivision to obtain any other license to exercise the privilege; and

(c) May not have more than one valid driver's license at any time. [1999 c 6 § 3.]

Intent—1999 c 6: See note following RCW 46.04.168.

46.20.005 Driving without a license—Misdemeanor, when.

Except as expressly exempted by this chapter, it is a misdemeanor for a person to drive any motor vehicle upon a highway in this state without a valid driver's license issued to Washington residents under this chapter. This section does not apply if at the time of the stop the person is not in violation of RCW 46.20.342(1) or *46.20.420 and has in his or her possession an expired driver's license or other valid identifying documentation under RCW 46.20.035. A violation of this section is a lesser included offense within the offenses described in RCW 46.20.342(1) or *46.20.420. [1997 c 66 § 1.]

***Reviser's note:** RCW 46.20.420 was recodified as RCW 46.20.345, June 1999.

46.20.015 Driving without a license—Traffic infraction, when.

(1) Except as expressly exempted by this chapter, it is a traffic infraction and not a misdemeanor under RCW 46.20.005 if a person:

(a) Drives any motor vehicle upon a highway in this state without a valid driver's license issued to Washington residents under this chapter in his or her possession;

(b) Provides the citing officer with an expired driver's license or other valid identifying documentation under RCW 46.20.035 at the time of the stop; and

(c) Is not driving while suspended or revoked in violation of RCW 46.20.342(1) or *46.20.420.

(2) A person who violates this section is subject to a penalty of two hundred fifty dollars. If the person appears in person before the court or submits by mail written proof that he or she obtained a valid license after being cited, the court shall reduce the penalty to fifty dollars. [1999 c 6 § 4; 1997 c 66 § 2.]

***Reviser's note:** RCW 46.20.420 was recodified as RCW 46.20.345, June 1999.

Intent—1999 c 6: See note following RCW 46.04.168.

46.20.017 Immediate possession and displayed on demand.

Every licensee shall have his or her driver's license in his or her immediate possession at all times when operating a motor vehicle and shall display the same upon demand to any police officer or to any other person when and if required by law to do so. The offense described in this section is a nonmoving offense. [2010 c 8 § 9018; 1979 ex.s. c 136 § 56; 1965 ex.s. c 121 § 15; 1961 c 12 § 46.20.190. Prior: 1937 c 188 § 59; RRS § 6312-59; 1921 c 108 § 7, part; RRS § 6369, part. Formerly RCW 46.20.190.]

Driver's license, duty to display under other circumstances: RCW 46.52.020, 46.61.020, 46.61.021.

Additional notes found at www.leg.wa.gov

46.20.021 New residents. (1) New Washington residents must obtain a valid Washington driver's license within thirty days from the date they become residents.

(2) To qualify for a Washington driver's license, a person must surrender to the department all valid driver's licenses that any other jurisdiction has issued to him or her. The department must invalidate the surrendered photograph license and may return it to the person.

(a) The invalidated license, along with a valid temporary Washington driver's license provided for in RCW 46.20.065, is proper identification.

(b) The department shall notify the previous issuing department that the licensee is now licensed in a new jurisdiction.

(3) For the purposes of obtaining a valid driver's license, a resident is a person who manifests an intent to live or be located in this state on more than a temporary or transient basis. Evidence of residency includes but is not limited to:

(a) Becoming a registered voter in this state; or

(b) Receiving benefits under one of the Washington public assistance programs; or

(c) Declaring residency for the purpose of obtaining a state license or tuition fees at resident rates.

(4)(a) "Washington public assistance programs" means public assistance programs that receive more than fifty percent of the combined costs of benefits and administration from state funds.

(b) "Washington public assistance programs" does not include:

(i) The Food Stamp program under the federal Food Stamp Act of 1964;

(ii) Programs under the Child Nutrition Act of 1966, 42 U.S.C. Secs. 1771 through 1788;

(iii) Temporary Assistance for Needy Families; and

(iv) Any other program that does not meet the criteria of (a) of this subsection. [1999 c 6 § 5. Prior: 1997 c 66 § 3; 1997 c 59 § 8; 1996 c 307 § 5; prior: 1991 c 293 § 3; 1991 c 73 § 1; 1990 c 250 § 33; 1988 c 88 § 1; 1985 c 302 § 2; 1979 ex.s. c 136 § 53; 1965 ex.s. c 121 § 2.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Intent—1999 c 6: See note following RCW 46.04.168.

Purpose—Construction—1965 ex.s. c 121: "With the advent of greatly increased interstate vehicular travel and the migration of motorists between the states, the legislature recognizes the necessity of enacting driver licensing laws which are reasonably uniform with the laws of other states and are at the same time based upon sound, realistic principles, stated in clear explicit language. To achieve these ends the legislature does hereby adopt this 1965 amendatory act relating to driver licensing modeled after the Uniform Vehicle Code subject to such variances as are deemed better suited to the people of this state. It is intended that this 1965 amendatory act be liberally construed to effectuate the purpose of improving the safety of our highways through driver licensing procedures within the framework of the traditional freedoms to which every motorist is entitled." [1965 ex.s. c 121 § 1.]

Additional notes found at www.leg.wa.gov

46.20.022 Unlicensed drivers—Subject to Title 46 RCW. Any person who operates a motor vehicle on the public highways of this state without a driver's license or nonresident privilege to drive shall be subject to all of the provisions of Title 46 RCW to the same extent as a person who is licensed. [1975-'76 2nd ex.s. c 29 § 1.]

Allowing unauthorized person to drive: RCW 46.16.011, 46.20.024.

(2010 Ed.)

46.20.024 Unlawful to allow unauthorized minors to drive. No person shall cause or knowingly permit his or her child or ward under the age of eighteen years to drive a motor vehicle upon any highway when such minor is not authorized hereunder or in violation of any of the provisions of this chapter. [2010 c 8 § 9019; 1965 ex.s. c 121 § 44. Formerly RCW 46.20.343.]

46.20.025 Exemptions. (Effective until July 1, 2011.) The following persons may operate a motor vehicle on a Washington highway without a valid Washington driver's license:

(1) A member of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or in the service of the National Guard of this state or any other state, if licensed by the military to operate an official motor vehicle in such service;

(2) A nonresident driver who is at least:

(a) Sixteen years of age and has immediate possession of a valid driver's license issued to the driver by his or her home state; or

(b) Fifteen years of age with:

(i) A valid instruction permit issued to the driver by his or her home state; and

(ii) A licensed driver who has had at least five years of driving experience occupying a seat beside the driver; or

(c) Sixteen years of age and has immediate possession of a valid driver's license issued to the driver by his or her home country. A nonresident driver may operate a motor vehicle in this state under this subsection (2)(c) for up to one year;

(3) Any person operating special highway construction equipment as defined in RCW 46.16.010;

(4) Any person while driving or operating any farm tractor or implement of husbandry that is only incidentally operated or moved over a highway; or

(5) An operator of a locomotive upon rails, including a railroad crossing over a public highway. A locomotive operator is not required to display a driver's license to any law enforcement officer in connection with the operation of a locomotive or train within this state. [1999 c 6 § 6; 1993 c 148 § 1; 1979 c 75 § 1; 1965 ex.s. c 121 § 3.]

Intent—1999 c 6: See note following RCW 46.04.168.

46.20.025 Exemptions. (Effective July 1, 2011.) The following persons may operate a motor vehicle on a Washington highway without a valid Washington driver's license:

(1) A member of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or in the service of the National Guard of this state or any other state, if licensed by the military to operate an official motor vehicle in such service;

(2) A nonresident driver who is at least:

(a) Sixteen years of age and has immediate possession of a valid driver's license issued to the driver by his or her home state; or

(b) Fifteen years of age with:

(i) A valid instruction permit issued to the driver by his or her home state; and

(ii) A licensed driver who has had at least five years of driving experience occupying a seat beside the driver; or

(c) Sixteen years of age and has immediate possession of a valid driver's license issued to the driver by his or her home country. A nonresident driver may operate a motor vehicle in this state under this subsection (2)(c) for up to one year;

(3) Any person operating special highway construction equipment as defined in RCW 46.04.551;

(4) Any person while driving or operating any farm tractor or implement of husbandry that is only incidentally operated or moved over a highway; or

(5) An operator of a locomotive upon rails, including a railroad crossing over a public highway. A locomotive operator is not required to display a driver's license to any law enforcement officer in connection with the operation of a locomotive or train within this state. [2010 c 161 § 1113; 1999 c 6 § 6; 1993 c 148 § 1; 1979 c 75 § 1; 1965 ex.s. c 121 § 3.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Intent—1999 c 6: See note following RCW 46.04.168.

46.20.027 Armed forces, dependents. A Washington state motor vehicle driver's license issued to any service member if valid and in force and effect while such person is serving in the armed forces, shall remain in full force and effect so long as such service continues unless the same is sooner suspended, canceled, or revoked for cause as provided by law and for not to exceed ninety days following the date on which the holder of such driver's license is honorably separated from service in the armed forces of the United States. A Washington state driver's license issued to the spouse or dependent child of such service member likewise remains in full force and effect if the person is residing with the service member.

For purposes of this section, "service member" means every person serving in the armed forces whose branch of service as of the date of application for the driver's license is included in the definition of veteran pursuant to RCW 41.04.007 or the person will meet the definition of veteran at the time of discharge. [2002 c 292 § 3; 1999 c 199 § 1; 1967 c 129 § 1.]

Additional notes found at www.leg.wa.gov

46.20.031 Ineligibility. The department shall not issue a driver's license to a person:

(1) Who is under the age of sixteen years;

(2) Whose driving privilege has been withheld unless and until the department may authorize the driving privilege under RCW 46.20.311;

(3) Who has been classified as an alcoholic, drug addict, alcohol abuser, or drug abuser by a program approved by the department of social and health services. The department may, however, issue a license if the person:

(a) Has been granted a deferred prosecution under chapter 10.05 RCW; or

(b) Is satisfactorily participating in or has successfully completed an alcohol or drug abuse treatment program approved by the department of social and health services and has established control of his or her alcohol or drug abuse problem;

(4) Who has previously been adjudged to be mentally ill or insane, or to be incompetent due to a mental disability or disease. The department shall, however, issue a license to the person if he or she otherwise qualifies and:

(a) Has been restored to competency by the methods provided by law; or

(b) The superior court finds the person able to operate a motor vehicle with safety upon the highways during such incompetency;

(5) Who has not passed the driver's licensing examination required by RCW 46.20.120 and 46.20.305, if applicable;

(6) Who is required under the laws of this state to deposit proof of financial responsibility and who has not deposited such proof;

(7) Who is unable to safely operate a motor vehicle upon the highways due to a physical or mental disability. The department's conclusion that a person is barred from licensing under this subsection must be reasonable and be based upon good and substantial evidence. This determination is subject to review by a court of competent jurisdiction. [2002 c 279 § 3; 1999 c 6 § 7; 1995 c 219 § 1; 1993 c 501 § 2; 1985 c 101 § 1; 1977 ex.s. c 162 § 1; 1965 ex.s. c 121 § 4.]

Intent—1999 c 6: See note following RCW 46.04.168.

Allowing unauthorized person to drive: RCW 46.16.011, 46.20.024.

Juvenile driving privileges, alcohol or drug violations: RCW 66.44.365, 69.50.420.

46.20.035 Proof of identity. The department may not issue an identicard or a Washington state driver's license that is valid for identification purposes unless the applicant meets the identification requirements of subsection (1), (2), or (3) of this section.

(1) A driver's license or identicard applicant must provide the department with at least one of the following pieces of valid identifying documentation that contains the signature and a photograph of the applicant:

(a) A valid or recently expired driver's license or instruction permit that includes the date of birth of the applicant;

(b) A Washington state identicard or an identification card issued by another state;

(c) An identification card issued by the United States, a state, or an agency of either the United States or a state, of a kind commonly used to identify the members or employees of the government agency;

(d) A military identification card;

(e) A United States passport; or

(f) An immigration and naturalization service form.

(2) An applicant who is a minor may establish identity by providing an affidavit of the applicant's parent or guardian. The parent or guardian must accompany the minor and display or provide:

(a) At least one piece of documentation in subsection (1) of this section establishing the identity of the parent or guardian; and

(b) Additional documentation establishing the relationship between the parent or guardian and the applicant.

(3) A person unable to provide identifying documentation as specified in subsection (1) or (2) of this section may request that the department review other available documentation in order to ascertain identity. The department may

waive the requirement if it finds that other documentation clearly establishes the identity of the applicant. Notwithstanding the requirements in subsection (2) of this section, the department shall issue an identicard to an applicant for whom it receives documentation pursuant to RCW 74.13.283.

(4) An identicard or a driver's license that includes a photograph that has been renewed by mail or by electronic commerce is valid for identification purposes if the applicant met the identification requirements of subsection (1), (2), or (3) of this section at the time of previous issuance.

(5) The form of an applicant's name, as established under this section, is the person's name of record for the purposes of this chapter.

(6) If the applicant is unable to prove his or her identity under this section, the department shall plainly label the license "not valid for identification purposes." [2008 c 267 § 8; 2004 c 249 § 2; 1999 c 6 § 8; 1998 c 41 § 10; 1993 c 452 § 1.]

Intent—1999 c 6: See note following RCW 46.04.168.

Intent—Construction—Effective date—1998 c 41: See notes following RCW 46.20.265.

46.20.037 Biometric matching system—Administration—Exception. (1) No later than two years after full implementation of the provisions of Title II of P.L. 109-13, improved security for driver's licenses and personal identification cards (Real ID), as passed by Congress May 10, 2005, the department shall implement a voluntary biometric matching system for driver's licenses and identicards. A biometric matching system shall be used only to verify the identity of an applicant for a renewal or duplicate driver's license or identicard by matching a biometric identifier submitted by the applicant against the biometric identifier submitted when the license was last issued. This project requires a full review by the information services board using the criteria for projects of the highest visibility and risk.

(2) Any biometric matching system selected by the department shall be capable of highly accurate matching, and shall be compliant with biometric standards established by the American association of motor vehicle administrators.

(3) The biometric matching system selected by the department must incorporate a process that allows the owner of a driver's license or identicard to present a personal identification number or other code along with the driver's license or identicard before the information may be verified by a third party, including a governmental entity.

(4) Upon the establishment of a biometric driver's license and identicard system as described in this section, the department shall allow every person applying for an original, renewal, or duplicate driver's license or identicard to voluntarily submit a biometric identifier. Each applicant shall be informed of all ways in which the biometric identifier may be used, all parties to whom the identifier may be disclosed and the conditions of disclosure, the expected error rates for the biometric matching system which shall be regularly updated as the technology changes or empirical data is collected, and the potential consequences of those errors. The department shall adopt rules to allow applicants to verify the accuracy of the system at the time that biometric information is submitted, including the use of at least two separate devices.

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(5) The department may not disclose biometric information to the public or any governmental entity except when authorized by court order.

(6) All biometric information shall be stored with appropriate safeguards, including but not limited to encryption.

(7) The department shall develop procedures to handle instances in which the biometric matching system fails to verify the identity of an applicant for a renewal or duplicate driver's license or identicard. These procedures shall allow an applicant to prove identity without using a biometric identifier.

(8) Any person who has voluntarily submitted a biometric identifier may choose to discontinue participation in the biometric matching program at any time, provided that the department utilizes a secure procedure to prevent fraudulent requests for a renewal or duplicate driver's license or identicard. When the person discontinues participation, any previously collected biometric information shall be destroyed.

(9) This section does not apply when an applicant renews his or her driver's license or identicard by mail or electronic commerce. [2006 c 292 § 1; 2004 c 273 § 3.]

Finding—Purpose—Effective date—2004 c 273: See notes following RCW 9.35.020.

46.20.038 Biometric matching system—Funding. (1) The department is authorized to charge persons opting to submit a biometric identifier under RCW 46.20.037 an additional fee of no more than two dollars at the time of application for an original, renewal, or duplicate driver's license or identicard issued by the department. This fee shall be used exclusively to defray the cost of implementation and ongoing operation of a biometric security system.

(2) The biometric security account is created in the state treasury. All receipts from subsection (1) of this section shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account must be used only for the purpose of defraying the cost of implementation and ongoing operation of a biometric security system. [2004 c 273 § 4.]

Finding—Purpose—Effective date—2004 c 273: See notes following RCW 9.35.020.

46.20.041 Persons with physical or mental disabilities or diseases. (1) If the department has reason to believe that a person is suffering from a physical or mental disability or disease that may affect that person's ability to drive a motor vehicle, the department must evaluate whether the person is able to safely drive a motor vehicle. As part of the evaluation:

(a) The department shall permit the person to demonstrate personally that notwithstanding the disability or disease he or she is able to safely drive a motor vehicle.

(b) The department may require the person to obtain a statement signed by a licensed physician or other proper authority designated by the department certifying the person's condition.

(i) The statement is for the confidential use of the director and the chief of the Washington state patrol and for other public officials designated by law. It is exempt from public inspection and copying notwithstanding chapter 42.56 RCW.

(ii) The statement may not be offered as evidence in any court except when appeal is taken from the order of the director canceling or withholding a person's driving privilege. However, the department may make the statement available to the director of the department of retirement systems for use in determining eligibility for or continuance of disability benefits and it may be offered and admitted as evidence in any administrative proceeding or court action concerning the disability benefits.

(2) On the basis of the evaluation the department may:

(a) Issue or renew a driver's license to the person without restrictions;

(b) Cancel or withhold the driving privilege from the person; or

(c) Issue a restricted driver's license to the person. The restrictions must be suitable to the licensee's driving ability. The restrictions may include:

(i) Special mechanical control devices on the motor vehicle operated by the licensee;

(ii) Limitations on the type of motor vehicle that the licensee may operate; or

(iii) Other restrictions determined by the department to be appropriate to assure the licensee's safe operation of a motor vehicle.

(3) The department may either issue a special restricted license or may set forth the restrictions upon the usual license form.

(4) The department may suspend or revoke a restricted license upon receiving satisfactory evidence of any violation of the restrictions. In that event the licensee is entitled to a driver improvement interview and a hearing as provided by RCW 46.20.322 or 46.20.328.

(5) Operating a motor vehicle in violation of the restrictions imposed in a restricted license is a traffic infraction. [2005 c 274 § 306; 1999 c 274 § 12; 1999 c 6 § 9; 1986 c 176 § 1; 1979 ex.s. c 136 § 54; 1979 c 61 § 2; 1965 ex.s. c 121 § 5.]

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Intent—1999 c 6: See note following RCW 46.04.168.

Additional notes found at www.leg.wa.gov

46.20.045 School bus, for hire drivers—Age. A person who is under the age of eighteen years shall not drive:

(1) A school bus transporting school children; or

(2) A motor vehicle transporting persons for compensation. [1999 c 6 § 10; 1971 ex.s. c 292 § 43; 1965 ex.s. c 121 § 6.]

Intent—1999 c 6: See note following RCW 46.04.168.

Additional notes found at www.leg.wa.gov

46.20.049 Commercial driver's license—Additional fee, disposition. There shall be an additional fee for issuing any class of commercial driver's license in addition to the prescribed fee required for the issuance of the original driver's license. The additional fee for each class shall be thirty dollars for the original commercial driver's license or subsequent renewals. If the commercial driver's license is renewed or extended for a period other than five years, the fee for each class shall be six dollars for each year that the com-

mercial driver's license is renewed or extended. The fee shall be deposited in the highway safety fund. [2005 c 314 § 309; 1999 c 308 § 4; 1989 c 178 § 21; 1985 ex.s. c 1 § 7; 1969 ex.s. c 68 § 3; 1967 ex.s. c 20 § 4. Formerly RCW 46.20.470.]

Effective date—2005 c 314 §§ 101-107, 109, 303-309, and 401: See note following RCW 46.68.290.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

Additional notes found at www.leg.wa.gov

46.20.055 Instruction permit. (1) Driver's instruction permit. The department may issue a driver's instruction permit with or without a photograph to an applicant who has successfully passed all parts of the examination other than the driving test, provided the information required by RCW 46.20.091, paid a fee of twenty dollars, and meets the following requirements:

(a) Is at least fifteen and one-half years of age; or

(b) Is at least fifteen years of age and:

(i) Has submitted a proper application; and

(ii) Is enrolled in a traffic safety education program offered, approved, and accredited by the superintendent of public instruction or offered by a driver training school licensed and inspected by the department of licensing under chapter 46.82 RCW, that includes practice driving.

(2) Waiver of written examination for instruction permit. The department may waive the written examination, if, at the time of application, an applicant is enrolled in:

(a) A traffic safety education course as defined by RCW 28A.220.020(2); or

(b) A course of instruction offered by a licensed driver training school as defined by RCW 46.82.280.

The department may require proof of registration in such a course as it deems necessary.

(3) Effect of instruction permit. A person holding a driver's instruction permit may drive a motor vehicle, other than a motorcycle, upon the public highways if:

(a) The person has immediate possession of the permit;

(b) The person is not using a wireless communications device, unless the person is using the device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property; and

(c) An approved instructor, or a licensed driver with at least five years of driving experience, occupies the seat beside the driver.

(4) Term of instruction permit. A driver's instruction permit is valid for one year from the date of issue.

(a) The department may issue one additional one-year permit.

(b) The department may issue a third driver's permit if it finds after an investigation that the permittee is diligently seeking to improve driving proficiency.

(c) A person applying to renew an instruction permit must submit the application to the department in person. [2010 c 223 § 1; 2006 c 219 § 14; 2005 c 314 § 303; 2004 c 249 § 3. Prior: 2002 c 352 § 10; 2002 c 195 § 2; 1999 c 274 § 13; 1999 c 6 § 11; 1990 c 250 § 34; 1986 c 17 § 1; 1985 c 234 § 1; 1981 c 260 § 10; prior: 1979 c 63 § 1; 1979 c 61 § 3; 1969 ex.s. c 218 § 8; 1965 ex.s. c 121 § 7.]

Effective date—2006 c 219: See note following RCW 46.82.285.

Effective date—2005 c 314 §§ 101-107, 109, 303-309, and 401: See note following RCW 46.68.290.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

Effective dates—2002 c 352: See note following RCW 46.09.410.

Intent—1999 c 6: See note following RCW 46.04.168.

Additional notes found at www.leg.wa.gov

46.20.065 Temporary permit. (1) If the department is completing an investigation and determination of facts concerning an applicant's right to receive a driver's license, it may issue a temporary driver's permit to the applicant.

(2) A temporary driver's permit authorizes the permittee to drive a motor vehicle for up to sixty days. The permittee must have immediate possession of the permit while driving a motor vehicle.

(3) A temporary driver's permit is invalid if the department has issued a license to the permittee or refused to issue a license to the permittee for good cause. [1999 c 6 § 12.]

Intent—1999 c 6: See note following RCW 46.04.168.

46.20.070 Juvenile agricultural driving permit. (1) **Agricultural driving permit authorized.** The director may issue a juvenile agricultural driving permit to a person under the age of eighteen years if:

(a) The application is signed by the applicant and the applicant's father, mother, or legal guardian;

(b) The applicant has passed the driving examination required by RCW 46.20.120;

(c) The department has investigated the applicant's need for the permit and determined that the need justifies issuance;

(d) The department has determined the applicant is capable of operating a motor vehicle without endangering himself or herself or other persons and property; and

(e) The applicant has paid a fee of twenty dollars.

The permit must contain a photograph of the person.

(2) **Effect of agricultural driving permit.** (a) The permit authorizes the holder to:

(i) Drive a motor vehicle on the public highways of this state in connection with farm work. The holder may drive only within a restricted farming locality described on the permit; and

(ii) Participate in the classroom portion of a traffic safety education course authorized under RCW 28A.220.030 or the classroom portion of a traffic safety education course offered by a driver training school licensed and inspected by the department of licensing under chapter 46.82 RCW offered in the community where the holder resides.

(b) The director may transfer the permit from one farming locality to another. A transfer is not a renewal of the permit.

(3) **Term and renewal of agricultural driving permit.** An agricultural driving permit expires one year from the date of issue.

(a) A person under the age of eighteen who holds a permit may renew the permit by paying a fee of fifteen dollars.

(b) A person applying to renew an agricultural driving permit must submit the application to the department in person.

(c) An agricultural driving permit is invalidated when a permittee attains age eighteen. In order to drive a motor vehicle

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on a highway he or she must obtain a motor vehicle driver's license under this chapter.

(4) **Suspension, revocation, or cancellation.** The director has sole discretion to suspend, revoke, or cancel a juvenile agricultural driving permit if:

(a) The permittee has been found to have committed an offense that requires mandatory suspension or revocation of a driver's license; or

(b) The director is satisfied that the permittee has violated the permit's restrictions. [2005 c 314 § 304; 2004 c 249 § 4. Prior: 2002 c 352 § 11; 2002 c 195 § 3; 1999 c 6 § 13; 1997 c 82 § 1; 1985 ex.s. c 1 § 1; 1979 c 61 § 4; 1969 ex.s. c 218 § 9; 1969 ex.s. c 170 § 12; 1967 c 32 § 27; 1963 c 39 § 9; 1961 c 12 § 46.20.070; prior: 1947 c 158 § 1, part; 1937 c 188 § 45, part; Rem. Supp. 1947 § 6312-45, part.]

Effective date—2005 c 314 §§ 101-107, 109, 303-309, and 401: See note following RCW 46.68.290.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

Effective dates—2002 c 352: See note following RCW 46.09.410.

Intent—1999 c 6: See note following RCW 46.04.168.

Additional notes found at www.leg.wa.gov

46.20.075 Intermediate license. (1) An intermediate license authorizes the holder to drive a motor vehicle under the conditions specified in this section. An applicant for an intermediate license must be at least sixteen years of age and:

(a) Have possessed a valid instruction permit for a period of not less than six months;

(b) Have passed a driver licensing examination administered by the department;

(c) Have passed a course of driver's education in accordance with the standards established in RCW 46.20.100;

(d) Present certification by his or her parent, guardian, or employer to the department stating (i) that the applicant has had at least fifty hours of driving experience, ten of which were at night, during which the driver was supervised by a person at least twenty-one years of age who has had a valid driver's license for at least three years, and (ii) that the applicant has not been issued a notice of traffic infraction or cited for a traffic violation that is pending at the time of the application for the intermediate license;

(e) Not have been convicted of or found to have committed a traffic violation within the last six months before the application for the intermediate license; and

(f) Not have been adjudicated for an offense involving the use of alcohol or drugs during the period the applicant held an instruction permit.

(2) For the first six months after the issuance of an intermediate license or until the holder reaches eighteen years of age, whichever occurs first, the holder of the license may not operate a motor vehicle that is carrying any passengers under the age of twenty who are not members of the holder's immediate family as defined in *RCW 42.17.020. For the remaining period of the intermediate license, the holder may not operate a motor vehicle that is carrying more than three passengers who are under the age of twenty who are not members of the holder's immediate family.

(3) The holder of an intermediate license may not operate a motor vehicle between the hours of 1 a.m. and 5 a.m.

except when the holder is accompanied by a parent, guardian, or a licensed driver who is at least twenty-five years of age.

(4) The holder of an intermediate license may not operate a moving motor vehicle while using a wireless communications device unless the holder is using the device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property.

(5) It is a traffic infraction for the holder of an intermediate license to operate a motor vehicle in violation of the restrictions imposed under this section.

(6) Except for a violation of subsection (4) of this section, enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of this title or an equivalent local ordinance or some other offense.

(7) An intermediate licensee may drive at any hour without restrictions on the number of passengers in the vehicle if necessary for agricultural purposes.

(8) An intermediate licensee may drive at any hour without restrictions on the number of passengers in the vehicle if, for the twelve-month period following the issuance of the intermediate license, he or she:

(a) Has not been involved in an accident involving only one motor vehicle;

(b) Has not been involved in an accident where he or she was cited in connection with the accident or was found to have caused the accident;

(c) Has not been involved in an accident where no one was cited or was found to have caused the accident; and

(d) Has not been convicted of or found to have committed a traffic offense described in chapter 46.61 RCW or violated restrictions placed on an intermediate licensee under this section. [2010 c 223 § 2; 2009 c 125 § 1; 2000 c 115 § 2.]

***Reviser's note:** RCW 42.17.020 was recodified as RCW 42.17A.005 pursuant to 2010 c 204 § 1102, effective January 1, 2012.

Finding—2000 c 115: "The legislature has recognized the need to develop a graduated licensing system in light of the disproportionately high incidence of motor vehicle crashes involving youthful motorists. This system will improve highway safety by progressively developing and improving the skills of younger drivers in the safest possible environment, thereby reducing the number of vehicle crashes." [2000 c 115 § 1.]

Effective date—2000 c 115 §§ 1-10: "Sections 1 through 10 of this act take effect July 1, 2001." [2000 c 115 § 14.]

OBTAINING OR RENEWING A DRIVER'S LICENSE

46.20.091 Application—Penalty for false statement—Driving records from and to other jurisdictions.

(1) **Application.** In order to apply for a driver's license or instruction permit the applicant must provide his or her:

(a) Name of record, as established by documentation required under RCW 46.20.035;

(b) Date of birth, as established by satisfactory evidence of age;

(c) Sex;

(d) Washington residence address;

(e) Description;

(f) Driving licensing history, including:

(i) Whether the applicant has ever been licensed as a driver or chauffeur and, if so, (A) when and by what state or country; (B) whether the license has ever been suspended or

revoked; and (C) the date of and reason for the suspension or revocation; or

(ii) Whether the applicant's application to another state or country for a driver's license has ever been refused and, if so, the date of and reason for the refusal; and

(g) Any additional information required by the department.

(2) **Sworn statement.** An application for an instruction permit or for an original driver's license must be made upon a form provided by the department. The form must include a section for the applicant to indicate whether he or she has received driver training and, if so, where. The identifying documentation verifying the name of record must be accompanied by the applicant's written statement that it is valid. The information provided on the form must be sworn to and signed by the applicant before a person authorized to administer oaths. An applicant who makes a false statement on an application for a driver's license or instruction permit is guilty of false swearing, a gross misdemeanor, under RCW 9A.72.040.

(3) **Driving records from other jurisdictions.** If a person previously licensed in another jurisdiction applies for a Washington driver's license, the department shall request a copy of the applicant's driver's record from the other jurisdiction. The driving record from the other jurisdiction becomes a part of the driver's record in this state.

(4) **Driving records to other jurisdictions.** If another jurisdiction requests a copy of a person's Washington driver's record, the department shall provide a copy of the record. The department shall forward the record without charge if the other jurisdiction extends the same privilege to the state of Washington. Otherwise the department shall charge a reasonable fee for transmittal of the record. [2000 c 115 § 4; 1999 c 6 § 14; 1998 c 41 § 11; 1996 c 287 § 5; 1990 c 250 § 35; 1985 ex.s. c 1 § 2; 1979 c 63 § 2; 1965 ex.s. c 121 § 8.]

Finding—2000 c 115: See note following RCW 46.20.075.

Effective date—2000 c 115 §§ 1-10: See note following RCW 46.20.075.

Intent—1999 c 6: See note following RCW 46.04.168.

Intent—Construction—Effective date—1998 c 41: See notes following RCW 46.20.265.

Social security number: RCW 26.23.150.

Additional notes found at www.leg.wa.gov

46.20.0921 Violations—Penalty. (1) It is a misdemeanor for any person:

(a) To display or cause or permit to be displayed or have in his or her possession any fictitious or fraudulently altered driver's license or identicard;

(b) To lend his or her driver's license or identicard to any other person or knowingly permit the use thereof by another;

(c) To display or represent as one's own any driver's license or identicard not issued to him or her;

(d) Willfully to fail or refuse to surrender to the department upon its lawful demand any driver's license or identicard which has been suspended, revoked or canceled;

(e) To use a false or fictitious name in any application for a driver's license or identicard or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application;

(f) To permit any unlawful use of a driver's license or identicard issued to him or her.

(2) It is a class C felony for any person to sell or deliver a stolen driver's license or identicard.

(3) It is unlawful for any person to manufacture, sell, or deliver a forged, fictitious, counterfeit, fraudulently altered, or unlawfully issued driver's license or identicard, or to manufacture, sell, or deliver a blank driver's license or identicard except under the direction of the department. A violation of this subsection is:

(a) A class C felony if committed (i) for financial gain or (ii) with intent to commit forgery, theft, or identity theft; or

(b) A gross misdemeanor if the conduct does not violate (a) of this subsection.

(4) Notwithstanding subsection (3) of this section, it is a misdemeanor for any person under the age of twenty-one to manufacture or deliver fewer than four forged, fictitious, counterfeit, or fraudulently altered driver's licenses or identicards for the sole purpose of misrepresenting a person's age.

(5) In a proceeding under subsection (2), (3), or (4) of this section that is related to an identity theft under RCW 9.35.020, the crime will be considered to have been committed in any locality where the person whose means of identification or financial information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in that locality. [2003 c 214 § 1; 1990 c 210 § 3; 1981 c 92 § 1; 1965 ex.s. c 121 § 41. Formerly RCW 46.20.336.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

46.20.093 Bicycle safety. The department of licensing shall incorporate a section on bicycle safety and sharing the road into its instructional publications for drivers and shall include questions in the written portion of the driver's license examination on bicycle safety and sharing the road with bicycles. [1998 c 165 § 4.]

Additional notes found at www.leg.wa.gov

46.20.095 Instructional publication information. The department's instructional publications for drivers must include information on:

(1) The proper use of the left-hand lane by motor vehicles on multilane highways; and

(2) Bicyclists' and pedestrians' rights and responsibilities. [1999 c 6 § 15; 1998 c 165 § 5; 1986 c 93 § 3.]

Intent—1999 c 6: See note following RCW 46.04.168.

Keep right except when passing, etc.: RCW 46.61.100.

Additional notes found at www.leg.wa.gov

46.20.100 Persons under eighteen. (1) **Application.** The application of a person under the age of eighteen years for a driver's license or a motorcycle endorsement must be signed by a parent or guardian with custody of the minor. If the person under the age of eighteen has no father, mother, or guardian, then the application must be signed by the minor's employer.

(2) **Traffic safety education requirement.** For a person under the age of eighteen years to obtain a driver's license he

(2010 Ed.)

or she must meet the traffic safety education requirements of this subsection.

(a) To meet the traffic safety education requirement for a driver's license the applicant must satisfactorily complete a traffic safety education course as defined in RCW 28A.220.020 for a course offered by a school district, or as defined by the department of licensing for a course offered by a driver training school licensed under chapter 46.82 RCW. The course offered by a school district or an approved private school must meet the standards established by the office of the state superintendent of public instruction. The course offered by a driver training school must meet the standards established by the department of licensing. The traffic safety education course may be provided by:

(i) A recognized secondary school; or

(ii) A driver training school licensed under chapter 46.82 RCW that is annually approved by the department of licensing.

(b) To meet the traffic safety education requirement for a motorcycle endorsement, the applicant must successfully complete a motorcycle safety education course that meets the standards established by the department of licensing.

(c) The department may waive the traffic safety education requirement for a driver's license if the applicant demonstrates to the department's satisfaction that:

(i) He or she was unable to take or complete a traffic safety education course;

(ii) A need exists for the applicant to operate a motor vehicle; and

(iii) He or she has the ability to operate a motor vehicle in such a manner as not to jeopardize the safety of persons or property.

The department may adopt rules to implement this subsection (2)(c) in concert with the supervisor of the traffic safety education section of the office of the superintendent of public instruction.

(d) The department may waive the traffic safety education requirement if the applicant was licensed to drive a motor vehicle or motorcycle outside this state and provides proof that he or she has had education equivalent to that required under this subsection. [2010 1st sp.s. c 7 § 18; 2002 c 195 § 1; 1999 c 274 § 14; 1999 c 6 § 16; 1990 c 250 § 36; 1985 c 234 § 2; 1979 c 158 § 146; 1973 1st ex.s. c 154 § 87; 1972 ex.s. c 71 § 1; 1969 ex.s. c 218 § 10; 1967 c 167 § 1; 1965 ex.s. c 170 § 43; 1961 c 12 § 46.20.100. Prior: 1937 c 188 § 51; RRS § 6312-51; 1921 c 108 § 6, part; RRS § 6368, part.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Intent—1999 c 6: See note following RCW 46.04.168.

Additional notes found at www.leg.wa.gov

46.20.105 Identifying types of licenses and permits.

(1) The department may provide a method to distinguish the driver's license of a person who is under the age of twenty-one from the driver's license of a person who is twenty-one years of age or older.

(2) An instruction permit must be identified as an "instruction permit" and issued in a distinctive form as determined by the department.

(3) An intermediate license must be identified as an "intermediate license" and issued in a distinctive form as determined by the department. [2000 c 115 § 5; 1987 c 463 § 3.]

Finding—2000 c 115: See note following RCW 46.20.075.

Effective date—2000 c 115 §§ 1-10: See note following RCW 46.20.075.

46.20.109 Wheelchair conveyances. Each operator of a wheelchair conveyance shall undergo a special examination conducted for the purpose of determining whether that person can properly and safely operate the conveyance on public roadways within a specified area. An operator's license issued after the special examination may specify the route, area, time, or other restrictions that are necessary to ensure the safety of the operator as well as the general motoring public. The department shall adopt rules for periodic review of the performance of operators of wheelchair conveyances. Operation of a wheelchair conveyance in violation of these rules is a traffic infraction. [1983 c 200 § 3. Formerly RCW 46.20.550]

Wheelchair conveyances

definition: RCW 46.04.710.

licensing: RCW 46.16.640.

public roadways, operating on: RCW 46.61.730.

safety standards: RCW 46.37.610.

Additional notes found at www.leg.wa.gov

46.20.113 Anatomical gift statement. The department of licensing shall provide a statement whereby the licensee may certify his or her willingness to make an anatomical gift under RCW 68.64.030, as now or hereafter amended. The department shall provide the statement in at least one of the following ways:

- (1) On each driver's license; or
- (2) With each driver's license; or
- (3) With each in-person driver's license application.

[2008 c 139 § 27; 1993 c 228 § 18; 1987 c 331 § 81; 1979 c 158 § 147; 1975 c 54 § 1.]

Uniformity of application and construction—2008 c 139: See RCW 68.64.902.

Additional notes found at www.leg.wa.gov

46.20.1131 Information for organ donor registry. The department shall electronically transfer the information of all persons who upon application for a driver's license or identicard volunteer to donate organs or tissue to a registry created in RCW 68.64.200, and any subsequent changes to the applicant's donor status when the applicant renews a driver's license or identicard or applies for a new driver's license or identicard. [2008 c 139 § 28; 2003 c 94 § 5.]

Uniformity of application and construction—2008 c 139: See RCW 68.64.902.

Findings—2003 c 94: See note following RCW 68.64.200.

46.20.114 Preventing alteration or reproduction. The department shall prepare and issue drivers' licenses and identicards using processes that prohibit as nearly as possible the alteration or reproduction of such cards, or the superimposing of other photographs on such cards, without ready detection. [1999 c 6 § 17; 1977 ex.s. c 27 § 2.]

[Title 46 RCW—page 172]

Intent—1999 c 6: See note following RCW 46.04.168.

Purpose—1977 ex.s. c 27: "The legislature finds that the falsification of cards and licenses is a serious social problem creating economic hardship and problems which impede the efficient conduct of commerce and government. The legislature is particularly concerned that the increasing use of false drivers' licenses and identicards to purchase liquor, to cash bad checks, and to obtain food stamps and other benefits is causing the loss of liquor licenses, the loss of jobs, the loss of income, and the loss of human life in addition to significant monetary losses in business and government. It is the purpose of RCW 46.20.114 to require an effective means of rendering drivers' licenses and identicards as immune as possible from alteration and counterfeiting in order to promote the public health and safety of the people of this state." [1977 ex.s. c 27 § 1.]

46.20.117 Identicards. (1) **Issuance.** The department shall issue an identicard, containing a picture, if the applicant:

- (a) Does not hold a valid Washington driver's license;
- (b) Proves his or her identity as required by RCW 46.20.035; and

(c) Pays the required fee. The fee is twenty dollars unless an applicant is a recipient of continuing public assistance grants under Title 74 RCW, who is referred in writing by the secretary of social and health services. For those persons the fee must be the actual cost of production of the identicard.

(2) **Design and term.** The identicard must:

- (a) Be distinctly designed so that it will not be confused with the official driver's license; and
- (b) Expire on the fifth anniversary of the applicant's birthdate after issuance.

(3) **Renewal.** An application for identicard renewal may be submitted by means of:

- (a) Personal appearance before the department; or
- (b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her identicard by mail or by electronic commerce when it last expired. However, the department may accept an application for renewal of an identicard submitted by means of mail or electronic commerce only if specific authority and funding is provided for this purpose by June 30, 2004, in the omnibus transportation appropriations act.

An identicard may not be renewed by mail or by electronic commerce unless the renewal issued by the department includes a photograph of the identicard holder.

(4) **Cancellation.** The department may cancel an identicard if the holder of the identicard used the card or allowed others to use the card in violation of RCW 46.20.0921. [2005 c 314 § 305; 2004 c 249 § 5; 2002 c 352 § 12; 1999 c 274 § 15; 1999 c 6 § 18; 1993 c 452 § 3; 1986 c 15 § 1; 1985 ex.s. c 1 § 3; 1985 c 212 § 1; 1981 c 92 § 2; 1971 ex.s. c 65 § 1; 1969 ex.s. c 155 § 4.]

Effective date—2005 c 314 §§ 101-107, 109, 303-309, and 401: See note following RCW 46.68.290.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

Effective dates—2002 c 352: See note following RCW 46.09.410.

Intent—1999 c 6: See note following RCW 46.04.168.

Purpose—1971 ex.s. c 65: "The efficient and effective operation and administration of state government affects the health, safety, and welfare of the people of this state and it is the intent and purpose of this act to promote the health, safety, and welfare of the people by improving the operation and administration of state government." [1971 ex.s. c 65 § 2.]

Effective date—Purpose—1969 ex.s. c 155: See notes following RCW 46.20.118.

Additional notes found at www.leg.wa.gov

46.20.118 Negative file. (1) The department shall maintain a negative file. It shall contain negatives of all pictures taken by the department of licensing as authorized by this chapter. Negatives in the file shall not be available for public inspection and copying under chapter 42.56 RCW.

(2) The department may make the file available to official governmental enforcement agencies to assist in the investigation by the agencies of suspected criminal activity or for the purposes of verifying identity when a law enforcement officer is authorized by law to request identification from an individual.

(3) The department shall make the file available to the office of the secretary of state, at the expense of the secretary of state, to assist in maintenance of the statewide voter registration database.

(4) The department may also provide a print to the driver's next of kin in the event the driver is deceased. [2009 c 366 § 1. Prior: 2005 c 274 § 307; 2005 c 246 § 23; 1990 c 250 § 37; 1981 c 22 § 1; 1979 c 158 § 149; 1969 ex.s. c 155 § 5.]

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Effective date—2005 c 246: See note following RCW 10.64.140.

Purpose—1969 ex.s. c 155: "The identification of the injured or the seriously ill is often difficult. The need for an identification file to facilitate use by proper law enforcement officers has hampered law enforcement. Personal identification for criminal, personal and commercial reasons is becoming most important at a time when it is increasingly difficult to accomplish. The legislature finds that the public health and welfare requires a standard and readily recognizable means of identification of each person living within the state. The legislature further finds that the need for an identification file by law enforcement agencies must be met. The use of photographic drivers' licenses will greatly aid the problem, but some means of identification must be provided for persons who do not possess a driver's license. The purpose of this 1969 amendatory act is to provide for the positive identification of persons, both through an expanded use of drivers' licenses and also through issue of personal identification cards for nondrivers." [1969 ex.s. c 155 § 1.]

Additional notes found at www.leg.wa.gov

46.20.119 Reasonable rules. The rules and regulations adopted pursuant to RCW 46.20.070 through 46.20.119 shall be reasonable in view of the purposes to be served by RCW 46.20.070 through 46.20.119. [1990 c 250 § 38; 1969 ex.s. c 155 § 6.]

Effective date—Purpose—1969 ex.s. c 155: See notes following RCW 46.20.118.

Additional notes found at www.leg.wa.gov

46.20.120 Examinations—Waiver—Renewals—Fees. An applicant for a new or renewed driver's license must successfully pass a driver licensing examination to qualify for a driver's license. The department shall give examinations at places and times reasonably available to the people of this state.

(1) **Waiver.** The department may waive:

(a) All or any part of the examination of any person applying for the renewal of a driver's license unless the department determines that the applicant is not qualified to hold a driver's license under this title; or

(b) All or any part of the examination involving operating a motor vehicle if the applicant:

(i) Surrenders a valid driver's license issued by the person's previous home state; or

(ii) Provides for verification a valid driver's license issued by a foreign driver licensing jurisdiction with which the department has an informal agreement under RCW 46.20.125; and

(iii) Is otherwise qualified to be licensed.

(2) **Fee.** Each applicant for a new license must pay an examination fee of twenty dollars.

(a) The examination fee is in addition to the fee charged for issuance of the license.

(b) "New license" means a license issued to a driver:

(i) Who has not been previously licensed in this state; or

(ii) Whose last previous Washington license has been expired for more than five years.

(3) An application for driver's license renewal may be submitted by means of:

(a) Personal appearance before the department; or

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her license by mail or by electronic commerce when it last expired. However, the department may accept an application for renewal of a driver's license submitted by means of mail or electronic commerce only if specific authority and funding is provided for this purpose by June 30, 2004, in the omnibus transportation appropriations act.

(4) A person whose license expired or will expire while he or she is living outside the state, may:

(a) Apply to the department to extend the validity of his or her license for no more than twelve months. If the person establishes to the department's satisfaction that he or she is unable to return to Washington before the date his or her license expires, the department shall extend the person's license. The department may grant consecutive extensions, but in no event may the cumulative total of extensions exceed twelve months. An extension granted under this section does not change the expiration date of the license for purposes of RCW 46.20.181. The department shall charge a fee of five dollars for each license extension;

(b) Apply to the department to renew his or her license by mail or, if permitted by rule of the department, by electronic commerce even if subsection (3)(b) of this section would not otherwise allow renewal by that means. If the person establishes to the department's satisfaction that he or she is unable to return to Washington within twelve months of the date that his or her license expires, the department shall renew the person's license by mail or, if permitted by rule of the department, by electronic commerce.

(5) If a qualified person submits an application for renewal under subsection (3)(b) or (4)(b) of this section, he or she is not required to pass an examination nor provide an updated photograph. A license renewed by mail or by electronic commerce that does not include a photograph of the licensee must be labeled "not valid for identification purposes." [2005 c 314 § 306; 2005 c 61 § 2; 2004 c 249 § 6; 2002 c 352 § 13. Prior: 1999 c 308 § 1; 1999 c 199 § 3; 1999 c 6 § 19; 1990 c 9 § 1; 1988 c 88 § 2; 1985 ex.s. c 1 § 4; 1979 c 61 § 6; 1975 1st ex.s. c 191 § 2; 1967 c 167 § 4; 1965 ex.s.

c 121 § 9; 1961 c 12 § 46.20.120; prior: 1959 c 284 § 1; 1953 c 221 § 2; 1937 c 188 § 55, part; RRS § 6312-55, part.]

Reviser's note: This section was amended by 2005 c 61 § 2 and by 2005 c 314 § 306, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2005 c 314 §§ 101-107, 109, 303-309, and 401: See note following RCW 46.68.290.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

Intent—2005 c 61: See note following RCW 46.20.125.

Effective dates—2002 c 352: See note following RCW 46.09.410.

Intent—1999 c 6: See note following RCW 46.04.168.

Additional notes found at www.leg.wa.gov

46.20.125 Waiver—Agreement with other jurisdictions. (1) The department may enter into an informal agreement with one or more other licensing jurisdictions to waive the requirement for the examination involving operating a motor vehicle by licensed drivers, age eighteen years or older, from that jurisdiction.

(2) The department may only enter into an agreement with a jurisdiction if:

(a) The jurisdiction has procedures in place to verify the validity of the drivers' licenses it issues; and

(b) The jurisdiction has agreed to waive all or any part of the driver's license examination requirements for Washington licensed drivers applying for a driver's license in that jurisdiction. [2005 c 61 § 3.]

Intent—2005 c 61: "The legislature recognizes the importance of global markets to our state and national economy. As a leader among states in international commerce, Washington houses many multinational corporations. Competition among states for foreign businesses and personnel is fierce and it is necessary to Washington's future economic viability to eliminate a significant regulatory barrier to efficient personnel exchange, resulting in a more attractive business climate in Washington. The legislature recognizes that more than twenty other states have entered into informal reciprocal agreements with other nations to waive driver's license testing requirements in order to ease the transition of personnel to and from those states. By removing an unnecessary barrier to efficient personnel mobility it is the intent of the legislature to strengthen and diversify Washington's economy." [2005 c 61 § 1.]

46.20.126 Rules. The department may make rules to carry out the purposes of RCW 46.20.120 and 46.20.125. [2005 c 61 § 4.]

46.20.130 Content and conduct of examinations. (1) The director shall prescribe the content of the driver licensing examination and the manner of conducting the examination, which shall include but is not limited to:

(a) A test of the applicant's eyesight and ability to see, understand, and follow highway signs regulating, warning, and directing traffic;

(b) A test of the applicant's knowledge of traffic laws and ability to understand and follow the directives of lawful authority, orally or graphically, that regulate, warn, and direct traffic in accordance with the traffic laws of this state;

(c) An actual demonstration of the applicant's ability to operate a motor vehicle without jeopardizing the safety of persons or property. If the applicant is deaf or hearing impaired, the applicant may be accompanied by an interpreter to assist the applicant during the demonstration. The inter-

preter will be of the applicant's choosing from a list provided by the department of licensing; and

(d) Such further examination as the director deems necessary:

(i) To determine whether any facts exist that would bar the issuance of a vehicle operator's license under chapters 46.20, 46.21, and 46.29 RCW; and

(ii) To determine the applicant's fitness to operate a motor vehicle safely on the highways.

(2) If the applicant desires to drive a motorcycle or a motor-driven cycle he or she must qualify for a motorcycle endorsement under RCW 46.20.500 through 46.20.515. [2006 c 190 § 1; 1999 c 6 § 20; 1990 c 250 § 39; 1981 c 245 § 4; 1967 c 232 § 2; 1965 ex.s. c 121 § 10; 1961 c 12 § 46.20.130. Prior: 1959 c 284 § 2; 1943 c 151 § 1; 1937 c 188 § 57; Rem. Supp. 1943 § 6312-57.]

Collective bargaining rights not affected—2006 c 190: "This act does not affect the right of state employees to collectively bargain wages, hours, and other terms and conditions of employment under chapter 41.80 RCW." [2006 c 190 § 2.]

Intent—1999 c 6: See note following RCW 46.04.168.

Additional notes found at www.leg.wa.gov

46.20.153 Voter registration—Posting signs. The department shall post signs at each driver licensing facility advertising the availability of voter registration services and advising of the qualifications to register to vote. [2001 c 41 § 15.]

46.20.155 Voter registration—Services. (1) Before issuing an original license or identicard or renewing a license or identicard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or transfer his or her voter registration by asking the following question:

"Do you want to register to vote or transfer your voter registration?"

If the applicant chooses to register or transfer a registration, the agent shall ask the following:

(1) "Are you a United States citizen?"

(2) "Are you or will you be eighteen years of age on or before the next election?"

If the applicant answers in the affirmative to both questions, the agent shall then submit the registration or transfer. If the applicant answers in the negative to either question, the agent shall not submit a voter registration application.

(2) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce. [2009 c 369 § 42; 2005 c 246 § 24; 2004 c 249 § 7; 2001 c 41 § 14; 1990 c 143 § 6.]

Effective date—2005 c 246: See note following RCW 10.64.140.

Voter registration with driver licensing: RCW 29A.08.340 and 29A.08.350.

Additional notes found at www.leg.wa.gov

46.20.157 Data to department of information services—Confidentiality. (1) Except as provided in subsection (2) of this section, the department shall annually provide

to the department of information services an electronic data file. The data file must:

(a) Contain information on all licensed drivers and identicard holders who are eighteen years of age or older and whose records have not expired for more than two years;

(b) Be provided at no charge; and

(c) Contain the following information on each such person: Full name, date of birth, residence address including county, sex, and most recent date of application, renewal, replacement, or change of driver's license or identicard.

(2) Before complying with subsection (1) of this section, the department shall remove from the file the names of any certified participants in the Washington state address confidentiality program under chapter 40.24 RCW that have been identified to the department by the secretary of state. [1999 c 6 § 21; 1993 c 408 § 12.]

Intent—1999 c 6: See note following RCW 46.04.168.

Additional notes found at www.leg.wa.gov

46.20.161 Issuance of license—Contents—Fee. The department, upon receipt of a fee of twenty-five dollars, unless the driver's license is issued for a period other than five years, in which case the fee shall be five dollars for each year that the license is issued, which includes the fee for the required photograph, shall issue to every qualifying applicant a driver's license. A driver's license issued to a person under the age of eighteen is an intermediate license, subject to the restrictions imposed under RCW 46.20.075, until the person reaches the age of eighteen. The license must include a distinguishing number assigned to the licensee, the name of record, date of birth, Washington residence address, photograph, a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his or her usual signature with pen and ink immediately upon receipt of the license. No license is valid until it has been so signed by the licensee. [2000 c 115 § 6; 1999 c 308 § 2; 1999 c 6 § 22; 1998 c 41 § 12; 1990 c 250 § 40; 1981 c 245 § 1; 1975 1st ex.s. c 191 § 3; 1969 c 99 § 6; 1965 ex.s. c 121 § 11.]

Finding—2000 c 115: See note following RCW 46.20.075.

Effective date—2000 c 115 §§ 1-10: See note following RCW 46.20.075.

Intent—1999 c 6: See note following RCW 46.04.168.

Intent—Construction—Effective date—1998 c 41: See notes following RCW 46.20.265.

Additional notes found at www.leg.wa.gov

46.20.181 Expiration date—Renewal—Fees—Penalty. (1) Except as provided in subsection (4) of this section, every driver's license expires on the fifth anniversary of the licensee's birthdate following the issuance of the license.

(2) A person may renew his or her license on or before the expiration date by submitting an application as prescribed by the department and paying a fee of twenty-five dollars. This fee includes the fee for the required photograph.

(3) A person renewing his or her driver's license more than sixty days after the license has expired shall pay a penalty fee of ten dollars in addition to the renewal fee, unless his or her license expired when:

(a) The person was outside the state and he or she renews the license within sixty days after returning to this state; or

(b) The person was incapacitated and he or she renews the license within sixty days after the termination of the incapacity.

(4) During the period from July 1, 2000, to July 1, 2006, the department may issue or renew a driver's license for a period other than five years, or may extend by mail a license that has already been issued, in order to evenly distribute, as nearly as possible, the yearly renewal rate of licensed drivers. The fee for a driver's license issued or renewed for a period other than five years, or that has been extended by mail, is five dollars for each year that the license is issued, renewed, or extended. The department may adopt any rules as are necessary to carry out this subsection. [1999 c 308 § 3; 1999 c 6 § 23; 1990 c 250 § 41; 1981 c 245 § 2; 1975 1st ex.s. c 191 § 4; 1969 c 99 § 7; 1965 ex.s. c 170 § 46; 1965 ex.s. c 121 § 17.]

Intent—1999 c 6: See note following RCW 46.04.168.

Additional notes found at www.leg.wa.gov

46.20.185 Photograph during renewal. The department of licensing shall establish a procedure for renewal of drivers' licenses under this chapter which does not deprive the applicant during the renewal process of an identification bearing the applicant's photograph.

This identification shall be designed to and shall be accepted as proper identification under RCW 66.16.040. [1979 ex.s. c 87 § 1.]

46.20.187 Registration of sex offenders. The department, at the time a person renews his or her driver's license or identicard, or surrenders a driver's license from another jurisdiction pursuant to RCW 46.20.021 and makes an application for a driver's license or an identicard, shall provide the applicant with written information on the registration requirements of RCW 9A.44.130. [1990 c 3 § 407.]

Additional notes found at www.leg.wa.gov

46.20.191 Compliance with federal REAL ID Act of 2005 requirements. Before issuing a driver's license or identicard that complies with the requirements of the REAL ID Act of 2005, P.L. 109-13, and before storing or including data about Washington state residents in any database, records facility, or computer system for purposes of meeting the requirements of the REAL ID Act of 2005, the department of licensing shall certify that the driver's license, identicard, database, records facility, computer system, and the department's personnel screening and training procedures: (1) Include all reasonable security measures to protect the privacy of Washington state residents; (2) include all reasonable safeguards to protect against unauthorized disclosure of data; and (3) do not place unreasonable costs or recordkeeping burdens on a driver's license or identicard applicant. [2007 c 85 § 2.]

46.20.1911 Costs and burdens of compliance with federal REAL ID Act of 2005 requirements—Legal challenge. (1) The department of licensing and the office of financial management may analyze the costs and burdens to the state of Washington, and to applicants of drivers' licenses

or identicards, of complying with the requirements of the REAL ID Act of 2005, P.L. 109-13, and any related federal regulations.

(2) The attorney general may, with approval of the governor, challenge the legality or constitutionality of the REAL ID Act of 2005. [2007 c 85 § 3.]

46.20.200 Lost, destroyed, corrected licenses or permits. (1) If an instruction permit, identicard, or a driver's license is lost or destroyed, the person to whom it was issued may obtain a duplicate of it upon furnishing proof of such fact satisfactory to the department and payment of a fee of fifteen dollars to the department.

(2) A replacement permit, identicard, or driver's license may be obtained to change or correct material information upon payment of a fee of ten dollars and surrender of the permit, identicard, or driver's license being replaced. [2002 c 352 § 14; 1985 ex.s. c 1 § 5; 1975 1st ex.s. c 191 § 5; 1965 ex.s. c 121 § 16; 1961 c 12 § 46.20.200. Prior: 1947 c 164 § 18; 1937 c 188 § 60; Rem. Supp. 1947 § 6312-60; 1921 c 108 § 11; RRS § 6373.]

Effective dates—2002 c 352: See note following RCW 46.09.410.

Additional notes found at www.leg.wa.gov

46.20.202 Enhanced drivers' licenses and identicards for Canadian border crossing—Border-crossing initiative. (1) The department may enter into a memorandum of understanding with any federal agency for the purposes of facilitating the crossing of the border between the state of Washington and the Canadian province of British Columbia.

(2) The department may enter into an agreement with the Canadian province of British Columbia for the purposes of implementing a border-crossing initiative.

(3)(a) The department may issue an enhanced driver's license or identicard for the purposes of crossing the border between the state of Washington and the Canadian province of British Columbia to an applicant who provides the department with proof of: United States citizenship, identity, and state residency. The department shall continue to offer a standard driver's license and identicard. If the department chooses to issue an enhanced driver's license, the department must allow each applicant to choose between a standard driver's license or identicard, or an enhanced driver's license or identicard.

(b) The department shall implement a one-to-many biometric matching system for the enhanced driver's license or identicard. An applicant for an enhanced driver's license or identicard shall submit a biometric identifier as designated by the department. The biometric identifier must be used solely for the purpose of verifying the identity of the holders and for any purpose set out in RCW 46.20.037. Applicants are required to sign a declaration acknowledging their understanding of the one-to-many biometric match.

(c) The enhanced driver's license or identicard must include reasonable security measures to protect the privacy of Washington state residents, including reasonable safeguards to protect against unauthorized disclosure of data about Washington state residents. If the enhanced driver's license or identicard includes a radio frequency identification chip, or similar technology, the department shall ensure that the

technology is encrypted or otherwise secure from unauthorized data access.

(d) The requirements of this subsection are in addition to the requirements otherwise imposed on applicants for a driver's license or identicard. The department shall adopt such rules as necessary to meet the requirements of this subsection. From time to time the department shall review technological innovations related to the security of identity cards and amend the rules related to enhanced driver's licenses and identicards as the director deems consistent with this section and appropriate to protect the privacy of Washington state residents.

(e) Notwithstanding RCW 46.20.118, the department may make images associated with enhanced drivers' licenses or identicards from the negative file available to United States customs and border agents for the purposes of verifying identity.

(4) The department may set a fee for the issuance of enhanced drivers' licenses and identicards under this section. [2007 c 7 § 1.]

Effective date—2007 c 7: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 23, 2007]." [2007 c 7 § 4.]

46.20.2021 Statewide education campaign for border-crossing initiative. The department shall develop and implement a statewide education campaign to educate Washington citizens about the border-crossing initiative authorized by chapter 7, Laws of 2007. The educational campaign must include information on the forms of travel for which the existing and enhanced driver's license can be used. The campaign must include information on the time frames for implementation of laws that impact identification requirements at the border with Canada. [2007 c 7 § 2.]

Effective date—2007 c 7: See note following RCW 46.20.202.

46.20.205 Change of address or name. (1) Whenever any person after applying for or receiving a driver's license or identicard moves from the address named in the application or in the license or identicard issued to him or her, the person shall within ten days thereafter notify the department of the address change. The notification must be in writing on a form provided by the department and must include the number of the person's driver's license. The written notification, or other means as designated by rule of the department, is the exclusive means by which the address of record maintained by the department concerning the licensee or identicard holder may be changed.

(a) The form must contain a place for the person to indicate that the address change is not for voting purposes. The department of licensing shall notify the secretary of state by the means described in *RCW 29.07.270(3) of all change of address information received by means of this form except information on persons indicating that the change is not for voting purposes.

(b) Any notice regarding the cancellation, suspension, revocation, disqualification, probation, or nonrenewal of the driver's license, commercial driver's license, driving privilege, or identicard mailed to the address of record of the lic-

ensee or identicard holder is effective notwithstanding the licensee's or identicard holder's failure to receive the notice.

(2) When a licensee or holder of an identicard changes his or her name of record, the person shall notify the department of the name change. The person must make the notification within ten days of the date that the name change is effective. The notification must be in writing on a form provided by the department and must include the number of the person's driver's license. The department of licensing shall not change the name of record of a person under this section unless the person has again satisfied the department regarding his or her identity in the manner provided by RCW 46.20.035. [1999 c 6 § 24; 1998 c 41 § 13; 1996 c 30 § 4; 1994 c 57 § 52; 1989 c 337 § 6; 1969 ex.s. c 170 § 13; 1965 ex.s. c 121 § 18.]

***Reviser's note:** RCW 29.07.270 was recodified as RCW 29A.08.350 pursuant to 2003 c 111 § 2401, effective July 1, 2004. RCW 29.07.270 was also amended by 2003 c 111 § 226, deleting subsection (3).

Intent—1999 c 6: See note following RCW 46.04.168.

Intent—Construction—Effective date—1998 c 41: See notes following RCW 46.20.265.

Additional notes found at www.leg.wa.gov

RESTRICTING THE DRIVING PRIVILEGE

46.20.207 Cancellation. (1) The department is authorized to cancel any driver's license upon determining that the licensee was not entitled to the issuance of the license, or that the licensee failed to give the required or correct information in his or her application, or that the licensee is incompetent to drive a motor vehicle for any of the reasons under RCW 46.20.031 (4) and (7).

(2) Upon such cancellation, the licensee must surrender the license so canceled to the department. [1993 c 501 § 3; 1991 c 293 § 4; 1965 ex.s. c 121 § 20.]

46.20.215 Nonresidents—Suspension or revocation—Reporting offenders. (1) The privilege of driving a motor vehicle on the highways of this state given to a nonresident hereunder shall be subject to suspension or revocation by the department in like manner and for like cause as a driver's license issued hereunder may be suspended or revoked.

(2) The department shall, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, forward a report of such conviction to the motor vehicle administrator in the state wherein the person so convicted is a resident. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; and indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security.

(3) The department shall, upon receiving a record of the commission of a traffic infraction in this state by a nonresident driver of a motor vehicle, forward a report of the traffic infraction to the motor vehicle administrator in the state where the person who committed the infraction resides. The report shall clearly identify the person found to have committed the infraction; describe the infraction, specifying the sec-

tion of the statute, code or ordinance violated; identify the court in which action was taken; and indicate whether the determination that an infraction was committed was contested or whether the individual failed to respond to the notice of infraction. [1979 ex.s. c 136 § 57; 1965 ex.s. c 121 § 21.]

Additional notes found at www.leg.wa.gov

46.20.220 Vehicle rentals—Records. (1) It shall be unlawful for any person to rent a motor vehicle of any kind including a motorcycle to any other person unless the latter person is then duly licensed as a vehicle driver for the kind of motor vehicle being rented in this state or, in case of a nonresident, then that he or she is duly licensed as a driver under the laws of the state or country of his or her residence except a nonresident whose home state or country does not require that a motor vehicle driver be licensed;

(2) It shall be unlawful for any person to rent a motor vehicle to another person until he or she has inspected the vehicle driver's license of such other person and compared and verified the signature thereon with the signature of such other person written in his or her presence;

(3) Every person renting a motor vehicle to another person shall keep a record of the vehicle license number of the motor vehicle so rented, the name and address of the person to whom the motor vehicle is rented, the number of the vehicle driver's license of the person renting the vehicle and the date and place when and where such vehicle driver's license was issued. Such record shall be open to inspection by any police officer or anyone acting for the director. [2010 c 8 § 9020; 1969 c 27 § 1. Prior: 1967 c 232 § 9; 1967 c 32 § 28; 1961 c 12 § 46.20.220; prior: 1937 c 188 § 63; RRS § 6312-63.]

Allowing unauthorized person to drive: RCW 46.16A.520, 46.20.024.

Helmet requirements: RCW 46.37.535.

46.20.245 Mandatory revocation—Notice—Administrative, judicial review—Rules—Application. (1) Whenever the department proposes to withhold the driving privilege of a person or disqualify a person from operating a commercial motor vehicle and this action is made mandatory by the provisions of this chapter or other law, the department must give notice to the person in writing by posting in the United States mail, appropriately addressed, postage prepaid, or by personal service. Notice by mail is given upon deposit in the United States mail. Notice given under this subsection must specify the date upon which the driving privilege is to be withheld which shall not be less than forty-five days after the original notice is given.

(2) Within fifteen days after notice has been given to a person under subsection (1) of this section, the person may request in writing an administrative review before the department. If the request is mailed, it must be postmarked within fifteen days after the date the department has given notice. If a person fails to request an administrative review within fifteen days after the date the department gives notice, the person is considered to have defaulted and loses his or her right to an administrative review unless the department finds good cause for a request after the fifteen-day period.

(a) An administrative review under this subsection shall consist solely of an internal review of documents and records

submitted or available to the department, unless the person requests an interview before the department, in which case all or any part of the administrative review may, at the discretion of the department, be conducted by telephone or other electronic means.

(b) The only issues to be addressed in the administrative review are:

(i) Whether the records relied on by the department identify the correct person; and

(ii) Whether the information transmitted from the court or other reporting agency or entity regarding the person accurately describes the action taken by the court or other reporting agency or entity.

(c) For the purposes of this section, the notice received from a court or other reporting agency or entity, regardless of form or format, is prima facie evidence that the information from the court or other reporting agency or entity regarding the person is accurate. A person requesting administrative review has the burden of showing by a preponderance of the evidence that the person is not subject to the withholding of the driving privilege.

(d) The action subject to the notification requirements of subsection (1) of this section shall be stayed during the administrative review process.

(e) Judicial review of a department order affirming the action subject to the notification requirements of subsection (1) of this section after an administrative review shall be available in the same manner as provided in RCW 46.20.308(9). The department shall certify its record to the court within thirty days after service upon the department of the petition for judicial review. The action subject to the notification requirements of subsection (1) of this section shall not automatically be stayed during the judicial review. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury.

(3) The department may adopt rules that are considered necessary or convenient by the department for purposes of administering this section, including, but not limited to, rules regarding expedited procedures for issuing orders and expedited notice procedures.

(4) This section does not apply where an opportunity for an informal settlement, driver improvement interview, or formal hearing is otherwise provided by law or rule of the department. [2005 c 288 § 1.]

Effective date—2005 c 288: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005." [2005 c 288 § 9.]

46.20.265 Juvenile driving privileges—Revocation for alcohol or drug violations. (1) In addition to any other authority to revoke driving privileges under this chapter, the department shall revoke all driving privileges of a juvenile when the department receives notice from a court pursuant to RCW 9.41.040(5), 13.40.265, 66.44.365, 69.41.065, 69.50.420, 69.52.070, or a substantially similar municipal ordinance adopted by a local legislative authority, or from a diversion unit pursuant to RCW 13.40.265.

(2) The driving privileges of the juvenile revoked under subsection (1) of this section shall be revoked in the following manner:

(a) Upon receipt of the first notice, the department shall impose a revocation for one year, or until the juvenile reaches seventeen years of age, whichever is longer.

(b) Upon receipt of a second or subsequent notice, the department shall impose a revocation for two years or until the juvenile reaches eighteen years of age, whichever is longer.

(c) Each offense for which the department receives notice shall result in a separate period of revocation. All periods of revocation imposed under this section that could otherwise overlap shall run consecutively up to the juvenile's twenty-first birthday, and no period of revocation imposed under this section shall begin before the expiration of all other periods of revocation imposed under this section or other law. Periods of revocation imposed consecutively under this section shall not extend beyond the juvenile's twenty-first birthday.

(3)(a) If the department receives notice from a court that the juvenile's privilege to drive should be reinstated, the department shall immediately reinstate any driving privileges that have been revoked under this section if the minimum term of revocation as specified in RCW 13.40.265(1)(c), 66.44.365(3), 69.41.065(3), 69.50.420(3), 69.52.070(3), or similar ordinance has expired, and subject to subsection (2)(c) of this section.

(b) The juvenile may seek reinstatement of his or her driving privileges from the department when the juvenile reaches the age of twenty-one. A notice from the court reinstating the juvenile's driving privilege shall not be required if reinstatement is pursuant to this subsection.

(4)(a) If the department receives notice pursuant to RCW 13.40.265(2)(b) from a diversion unit that a juvenile has completed a diversion agreement for which the juvenile's driving privileges were revoked, the department shall reinstate any driving privileges revoked under this section as provided in (b) of this subsection, subject to subsection (2)(c) of this section.

(b) If the diversion agreement was for the juvenile's first violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department shall not reinstate the juvenile's privilege to drive until the later of ninety days after the date the juvenile turns sixteen or ninety days after the juvenile entered into a diversion agreement for the offense. If the diversion agreement was for the juvenile's second or subsequent violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department shall not reinstate the juvenile's privilege to drive until the later of the date the juvenile turns seventeen or one year after the juvenile entered into the second or subsequent diversion agreement. [2005 c 288 § 2; 2003 c 20 § 1; 1998 c 41 § 2; 1994 sp.s. c 7 § 439; 1991 c 260 § 1; 1989 c 271 § 117; 1988 c 148 § 7.]

Effective date—2005 c 288: See note following RCW 46.20.245.

Intent—Construction—1998 c 41: "It is the intent and purpose of this act to clarify procedural issues and make technical corrections to statutes relating to drivers' licenses. This act should not be construed as changing existing public policy." [1998 c 41 § 1.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Legislative finding—Severability—1988 c 148: See notes following RCW 13.40.265.

Additional notes found at www.leg.wa.gov

46.20.267 Intermediate licensees. If a person issued an intermediate license is convicted of or found to have committed a traffic offense described in chapter 46.61 RCW or violated restrictions placed on an intermediate license under RCW 46.20.075:

(1) On the first such conviction or finding the department shall mail the parent or guardian of the person a letter warning the person of the provisions of this section;

(2) On the second such conviction or finding, the department shall suspend the person's intermediate driver's license for a period of six months or until the person reaches eighteen years of age, whichever occurs first, and mail the parent or guardian of the person a notification of the suspension;

(3) On the third such conviction or finding, the department shall suspend the person's intermediate driver's license until the person reaches eighteen years of age, and mail the parent or guardian of the person a notification of the suspension.

For the purposes of this section, a single ticket for one or more traffic offenses constitutes a single traffic offense. [2000 c 115 § 3.]

Finding—2000 c 115: See note following RCW 46.20.075.

Effective date—2000 c 115 §§ 1-10: See note following RCW 46.20.075.

46.20.270 Conviction of offense requiring withholding driving privilege—Procedures—Definitions. (Continuing expiration date.) (1) Whenever any person is convicted of any offense for which this title makes mandatory the withholding of the driving privilege of such person by the department, the court in which such conviction is had shall forthwith mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department. A valid driver's license or permit to drive marked under this subsection shall remain in effect until the person's driving privilege is withheld by the department pursuant to notice given under RCW 46.20.245, unless the license or permit expires or otherwise becomes invalid prior to the effective date of this action. Perfection of notice of appeal shall stay the execution of sentence including the withholding of the driving privilege.

(2) Every court having jurisdiction over offenses committed under this chapter, or any other act of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, or any federal authority having jurisdiction over offenses substantially the same as those set forth in Title 46 RCW which occur on federal installations within this state, shall immediately forward to the department a forfeiture of bail or collateral deposited to secure the defendant's appearance in court, a payment of a fine, penalty, or court cost, a plea of guilty or nolo contendere or a finding of guilt, or a finding that any person has committed a traffic infraction an abstract of the court record in the form prescribed by rule of the supreme court, showing the conviction of any person or the finding that any person has committed a traffic infraction in said court for a violation of

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any said laws other than regulations governing standing, stopping, parking, and pedestrian offenses.

(3) Every state agency or municipality having jurisdiction over offenses committed under this chapter, or under any other act of this state or municipal ordinance adopted by a state or local authority regulating the operation of motor vehicles on highways, may forward to the department within ten days of failure to respond, failure to pay a penalty, failure to appear at a hearing to contest the determination that a violation of any statute, ordinance, or regulation relating to standing, stopping, parking, or other infraction issued under RCW 46.63.030(1)(d) has been committed, or failure to appear at a hearing to explain mitigating circumstances, an abstract of the citation record in the form prescribed by rule of the department, showing the finding by such municipality that two or more violations of laws governing standing, stopping, and parking or one or more other infractions issued under RCW 46.63.030(1)(d) have been committed and indicating the nature of the defendant's failure to act. Such violations or infractions may not have occurred while the vehicle is stolen from the registered owner or is leased or rented under a bona fide commercial vehicle lease or rental agreement between a lessor engaged in the business of leasing vehicles and a lessee who is not the vehicle's registered owner. The department may enter into agreements of reciprocity with the duly authorized representatives of the states for reporting to each other violations of laws governing standing, stopping, and parking.

(4) For the purposes of this title and except as defined in RCW 46.25.010, "conviction" means a final conviction in a state or municipal court or by any federal authority having jurisdiction over offenses substantially the same as those set forth in this title which occur on federal installations in this state, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine or court cost, a plea of guilty or nolo contendere, or a finding of guilt on a traffic law violation charge, regardless of whether the imposition of sentence or sanctions are deferred or the penalty is suspended, but not including entry into a deferred prosecution agreement under chapter 10.05 RCW.

(5) For the purposes of this title, "finding that a traffic infraction has been committed" means a failure to respond to a notice of infraction or a determination made by a court pursuant to this chapter. Payment of a monetary penalty made pursuant to RCW 46.63.070(2) is deemed equivalent to such a finding. [2009 c 181 § 1; 2006 c 327 § 1; 2005 c 288 § 3; 2004 c 231 § 5; 1990 2nd ex.s. c 1 § 402; 1990 c 250 § 42; 1982 1st ex.s. c 14 § 5; 1979 ex.s. c 136 § 58; 1979 c 61 § 7; 1977 ex.s. c 3 § 1; 1967 ex.s. c 145 § 55; 1965 ex.s. c 121 § 22; 1961 c 12 § 46.20.270. Prior: 1937 c 188 § 68; RRS § 6312-68; prior: 1923 c 122 § 2, part; 1921 c 108 § 9, part; RRS § 6371, part.]

Effective date—2005 c 288: See note following RCW 46.20.245.

Additional notes found at www.leg.wa.gov

46.20.270 Conviction of offense requiring withholding driving privilege—Procedures—Definitions. (Continuing effective date.) (1) Whenever any person is convicted of any offense for which this title makes mandatory the withholding of the driving privilege of such person by the depart-

ment, the court in which such conviction is had shall forthwith mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department. A valid driver's license or permit to drive marked under this subsection shall remain in effect until the person's driving privilege is withheld by the department pursuant to notice given under RCW 46.20.245, unless the license or permit expires or otherwise becomes invalid prior to the effective date of this action. Perfection of notice of appeal shall stay the execution of sentence including the withholding of the driving privilege.

(2) Every court having jurisdiction over offenses committed under this chapter, or any other act of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, or any federal authority having jurisdiction over offenses substantially the same as those set forth in this title which occur on federal installations within this state, shall immediately forward to the department a forfeiture of bail or collateral deposited to secure the defendant's appearance in court, a payment of a fine, penalty, or court cost, a plea of guilty or nolo contendere or a finding of guilt, or a finding that any person has committed a traffic infraction an abstract of the court record in the form prescribed by rule of the supreme court, showing the conviction of any person or the finding that any person has committed a traffic infraction in said court for a violation of any said laws other than regulations governing standing, stopping, parking, and pedestrian offenses.

(3) Every state agency or municipality having jurisdiction over offenses committed under this chapter, or under any other act of this state or municipal ordinance adopted by a state or local authority regulating the operation of motor vehicles on highways, may forward to the department within ten days of failure to respond, failure to pay a penalty, failure to appear at a hearing to contest the determination that a violation of any statute, ordinance, or regulation relating to standing, stopping, parking, or civil penalties issued under RCW 46.63.160 has been committed, or failure to appear at a hearing to explain mitigating circumstances, an abstract of the citation record in the form prescribed by rule of the department, showing the finding by such municipality that two or more violations of laws governing standing, stopping, and parking or one or more civil penalties issued under RCW 46.63.160 have been committed and indicating the nature of the defendant's failure to act. Such violations or infractions may not have occurred while the vehicle is stolen from the registered owner or is leased or rented under a bona fide commercial vehicle lease or rental agreement between a lessor engaged in the business of leasing vehicles and a lessee who is not the vehicle's registered owner. The department may enter into agreements of reciprocity with the duly authorized representatives of the states for reporting to each other violations of laws governing standing, stopping, and parking.

(4) For the purposes of this title and except as defined in RCW 46.25.010, "conviction" means a final conviction in a state or municipal court or by any federal authority having jurisdiction over offenses substantially the same as those set forth in this title which occur on federal installations in this state, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine or court cost, a plea of guilty or nolo contendere, or a

finding of guilt on a traffic law violation charge, regardless of whether the imposition of sentence or sanctions are deferred or the penalty is suspended, but not including entry into a deferred prosecution agreement under chapter 10.05 RCW.

(5) For the purposes of this title, "finding that a traffic infraction has been committed" means a failure to respond to a notice of infraction or a determination made by a court pursuant to this chapter. Payment of a monetary penalty made pursuant to RCW 46.63.070(2) is deemed equivalent to such a finding. [2010 c 249 § 11; 2009 c 181 § 1; 2006 c 327 § 1; 2005 c 288 § 3; 2004 c 231 § 5; 1990 2nd ex.s. c 1 § 402; 1990 c 250 § 42; 1982 1st ex.s. c 14 § 5; 1979 ex.s. c 136 § 58; 1979 c 61 § 7; 1977 ex.s. c 3 § 1; 1967 ex.s. c 145 § 55; 1965 ex.s. c 121 § 22; 1961 c 12 § 46.20.270. Prior: 1937 c 188 § 68; RRS § 6312-68; prior: 1923 c 122 § 2, part; 1921 c 108 § 9, part; RRS § 6371, part.]

Contingent effective date—2010 c 249: See note following RCW 47.56.795.

Effective date—2005 c 288: See note following RCW 46.20.245.

Additional notes found at www.leg.wa.gov

46.20.285 Offenses requiring revocation. The department shall revoke the license of any driver for the period of one calendar year unless otherwise provided in this section, upon receiving a record of the driver's conviction of any of the following offenses, when the conviction has become final:

(1) For vehicular homicide the period of revocation shall be two years. The revocation period shall be tolled during any period of total confinement for the offense;

(2) Vehicular assault. The revocation period shall be tolled during any period of total confinement for the offense;

(3) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle, for the period prescribed in RCW 46.61.5055;

(4) Any felony in the commission of which a motor vehicle is used;

(5) Failure to stop and give information or render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another or resulting in damage to a vehicle that is driven or attended by another;

(6) Perjury or the making of a false affidavit or statement under oath to the department under Title 46 RCW or under any other law relating to the ownership or operation of motor vehicles;

(7) Reckless driving upon a showing by the department's records that the conviction is the third such conviction for the driver within a period of two years. [2005 c 288 § 4; 2001 c 64 § 6. Prior: 1998 c 207 § 4; 1998 c 41 § 3; 1996 c 199 § 5; 1990 c 250 § 43; 1985 c 407 § 2; 1984 c 258 § 324; 1983 c 165 § 16; 1983 c 165 § 15; 1965 ex.s. c 121 § 24.]

Effective date—2005 c 288: See note following RCW 46.20.245.

Intent—Construction—Effective date—1998 c 41: See notes following RCW 46.20.265.

Intent—1984 c 258: See note following RCW 3.34.130.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Revocation of license for attempting to elude pursuing police vehicle: RCW 46.61.024.

Vehicular assault, penalty: RCW 46.61.522.

Vehicular homicide, penalty: RCW 46.61.520.

Additional notes found at www.leg.wa.gov

46.20.286 Adoption of procedures. The department of licensing shall adopt procedures in cooperation with the administrative office of the courts and the department of corrections to implement RCW 46.20.285. [2005 c 282 § 47; 1996 c 199 § 6.]

Additional notes found at www.leg.wa.gov

46.20.289 Suspension for failure to respond, appear, etc. The department shall suspend all driving privileges of a person when the department receives notice from a court under RCW 46.63.070(6), 46.63.110(6), or 46.64.025 that the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, other than for a standing, stopping, or parking violation, provided that the traffic infraction or traffic offense is committed on or after July 1, 2005. A suspension under this section takes effect pursuant to the provisions of RCW 46.20.245, and remains in effect until the department has received a certificate from the court showing that the case has been adjudicated, and until the person meets the requirements of RCW 46.20.311. In the case of failure to respond to a traffic infraction issued under RCW 46.55.105, the department shall suspend all driving privileges until the person provides evidence from the court that all penalties and restitution have been paid. A suspension under this section does not take effect if, prior to the effective date of the suspension, the department receives a certificate from the court showing that the case has been adjudicated. [2005 c 288 § 5; 2002 c 279 § 4; 1999 c 274 § 1; 1995 c 219 § 2; 1993 c 501 § 1.]

Effective date—2005 c 288: See note following RCW 46.20.245.

46.20.291 Authority to suspend—Grounds. The department is authorized to suspend the license of a driver upon a showing by its records or other sufficient evidence that the licensee:

(1) Has committed an offense for which mandatory revocation or suspension of license is provided by law;

(2) Has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury to any person or serious property damage;

(3) Has been convicted of offenses against traffic regulations governing the movement of vehicles, or found to have committed traffic infractions, with such frequency as to indicate a disrespect for traffic laws or a disregard for the safety of other persons on the highways;

(4) Is incompetent to drive a motor vehicle under RCW 46.20.031(3);

(5) Has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289;

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(6) Is subject to suspension under RCW 46.20.305 or 9A.56.078;

(7) Has committed one of the prohibited practices relating to drivers' licenses defined in RCW 46.20.0921; or

(8) Has been certified by the department of social and health services as a person who is not in compliance with a child support order or a residential or visitation order as provided in RCW 74.20A.320. [2007 c 393 § 2; 1998 c 165 § 12; 1997 c 58 § 806; 1993 c 501 § 4; 1991 c 293 § 5; 1980 c 128 § 12; 1965 ex.s. c 121 § 25.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Reckless driving, suspension of license: RCW 46.61.500.

Vehicular assault

drug and alcohol evaluation and treatment: RCW 9.94A.703.

penalty: RCW 46.61.522.

Vehicular homicide

drug and alcohol evaluation and treatment: RCW 9.94A.703.

penalty: RCW 46.61.520.

Additional notes found at www.leg.wa.gov

46.20.292 Finding of juvenile court officer. The department may suspend, revoke, restrict, or condition any driver's license upon a showing of its records that the licensee has been found by a juvenile court, chief probation officer, or any other duly authorized officer of a juvenile court to have committed any offense or offenses which under Title 46 RCW constitutes grounds for said action. [1979 c 61 § 8; 1967 c 167 § 9.]

46.20.293 Minor's record to juvenile court, parents, or guardians. The department is authorized to provide juvenile courts with the department's record of traffic charges compiled under RCW 46.52.101 and 13.50.200, against any minor upon the request of any state juvenile court or duly authorized officer of any juvenile court of this state. Further, the department is authorized to provide any juvenile court with any requested service which the department can reasonably perform which is not inconsistent with its legal authority which substantially aids juvenile courts in handling traffic cases and which promotes highway safety.

The department is authorized to furnish to the parent, parents, or guardian of any person under eighteen years of age who is not emancipated from such parent, parents, or guardian, the department records of traffic charges compiled against the person and shall collect for the copy a fee of ten dollars fifty percent of which must be deposited in the highway safety fund and fifty percent of which must be deposited according to RCW 46.68.038. [2007 c 424 § 1; 2002 c 352 § 15; 1999 c 86 § 3; 1990 c 250 § 44; 1979 c 61 § 9; 1977 ex.s. c 3 § 2; 1971 ex.s. c 292 § 45; 1969 ex.s. c 170 § 14; 1967 c 167 § 10.]

Effective date—2007 c 424: "This act takes effect August 1, 2007." [2007 c 424 § 5.]

Effective dates—2002 c 352: See note following RCW 46.09.410.

Additional notes found at www.leg.wa.gov

46.20.300 Extraterritorial convictions. The director of licensing shall suspend, revoke, or cancel the vehicle driver's license of any resident of this state upon receiving notice of the conviction of such person in another state of an

offense therein which, if committed in this state, would be ground for the suspension or revocation of the vehicle driver's license. The director may further, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, forward a certified copy of such record to the motor vehicle administrator in the state of which the person so convicted is a resident; such record to consist of a copy of the judgment and sentence in the case. [1989 c 337 § 7; 1979 c 158 § 150; 1967 c 32 § 29; 1961 c 12 § 46.20.300. Prior: 1957 c 273 § 8; prior: 1937 c 188 § 66, part; RRS § 6312-66, part; 1923 c 122 § 1, part; 1921 c 108 § 9, part; RRS § 6371, part.]

46.20.305 Incompetent, unqualified driver—Reexamination—Physician's certificate—Action by department. (1) The department, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed may upon notice require him or her to submit to an examination.

(2) The department shall require a driver reported under RCW 46.52.070 (2) and (3) to submit to an examination. The examination must be completed no later than one hundred twenty days after the accident report required under RCW 46.52.070(2) is received by the department unless the department, at the request of the operator, extends the time for examination.

(3) The department may in addition to an examination under this section require such person to obtain a certificate showing his or her condition signed by a licensed physician or other proper authority designated by the department.

(4) Upon the conclusion of an examination under this section the department shall take driver improvement action as may be appropriate and may suspend or revoke the license of such person or permit him or her to retain such license, or may issue a license subject to restrictions as permitted under RCW 46.20.041. The department may suspend or revoke the license of such person who refuses or neglects to submit to such examination.

(5) The department may require payment of a fee by a person subject to examination under this section. The department shall set the fee in an amount that is sufficient to cover the additional cost of administering examinations required by this section. [1999 c 351 § 3; 1998 c 165 § 13; 1965 ex.s. c 121 § 26.]

Additional notes found at www.leg.wa.gov

46.20.308 Implied consent—Test refusal—Procedures. (1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug in his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503. Neither consent nor this section precludes a police officer

from obtaining a search warrant for a person's breath or blood.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. However, in those instances where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility or where the officer has reasonable grounds to believe that the person is under the influence of a drug, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(5). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver, in substantially the following language, that:

(a) If the driver refuses to take the test, the driver's license, permit, or privilege to drive will be revoked or denied for at least one year; and

(b) If the driver refuses to take the test, the driver's refusal to take the test may be used in a criminal trial; and

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if the driver is age twenty-one or over and the test indicates the alcohol concentration of the driver's breath or blood is 0.08 or more, or if the driver is under age twenty-one and the test indicates the alcohol concentration of the driver's breath or blood is 0.02 or more, or if the driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

(d) If the driver's license, permit, or privilege to drive is suspended, revoked, or denied the driver may be eligible to immediately apply for an ignition interlock driver's license.

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) If, after arrest and after the other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more if the person is age twenty-one or over, or 0.02 or more if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive as required by subsection (7) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (8) of this section and that the person waives the right to a hearing if he or she receives an ignition interlock driver's license;

(c) Mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department;

(d) Serve notice in writing that the marked license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(e) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by RCW 9A.72.085 that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol concentration in violation of RCW 46.61.503;

(ii) That after receipt of the warnings required by subsection (2) of this section the person refused to submit to a test of his or her blood or breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.08 or more if the person is age twenty-one or over, or was 0.02 or more if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

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(7) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW 9A.72.085 under subsection (6)(e) of this section, shall suspend, revoke, or deny the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, or denial to be effective beginning sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first.

(8) A person receiving notification under subsection (6)(b) of this section may, within twenty days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of two hundred dollars as part of the request. If the request is mailed, it must be postmarked within twenty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required two hundred dollar fee, the department shall afford the person an opportunity for a hearing. The department may waive the required two hundred dollar fee if the person is an indigent as defined in RCW 10.101.010. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license marked under subsection (6)(c) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more if the person was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered without express consent as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more if the person was age twenty-one or over at the time of the arrest, or 0.02 or more if the person was under the age of twenty-one at the time of the arrest. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the

person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by RCW 9A.72.085 of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, or denial either be rescinded or sustained.

(9) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law. The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b) that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

(10)(a) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, or denied under subsection (7) of this section, other than as a result of a breath or blood test refusal, and who has not committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (7) of this section, or notifies the department of licensing of the intent to seek such a deferred prosecution, then the license suspension or revocation shall be stayed pending entry of the deferred prosecution. The stay shall not be longer than one hundred fifty days after the date charges are filed, or two years after the date of the arrest, whichever time period is shorter. If the court stays the suspension, revocation, or denial, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license marked under subsection (6) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary marked license or extension of a temporary license issued under this subsection.

(b) A suspension, revocation, or denial imposed under this section, other than as a result of a breath or blood test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(c) The provisions of (b) of this subsection relating to a stay of a suspension, revocation, or denial and the cancellation of any suspension, revocation, or denial do not apply to the suspension, revocation, denial, or disqualification of a person's commercial driver's license or privilege to operate a commercial motor vehicle.

(11) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license. [2008 c 282 § 2. Prior: 2005 c 314 § 307; 2005 c 269 § 1; prior: 2004 c 187 § 1; 2004 c 95 § 2; 2004 c 68 § 2; prior: 1999 c 331 § 2; 1999 c 274 § 2; prior: 1998 c 213 § 1; 1998 c 209 § 1; 1998 c 207 § 7; 1998 c 41 § 4; 1995 c 332 § 1; 1994 c 275 § 13; 1989 c 337 § 8; 1987 c 22 § 1; prior: 1986 c 153 § 5; 1986 c 64 § 1; 1985 c 407 § 3; 1983 c 165 § 2; 1983 c 165 § 1; 1981 c 260 § 11; prior: 1979 ex.s. c 176 § 3; 1979 ex.s. c 136 § 59; 1979 c 158 § 151; 1975 1st ex.s. c 287 § 4; 1969 c 1 § 1 (Initiative Measure No. 242, approved November 5, 1968).]

Effective date—2008 c 282: "Sections 2, 4 through 8, and 11 through 14 of this act take effect January 1, 2009." [2008 c 282 § 23.]

Effective date—2005 c 314 §§ 101-107, 109, 303-309, and 401: See note following RCW 46.68.290.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

Effective date—2004 c 187 §§ 1, 5, 7, 8, and 10: "Sections 1, 5, 7, 8, and 10 of this act take effect July 1, 2005." [2004 c 187 § 11.]

Contingent effect—2004 c 95 § 2: "Section 2 of this act takes effect if section 2 of Substitute House Bill No. 3055 is enacted into law." [2004 c 95 § 17.] 2004 c 68 § 2 was enacted into law, effective June 10, 2004.

Finding—Intent—2004 c 68: "The legislature finds that previous attempts to curtail the incidence of driving while intoxicated have been inadequate. The legislature further finds that property loss, injury, and death caused by drinking drivers continue at unacceptable levels. This act is intended to convey the seriousness with which the legislature views this problem. To that end the legislature seeks to ensure swift and certain consequences for those who drink and drive.

To accomplish this goal, the legislature adopts standards governing the admissibility of tests of a person's blood or breath. These standards will provide a degree of uniformity that is currently lacking, and will reduce the delays caused by challenges to various breath test instrument components and maintenance procedures. Such challenges, while allowed, will no longer go to admissibility of test results. Instead, such challenges are to be considered by the finder of fact in deciding what weight to place upon an admitted blood or breath test result.

The legislature's authority to adopt standards governing the admissibility of evidence involving alcohol is well established by the Washington Supreme Court. See generally *State v. Long*, 113 Wn.2d 266, 778 P.2d 1027 (1989); *State v. Sears*, 4 Wn.2d 200, 215, 103 P.2d 337 (1940) (the legislature has the power to enact laws which create rules of evidence); *State v. Pavelich*, 153 Wash. 379, 279 P. 1102 (1929) ("rules of evidence are substantive law"). [2004 c 68 § 1.]

Intent—Construction—Effective date—1998 c 41: See notes following RCW 46.20.265.

Legislative finding, intent—1983 c 165: "The legislature finds that previous attempts to curtail the incidence of driving while intoxicated have been inadequate. The legislature further finds that property loss, injury, and death caused by drinking drivers have reached unacceptable levels. This act is intended to convey the seriousness with which the legislature views this problem. To that end the legislature seeks to insure swift and certain punishment for those who drink and drive. The legislature does not intend to discourage or deter courts and other agencies from directing or providing treatment for problem drinkers. However, it is the intent that such treatment, where appropriate, be in addition to and not in lieu of the sanctions to be applied to all those convicted of driving while intoxicated." [1983 c 165 § 44.]

Liability of medical personnel withdrawing blood: RCW 46.61.508.

Refusal of test—Admissibility as evidence: RCW 46.61.517.

Additional notes found at www.leg.wa.gov

46.20.3101 Implied consent—License sanctions, length of. Pursuant to RCW 46.20.308, the department shall suspend, revoke, or deny the arrested person's license, permit, or privilege to drive as follows:

(1) In the case of a person who has refused a test or tests:

(a) For a first refusal within seven years, where there has not been a previous incident within seven years that resulted in administrative action under this section, revocation or denial for one year;

(b) For a second or subsequent refusal within seven years, or for a first refusal where there has been one or more previous incidents within seven years that have resulted in administrative action under this section, revocation or denial for two years or until the person reaches age twenty-one, whichever is longer.

(2) In the case of an incident where a person has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.08 or more:

(a) For a first incident within seven years, where there has not been a previous incident within seven years that resulted in administrative action under this section, suspension for ninety days;

(b) For a second or subsequent incident within seven years, revocation or denial for two years.

(3) In the case of an incident where a person under age twenty-one has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.02 or more:

(a) For a first incident within seven years, suspension or denial for ninety days;

(b) For a second or subsequent incident within seven years, revocation or denial for one year or until the person reaches age twenty-one, whichever is longer.

(4) The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this section for a suspension, revocation, or denial imposed under RCW 46.61.5055 arising out of the same incident. [2004 c 95 § 4; 2004 c 68 § 3. Prior: 1998 c 213 § 2; 1998 c 209 § 2; 1998 c 207 § 8; 1995 c 332 § 3.]

Reviser's note: This section was amended by 2004 c 68 § 3 and by 2004 c 95 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—Intent—2004 c 68: See note following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.20.311 Duration of license sanctions—Reissuance or renewal. (1)(a) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as specifically permitted under RCW 46.20.267, 46.20.342, or other provision of law.

(b) Except for a suspension under RCW 46.20.267, 46.20.289, 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or driving privilege of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the suspension shall remain in effect until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(c) If the suspension is the result of a nonfelony violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reinstatement until enrollment and participation in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502(6) or 46.61.504(6), the department shall determine the person's eligibility for licensing based upon the reports provided by the alcohol or drug dependency agency required under RCW 46.61.524 and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, and the person is required pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with a functioning ignition interlock, the department shall determine the

person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an interlock required under RCW 46.20.720 is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(d) Whenever the license or driving privilege of any person is suspended as a result of certification of noncompliance with a child support order under chapter 74.20A RCW or a residential or visitation order, the suspension shall remain in effect until the person provides a release issued by the department of social and health services stating that the person is in compliance with the order.

(e)(i) The department shall not issue to the person a new, duplicate, or renewal license until the person pays a reissue fee of seventy-five dollars.

(ii) If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, or is the result of administrative action under RCW 46.20.308, the reissue fee shall be one hundred fifty dollars.

(2)(a) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (i) After the expiration of one year from the date the license or privilege to drive was revoked; (ii) after the expiration of the applicable revocation period provided by RCW 46.20.3101 or 46.61.5055; (iii) after the expiration of two years for persons convicted of vehicular homicide; or (iv) after the expiration of the applicable revocation period provided by RCW 46.20.265.

(b)(i) After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reissue fee in the amount of seventy-five dollars.

(ii) If the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one hundred fifty dollars. If the revocation is the result of a nonfelony violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reissuance of a license, permit, or privilege to drive until enrollment and participation in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502(6) or 46.61.504(6), the department shall determine the person's eligibility for licensing based upon the reports provided by the alcohol or drug dependency agency required under RCW 46.61.524 and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified. If

the revocation is the result of a violation of RCW 46.61.502 or 46.61.504, and the person is required pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device, the department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person applying for a new license. If, following issuance of a new license, the department determines, based upon notification from the interlock provider or otherwise, that an interlock required under RCW 46.20.720 is no longer functioning, the department shall suspend the person's license or privilege to drive until the department has received written verification from an interlock provider that a functioning interlock is installed.

(c) Except for a revocation under RCW 46.20.265, the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. For a revocation under RCW 46.20.265, the department shall not issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant that person the privilege of driving a motor vehicle on the public highways.

(3)(a) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue to the person any new or renewal license until the person pays a reissue fee of seventy-five dollars.

(b) If the suspension is the result of a violation of the laws of this or any other state, province, or other jurisdiction involving (i) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (ii) the refusal to submit to a chemical test of the driver's blood alcohol content, the reissue fee shall be one hundred fifty dollars. [2006 c 73 § 15; 2005 c 314 § 308; 2004 c 95 § 3; 2003 c 366 § 2; 2001 c 325 § 2; 2000 c 115 § 7; 1998 c 212 § 1; 1997 c 58 § 807; 1995 c 332 § 11; 1994 c 275 § 27; 1993 c 501 § 5; 1990 c 250 § 45; 1988 c 148 § 9. Prior: 1985 c 407 § 4; 1985 c 211 § 1; 1984 c 258 § 325; 1983 c 165 § 18; 1983 c 165 § 17; 1982 c 212 § 5; 1981 c 91 § 1; 1979 ex.s. c 136 § 60; 1973 1st ex.s. c 36 § 1; 1969 c 1 § 2 (Initiative Measure No. 242, approved November 5, 1968); 1967 c 167 § 5; 1965 ex.s. c 121 § 27.]

Effective date—2006 c 73: See note following RCW 46.61.502.

Effective date—2005 c 314 §§ 101-107, 109, 303-309, and 401: See note following RCW 46.68.290.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

Finding—2000 c 115: See note following RCW 46.20.075.

Effective date—2000 c 115 §§ 1-10: See note following RCW 46.20.075.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Legislative finding—Severability—1988 c 148: See notes following RCW 13.40.265.

Intent—1984 c 258: See note following RCW 3.34.130.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.20.315 Surrender of license. The department upon suspending or revoking a license shall require that such license shall be surrendered to and be retained by the department. [1985 c 302 § 1; 1965 ex.s. c 121 § 28.]

46.20.317 Unlicensed drivers. The department is hereby authorized to place any unlicensed person into a suspended or revoked status under any circumstances which would have resulted in the suspension or revocation of the driver's license had that person been licensed. [1975-'76 2nd ex.s. c 29 § 2. Formerly RCW 46.20.414.]

46.20.320 Suspension, etc., effective although certificate not delivered. Any suspension, revocation, or cancellation of a vehicle driver's license shall be in effect notwithstanding the certificate itself is not delivered over or possession thereof obtained by a court, officer, or the director. [1967 c 32 § 30; 1961 c 12 § 46.20.320. Prior: 1957 c 273 § 10; prior: 1937 c 188 § 66, part; RRS § 6312-66, part; 1923 c 122 § 1, part; 1921 c 108 § 9, part; RRS § 6371, part.]

DRIVER IMPROVEMENT

46.20.322 Interview before suspension, etc.—Exceptions—Appearance of minor's parent or guardian. (1) Whenever the department proposes to suspend or revoke the driving privilege of any person or proposes to impose terms of probation on a person's driving privilege or proposes to refuse to renew a driver's license, notice and an opportunity for a driver improvement interview shall be given before taking such action, except as provided in RCW 46.20.324 and 46.20.325.

(2) Whenever the department proposes to suspend, revoke, restrict, or condition a minor driver's driving privilege the department may require the appearance of the minor's legal guardian or father or mother, otherwise the parent or guardian having custody of the minor. [1979 c 61 § 10; 1973 1st ex.s. c 154 § 88; 1967 c 167 § 6; 1965 ex.s. c 121 § 29.]

Additional notes found at www.leg.wa.gov

46.20.323 Notice of interview—Contents. The notice shall contain a statement setting forth the proposed action and the grounds therefor, and notify the person to appear for a driver improvement interview not less than ten days from the date notice is given. [1965 ex.s. c 121 § 30.]

46.20.324 Persons not entitled to interview or hearing. Unless otherwise provided by law, a person shall not be entitled to a driver improvement interview or formal hearing under the provisions of RCW 46.20.322 through 46.20.333 when the person:

(1) Has been granted the opportunity for an administrative review, informal settlement, or formal hearing under (2010 Ed.)

RCW 46.20.245, 46.20.308, 46.25.120, 46.25.125, 46.65.065, 74.20A.320, or by rule of the department; or

(2) Has refused or neglected to submit to an examination as required by RCW 46.20.305. [2005 c 288 § 6; 1965 ex.s. c 121 § 31.]

Effective date—2005 c 288: See note following RCW 46.20.245.

46.20.325 Suspension or probation before interview—Alternative procedure. In the alternative to the procedure set forth in RCW 46.20.322 and 46.20.323 the department, whenever it determines from its records or other sufficient evidence that the safety of persons upon the highways requires such action, shall forthwith and without a driver improvement interview suspend the privilege of a person to operate a motor vehicle or impose reasonable terms and conditions of probation consistent with the safe operation of a motor vehicle. The department shall in such case, immediately notify such licensee in writing and upon his or her request shall afford him or her an opportunity for a driver improvement interview as early as practical within not to exceed seven days after receipt of such request, or the department, at the time it gives notice may set the date of a driver improvement interview, giving not less than ten days' notice thereof. [2010 c 8 § 9021; 1965 ex.s. c 121 § 32.]

46.20.326 Failure to appear or request interview constitutes waiver—Procedure. Failure to appear for a driver improvement interview at the time and place stated by the department in its notice as provided in RCW 46.20.322 and 46.20.323 or failure to request a driver improvement interview within ten days as provided in RCW 46.20.325 constitutes a waiver of a driver improvement interview, and the department may take action without such driver improvement interview, or the department may, upon request of the person whose privilege to drive may be affected, or at its own option, re-open the case, take evidence, change or set aside any order theretofore made, or grant a driver improvement interview. [1990 c 250 § 46; 1965 ex.s. c 121 § 33.]

Additional notes found at www.leg.wa.gov

46.20.327 Conduct of interview—Referee—Evidence—Not deemed hearing. A driver improvement interview shall be conducted in a completely informal manner before a driver improvement analyst sitting as a referee. The applicant or licensee shall have the right to make or file a written answer or statement in which he or she may controvert any point at issue, and present any evidence or arguments for the consideration of the department pertinent to the action taken or proposed to be taken or the grounds therefor. The department may consider its records relating to the applicant or licensee. The driver improvement interview shall not be deemed an agency hearing. [2010 c 8 § 9022; 1965 ex.s. c 121 § 34.]

46.20.328 Findings and notification after interview—Request for formal hearing. Upon the conclusion of a driver improvement interview, the department's referee shall make findings on the matter under consideration and shall notify the person involved in writing by personal service of the findings. The referee's findings shall be final unless the

person involved is notified to the contrary by personal service or by certified mail within fifteen days. The decision is effective upon notice. The person upon receiving such notice may, in writing and within ten days, request a formal hearing. [1979 c 61 § 11; 1965 ex.s. c 121 § 35.]

Persons not entitled to formal hearing: RCW 46.20.324.

46.20.329 Formal hearing—Procedures, notice, stay.

Upon receiving a request for a formal hearing as provided in RCW 46.20.328, the department shall fix a time and place for hearing as early as may be arranged in the county where the applicant or licensee resides, and shall give ten days' notice of the hearing to the applicant or licensee, except that the hearing may be set for a different place with the concurrence of the applicant or licensee and the period of notice may be waived.

Any decision by the department suspending or revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as herein provided or during the pendency of a subsequent appeal to superior court: PROVIDED, That this stay shall be effective only so long as there is no conviction of a moving violation or a finding that the person has committed a traffic infraction which is a moving violation during pendency of hearing and appeal: PROVIDED FURTHER, That nothing in this section shall be construed as prohibiting the department from seeking an order setting aside the stay during the pendency of such appeal in those cases where the action of the department is based upon physical or mental incapacity, or a failure to successfully complete an examination required by this chapter.

A formal hearing shall be conducted by the director or by a person or persons appointed by the director from among the employees of the department. [1982 c 189 § 4; 1981 c 67 § 28; 1979 ex.s. c 136 § 61; 1972 ex.s. c 29 § 1; 1965 ex.s. c 121 § 36.]

Additional notes found at www.leg.wa.gov

46.20.331 Hearing and decision by director's designee. The director may appoint a designee, or designees, to preside over hearings in adjudicative proceedings that may result in the denial, restriction, suspension, or revocation of a driver's license or driving privilege, or in the imposition of requirements to be met prior to issuance or reissuance of a driver's license, under Title 46 RCW. The director may delegate to any such designees the authority to render the final decision of the department in such proceedings. Chapter 34.12 RCW shall not apply to such proceedings. [1989 c 175 § 111; 1982 c 189 § 3.]

Additional notes found at www.leg.wa.gov

46.20.332 Formal hearing—Evidence—Subpoenas—Reexamination—Findings and recommendations. At a formal hearing the department shall consider its records and may receive sworn testimony and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers in the manner and subject to the conditions provided in chapter 5.56 RCW relating to the issuance of subpoenas. In addition the department may require a reexamination of the licensee or applicant. Proceedings at a formal hearing shall be recorded stenographically or by mechanical

device. Upon the conclusion of a formal hearing, if not heard by the director or a person authorized by him or her to make final decisions regarding the issuance, denial, suspension, or revocation of licenses, the referee or board shall make findings on the matters under consideration and may prepare and submit recommendations to the director or such person designated by the director who is authorized to make final decisions regarding the issuance, denial, suspension, or revocation of licenses. [2010 c 8 § 9023; 1972 ex.s. c 29 § 2; 1965 ex.s. c 121 § 37.]

46.20.333 Decision after formal hearing. In all cases not heard by the director or a person authorized by him or her to make final decisions regarding the issuance, denial, suspension, or revocation of licenses the director, or a person so authorized shall review the records, evidence, and the findings after a formal hearing, and shall render a decision sustaining, modifying, or reversing the order of suspension or revocation or the refusal to grant, or renew a license or the order imposing terms or conditions of probation, or may set aside the prior action of the department and may direct that probation be granted to the applicant or licensee and in such case may fix the terms and conditions of the probation. [2010 c 8 § 9024; 1972 ex.s. c 29 § 3; 1965 ex.s. c 121 § 38.]

46.20.334 Appeal to superior court. Unless otherwise provided by law, any person denied a license or a renewal of a license or whose license has been suspended or revoked by the department shall have the right within thirty days, after receiving notice of the decision following a formal hearing to file a notice of appeal in the superior court in the county of his or her residence. The hearing on the appeal hereunder shall be de novo. [2010 c 8 § 9025; 2005 c 288 § 7; 1972 ex.s. c 29 § 4; 1965 ex.s. c 121 § 39.]

Effective date—2005 c 288: See note following RCW 46.20.245.

46.20.335 Probation in lieu of suspension or revocation. Whenever by any provision of this chapter the department has discretionary authority to suspend or revoke the privilege of a person to operate a motor vehicle, the department may in lieu of a suspension or revocation place the person on probation, the terms of which may include a suspension as a condition of probation, and upon such other reasonable terms and conditions as shall be deemed by the department to be appropriate. [1965 ex.s. c 121 § 40.]

DRIVING OR USING LICENSE WHILE SUSPENDED OR REVOKED

46.20.338 Display or possession of invalidated license or identicard. It is a traffic infraction for any person to display or cause or permit to be displayed or have in his or her possession any canceled, revoked, or suspended driver's license or identicard. [1990 c 210 § 4.]

46.20.341 Relicensing diversion programs—Program information to administrative office of the courts. (1)(a) A person who violates RCW 46.20.342(1)(c)(iv) in a jurisdiction that does not have a relicensing diversion program shall be provided with an abstract of his or her driving

record by the court or the prosecuting attorney, in addition to a list of his or her unpaid traffic offense related fines and the contact information for each jurisdiction or collection agency to which money is owed.

(b) A fee of up to twenty dollars may be imposed by the court in addition to any fee required by the department for provision of the driving abstract.

(2)(a) Superior courts or courts of limited jurisdiction in counties or cities are authorized to participate or provide relicensing diversion programs to persons who violate RCW 46.20.342(1)(c)(iv).

(b) Eligibility for the relicensing diversion program shall be limited to violators with no more than four convictions under RCW 46.20.342(1)(c)(iv) in the ten years preceding the date of entering the relicensing diversion program, subject to a less restrictive rule imposed by the presiding judge of the county district court or municipal court. People subject to arrest under a warrant are not eligible for the diversion program.

(c) The diversion option may be offered at the discretion of the prosecuting attorney before charges are filed, or by the court after charges are filed.

(d) A person who is the holder of a commercial driver's license or who was operating a commercial motor vehicle at the time of the violation of RCW 46.20.342(1)(c)(iv) may not participate in the diversion program under this section.

(e) A relicensing diversion program that is structured to occur after charges are filed may charge participants a one-time fee of up to one hundred dollars, which is not subject to chapters 3.50, 3.62, and 35.20 RCW, and shall be used to support administration of the program. The fee of up to one hundred dollars shall be included in the total to be paid by the participant in the relicensing diversion program.

(3) A relicensing diversion program shall be designed to assist suspended drivers to regain their license and insurance and pay outstanding fines.

(4)(a) Counties and cities that operate relicensing diversion programs shall, subject to available funds, provide information to the administrative office of the courts on an annual basis regarding the eligibility criteria used for the program, the number of referrals from law enforcement, the number of participants accepted into the program, the number of participants who regain their driver's license and insurance, the total amount of fines collected, the costs associated with the program, and other information as determined by the office.

(b) The administrative office of the courts is directed, subject to available funds, to compile and analyze the data required to be submitted in this section and develop recommendations for a best practices model for relicensing diversion programs. [2009 c 490 § 1.]

46.20.342 Driving while license invalidated—Penalties—Extension of invalidation. (Effective until January 1, 2011.) (1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be an habitual offender under chapter 46.65 RCW, who violates this section while an order

of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;

(v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.500, relating to reckless driving;

(ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

(x) A conviction of RCW 46.61.520, relating to vehicular homicide;

(xi) A conviction of RCW 46.61.522, relating to vehicular assault;

(xii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

(xiii) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

(xiv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

(xv) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

(xvi) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

(xvii) An administrative action taken by the department under chapter 46.20 RCW; or

(xviii) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or any combination of (i) through (vii), is guilty of driving while license suspended or revoked in the third degree, a misdemeanor.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended. [2008 c 282 § 4; 2004 c 95 § 5; 2001 c 325 § 3; 2000 c 115 § 8; 1999 c 274 § 3; 1993 c 501 § 6; 1992 c 130 § 1; 1991 c 293 § 6. Prior: 1990 c 250 § 47; 1990 c 210 § 5; 1987 c 388 § 1;

1985 c 302 § 3; 1980 c 148 § 3; prior: 1979 ex.s. c 136 § 62; 1979 ex.s. c 74 § 1; 1969 c 27 § 2; prior: 1967 ex.s. c 145 § 52; 1967 c 167 § 7; 1965 ex.s. c 121 § 43.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Effective date—2008 c 282: See note following RCW 46.20.308.

Finding—2000 c 115: See note following RCW 46.20.075.

Effective date—2000 c 115 §§ 1-10: See note following RCW 46.20.075.

Impoundment of vehicle: RCW 46.55.113.

Additional notes found at www.leg.wa.gov

46.20.342 Driving while license invalidated—Penalties—Extension of invalidation. (Effective January 1, 2011.) (1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be an habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license, a

temporary restricted driver's license, or an ignition interlock driver's license;

(v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.212(4), relating to reckless endangerment of emergency zone workers;

(ix) A conviction of RCW 46.61.500, relating to reckless driving;

(x) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

(xi) A conviction of RCW 46.61.520, relating to vehicular homicide;

(xii) A conviction of RCW 46.61.522, relating to vehicular assault;

(xiii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

(xiv) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

(xv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

(xvi) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

(xvii) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

(xviii) An administrative action taken by the department under chapter 46.20 RCW; or

(xix) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or any combination of (c)(i) through (vii) of this subsection, is guilty of driving while license suspended

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or revoked in the third degree, a misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended. [2010 c 269 § 7; 2010 c 252 § 4; 2008 c 282 § 4; 2004 c 95 § 5; 2001 c 325 § 3; 2000 c 115 § 8; 1999 c 274 § 3; 1993 c 501 § 6; 1992 c 130 § 1; 1991 c 293 § 6. Prior: 1990 c 250 § 47; 1990 c 210 § 5; 1987 c 388 § 1; 1985 c 302 § 3; 1980 c 148 § 3; prior: 1979 ex.s. c 136 § 62; 1979 ex.s. c 74 § 1; 1969 c 27 § 2; prior: 1967 ex.s. c 145 § 52; 1967 c 167 § 7; 1965 ex.s. c 121 § 43.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Reviser's note: This section was amended by 2010 c 252 § 4 and by 2010 c 269 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 c 269: See note following RCW 46.20.385.

Effective date—2010 c 252: See note following RCW 46.61.212.

Effective date—2008 c 282: See note following RCW 46.20.308.

Finding—2000 c 115: See note following RCW 46.20.075.

Effective date—2000 c 115 §§ 1-10: See note following RCW 46.20.075.

Impoundment of vehicle: RCW 46.55.113.

Additional notes found at www.leg.wa.gov

46.20.345 Operation under other license or permit while license suspended or revoked—Penalty. Any resident or nonresident whose driver's license or right or privilege to operate a motor vehicle in this state has been suspended or revoked as provided in this title shall not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this chapter. A person who violates the provisions of this section is guilty

of a gross misdemeanor. [1990 c 210 § 6; 1985 c 302 § 5; 1967 c 32 § 35; 1961 c 134 § 2. Formerly RCW 46.20.420.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

46.20.349 Stopping vehicle of suspended or revoked driver. Any police officer who has received notice of the suspension or revocation of a driver's license from the department of licensing may, during the reported period of such suspension or revocation, stop any motor vehicle identified by its vehicle license number as being registered to the person whose driver's license has been suspended or revoked. The driver of such vehicle shall display his or her driver's license upon request of the police officer. [2010 c 8 § 9026; 1979 c 158 § 152; 1965 ex.s. c 170 § 47. Formerly RCW 46.20.430.]

46.20.355 Alcohol violator—Probationary license. (1) Upon receipt of an abstract indicating a deferred prosecution has been granted under RCW 10.05.060, or upon receipt of a notice of conviction of RCW 46.61.502 or 46.61.504, the department of licensing shall order the person to surrender any nonprobationary Washington state driver's license that may be in his or her possession. The department shall revoke the license, permit, or privilege to drive of any person who fails to surrender it as required by this section for one year, unless the license has been previously surrendered to the department, a law enforcement officer, or a court, or the person has completed an affidavit of lost, stolen, destroyed, or previously surrendered license, such revocation to take effect thirty days after notice is given of the requirement for license surrender.

(2) The department shall place a person's driving privilege in probationary status as required by RCW 10.05.060 or 46.61.5055 for a period of five years from the date the probationary status is required to go into effect.

(3) Following receipt of an abstract indicating a deferred prosecution has been granted under RCW 10.05.060, or upon reinstatement or reissuance of a driver's license suspended or revoked as the result of a conviction of RCW 46.61.502 or 46.61.504, the department shall require the person to obtain a probationary license in order to operate a motor vehicle in the state of Washington, except as otherwise exempt under RCW 46.20.025. The department shall not issue the probationary license unless the person is otherwise qualified for licensing, and the person must renew the probationary license on the same cycle as the person's regular license would have been renewed until the expiration of the five-year probationary status period imposed under subsection (2) of this section.

(4) For each original issue or renewal of a probationary license under this section, the department shall charge a fee of fifty dollars in addition to any other licensing fees required. Except for when renewing a probationary license, the department shall waive the requirement to obtain an additional probationary license and the fifty-dollar fee if the person has a probationary license in his or her possession at the time a new probationary license is required.

(5) A probationary license shall enable the department and law enforcement personnel to determine that the person is on probationary status. The fact that a person's driving privilege is in probationary status or that the person has been

issued a probationary license shall not be a part of the person's record that is available to insurance companies. [1998 c 209 § 3; 1998 c 41 § 5; 1995 1st sp.s. c 17 § 1; 1995 c 332 § 4; 1994 c 275 § 8.]

Reviser's note: This section was amended by 1998 c 41 § 5 and by 1998 c 209 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Construction—Effective date—1998 c 41: See notes following RCW 46.20.265.

Additional notes found at www.leg.wa.gov

IGNITION INTERLOCK, TEMPORARY RESTRICTED, OCCUPATIONAL LICENSES

46.20.380 Fee. No person may file an application for an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license as provided in RCW 46.20.391 and 46.20.385 unless he or she first pays to the director or other person authorized to accept applications and fees for driver's licenses a fee of one hundred dollars. The applicant shall receive upon payment an official receipt for the payment of such fee. All such fees shall be forwarded to the director who shall transmit such fees to the state treasurer in the same manner as other driver's license fees. [2008 c 282 § 5; 2004 c 95 § 6; 1985 ex.s. c 1 § 6; 1979 c 61 § 12; 1967 c 32 § 31; 1961 c 12 § 46.20.380. Prior: 1957 c 268 § 1.]

Effective date—2008 c 282: See note following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.20.385 Ignition interlock driver's license—Application—Eligibility—Cancellation—Costs—Rules. (Effective until January 1, 2011.) (1)(a) Beginning January 1, 2009, any person licensed under this chapter who is convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle in violation of RCW 46.61.502 or 46.61.504, other than vehicular homicide or vehicular assault, or who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial. The installation of an ignition interlock device is not necessary on vehicles owned by a person's

employer and driven as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer during working hours.

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055.

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if:

(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and

(b) The applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. The effective date of cancellation shall be fifteen days from the date of mailing the notice. If at any time before the cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of a separate offense that under this chapter would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be

made directly to the ignition interlock company. The company shall remit the additional twenty-dollar fee to the department.

(b) The department shall deposit the proceeds of the twenty-dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the department deems appropriate. [2008 c 282 § 9.]

46.20.385 Ignition interlock driver's license—Application—Eligibility—Cancellation—Costs—Rules.

(Effective January 1, 2011.) (1)(a) Beginning January 1, 2009, any person licensed under this chapter who is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance, or a violation of RCW 46.61.520(1)(a) or 46.61.522(1)(b), or who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any

concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055.

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if the applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. If at any time before the cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation as provided under RCW 46.20.245. A person whose ignition interlock driver's license has been canceled under this section may reapply for a new ignition interlock driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty-dollar fee to the department.

(b) The department shall deposit the proceeds of the twenty-dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the

department deems appropriate. [2010 c 269 § 1; 2008 c 282 § 9.]

Effective date—2010 c 269: "This act takes effect January 1, 2011." [2010 c 269 § 12.]

46.20.391 Temporary restricted, occupational licenses—Application—Eligibility—Restrictions—Cancellation. (Effective until January 1, 2011.) (1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide, vehicular assault, driving while under the influence of intoxicating liquor or any drug, or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, may submit to the department an application for a temporary restricted driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue a temporary restricted driver's license and may set definite restrictions as provided in RCW 46.20.394.

(2)(a) A person licensed under this chapter whose driver's license is suspended administratively due to failure to appear or pay a traffic ticket under RCW 46.20.289; a violation of the financial responsibility laws under chapter 46.29 RCW; or for multiple violations within a specified period of time under RCW 46.20.291, may apply to the department for an occupational driver's license.

(b) If the suspension is for failure to respond, pay, or comply with a notice of traffic infraction or conviction, the applicant must enter into a payment plan with the court.

(c) An occupational driver's license issued to an applicant described in (a) of this subsection shall be valid for the period of the suspension or revocation.

(3) An applicant for an occupational or temporary restricted driver's license who qualifies under subsection (1) or (2) of this section is eligible to receive such license only if:

(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and

(b) The applicant demonstrates that it is necessary for him or her to operate a motor vehicle because he or she:

(i) Is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle;

(ii) Is undergoing continuing health care or providing continuing care to another who is dependent upon the applicant;

(iii) Is enrolled in an educational institution and pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion;

(iv) Is undergoing substance abuse treatment or is participating in meetings of a twelve-step group such as Alcoholics Anonymous that requires the petitioner to drive to or from the treatment or meetings;

(v) Is fulfilling court-ordered community service responsibilities;

(vi) Is in a program that assists persons who are enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to

become gainfully employed and the program requires a driver's license;

(vii) Is in an apprenticeship, on-the-job training, or welfare-to-work program; or

(viii) Presents evidence that he or she has applied for a position in an apprenticeship or on-the-job training program for which a driver's license is required to begin the program, provided that a license granted under this provision shall be in effect for no longer than fourteen days; and

(c) The applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW; and

(d) Upon receipt of evidence that a holder of an occupational driver's license granted under this subsection is no longer enrolled in an apprenticeship or on-the-job training program, the director shall give written notice by first-class mail to the driver that the occupational driver's license shall be canceled. The effective date of cancellation shall be fifteen days from the date of mailing the notice. If at any time before the cancellation goes into effect the driver submits evidence of continued enrollment in the program, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new occupational driver's license upon submittal of evidence of enrollment in another program that meets the criteria set forth in this subsection; and

(e) The department shall not issue an occupational driver's license under (b)(iv) of this subsection if the applicant is able to receive transit services sufficient to allow for the applicant's participation in the programs referenced under (b)(iv) of this subsection.

(4) A person aggrieved by the decision of the department on the application for an occupational or temporary restricted driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an occupational or temporary restricted driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of a separate offense that under chapter 46.20 RCW would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title. [2008 c 282 § 6; 2004 c 95 § 7. Prior: 1999 c 274 § 4; 1999 c 272 § 1; prior: 1998 c 209 § 4; 1998 c 207 § 9; 1995 c 332 § 12; 1994 c 275 § 29; 1985 c 407 § 5; 1983 c 165 § 24; 1983 c 165 § 23; 1983 c 164 § 4; 1979 c 61 § 13; 1973 c 5 § 1.]

Effective date—2008 c 282: See note following RCW 46.20.308.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.20.391 Temporary restricted, occupational licenses—Application—Eligibility—Restrictions—Cancellation. (*Effective January 1, 2011.*) (1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide, vehicular assault, driving while under the influence of intoxicating liquor or any drug, or being in actual physical control of a motor vehicle while under the influence

of intoxicating liquor or any drug, may submit to the department an application for a temporary restricted driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue a temporary restricted driver's license and may set definite restrictions as provided in RCW 46.20.394.

(2)(a) A person licensed under this chapter whose driver's license is suspended administratively due to failure to appear or pay a traffic ticket under RCW 46.20.289; a violation of the financial responsibility laws under chapter 46.29 RCW; or for multiple violations within a specified period of time under RCW 46.20.291, may apply to the department for an occupational driver's license.

(b) If the suspension is for failure to respond, pay, or comply with a notice of traffic infraction or conviction, the applicant must enter into a payment plan with the court.

(c) An occupational driver's license issued to an applicant described in (a) of this subsection shall be valid for the period of the suspension or revocation.

(3) An applicant for an occupational or temporary restricted driver's license who qualifies under subsection (1) or (2) of this section is eligible to receive such license only if:

(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and

(b) The applicant demonstrates that it is necessary for him or her to operate a motor vehicle because he or she:

(i) Is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle;

(ii) Is undergoing continuing health care or providing continuing care to another who is dependent upon the applicant;

(iii) Is enrolled in an educational institution and pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion;

(iv) Is undergoing substance abuse treatment or is participating in meetings of a twelve-step group such as Alcoholics Anonymous that requires the petitioner to drive to or from the treatment or meetings;

(v) Is fulfilling court-ordered community service responsibilities;

(vi) Is in a program that assists persons who are enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to become gainfully employed and the program requires a driver's license;

(vii) Is in an apprenticeship, on-the-job training, or welfare-to-work program; or

(viii) Presents evidence that he or she has applied for a position in an apprenticeship or on-the-job training program for which a driver's license is required to begin the program, provided that a license granted under this provision shall be in effect for no longer than fourteen days; and

(c) The applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW; and

(d) Upon receipt of evidence that a holder of an occupational driver's license granted under this subsection is no longer enrolled in an apprenticeship or on-the-job training program, the director shall give written notice by first-class

mail to the driver that the occupational driver's license shall be canceled. If at any time before the cancellation goes into effect the driver submits evidence of continued enrollment in the program, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new occupational driver's license upon submittal of evidence of enrollment in another program that meets the criteria set forth in this subsection; and

(e) The department shall not issue an occupational driver's license under (b)(iv) of this subsection if the applicant is able to receive transit services sufficient to allow for the applicant's participation in the programs referenced under (b)(iv) of this subsection.

(4) A person aggrieved by the decision of the department on the application for an occupational or temporary restricted driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an occupational or temporary restricted driver's license after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation as provided under RCW 46.20.245. A person whose occupational or temporary restricted driver's license has been canceled under this section may reapply for a new occupational or temporary restricted driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380. [2010 c 269 § 2; 2008 c 282 § 6; 2004 c 95 § 7. Prior: 1999 c 274 § 4; 1999 c 272 § 1; prior: 1998 c 209 § 4; 1998 c 207 § 9; 1995 c 332 § 12; 1994 c 275 § 29; 1985 c 407 § 5; 1983 c 165 § 24; 1983 c 165 § 23; 1983 c 164 § 4; 1979 c 61 § 13; 1973 c 5 § 1.]

Effective date—2010 c 269: See note following RCW 46.20.385.

Effective date—2008 c 282: See note following RCW 46.20.308.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.20.394 Detailed restrictions—Violation. In issuing an occupational or a temporary restricted driver's license under RCW 46.20.391, the department shall describe the type of qualifying circumstances for the license and shall set forth in detail the specific hours of the day during which the person may drive to and from his or her residence, which may not exceed twelve hours in any one day; the days of the week during which the license may be used; and the general routes over which the person may travel. In issuing an occupational or temporary restricted driver's license that meets the qualifying circumstance under RCW 46.20.391(3)(b)(iv), the department shall set forth in detail the specific hours during which the person may drive to and from substance abuse treatment or meetings of a twelve-step group such as alcoholics anonymous, the days of the week during which the license may be used, and the general routes over which the person may travel. These restrictions shall be prepared in written form by the department, which document shall be carried in the vehicle at all times and presented to a law enforcement

officer under the same terms as the occupational or temporary restricted driver's license. Any violation of the restrictions constitutes a violation of RCW 46.20.342 and subjects the person to all procedures and penalties therefor. [2004 c 95 § 8; 1999 c 272 § 2; 1983 c 165 § 26.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.20.400 Obtaining new driver's license—Surrender of order and current license. If an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license is issued and is not revoked during the period for which issued the licensee may obtain a new driver's license at the end of such period, but no new driver's license may be issued to such person until he or she surrenders his or her occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license and his or her copy of the order, and the director is satisfied that the person complies with all other provisions of law relative to the issuance of a driver's license. [2008 c 282 § 7; 2004 c 95 § 9; 1967 c 32 § 33; 1961 c 12 § 46.20.400. Prior: 1957 c 268 § 3.]

Effective date—2008 c 282: See note following RCW 46.20.308.

46.20.410 Penalty. (Effective until January 1, 2011.) Any person convicted for violation of any restriction of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license shall in addition to the immediate revocation of such license and any other penalties provided by law be fined not less than fifty nor more than two hundred dollars or imprisoned for not more than six months or both such fine and imprisonment. [2008 c 282 § 8; 2004 c 95 § 10; 1967 c 32 § 34; 1961 c 12 § 46.20.410. Prior: 1957 c 268 § 4.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Effective date—2008 c 282: See note following RCW 46.20.308.

46.20.410 Penalty—Violation. (Effective January 1, 2011.) (1) Any person convicted for violation of any restriction of an occupational driver's license or a temporary restricted driver's license shall in addition to the cancellation of such license and any other penalties provided by law be fined not less than fifty nor more than two hundred dollars or imprisoned for not more than six months or both such fine and imprisonment.

(2) It is a gross misdemeanor for a person to violate any restriction of an ignition interlock driver's license. [2010 c 269 § 6; 2008 c 282 § 8; 2004 c 95 § 10; 1967 c 32 § 34; 1961 c 12 § 46.20.410. Prior: 1957 c 268 § 4.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Effective date—2010 c 269: See note following RCW 46.20.385.

Effective date—2008 c 282: See note following RCW 46.20.308.

MOTORCYCLES

46.20.500 Special endorsement—Exceptions. (1) No person may drive either a two-wheeled or a three-wheeled

motorcycle, or a motor-driven cycle unless such person has a valid driver's license specially endorsed by the director to enable the holder to drive such vehicles.

(2) However, a person sixteen years of age or older, holding a valid driver's license of any class issued by the state of the person's residence, may operate a moped without taking any special examination for the operation of a moped.

(3) No driver's license is required for operation of an electric-assisted bicycle if the operator is at least sixteen years of age. Persons under sixteen years of age may not operate an electric-assisted bicycle.

(4) No driver's license is required to operate an electric personal assistive mobility device or a power wheelchair.

(5) No driver's license is required to operate a motorized foot scooter. Motorized foot scooters may not be operated at any time from a half hour after sunset to a half hour before sunrise without reflectors of a type approved by the state patrol.

(6) A person holding a valid driver's license may operate a motorcycle as defined under RCW 46.04.330(2) without a motorcycle endorsement. [2009 c 275 § 4. Prior: 2003 c 353 § 9; 2003 c 141 § 7; 2003 c 41 § 1; 2002 c 247 § 6; 1999 c 274 § 8; 1997 c 328 § 3; 1982 c 77 § 1; 1979 ex.s. c 213 § 6; 1967 c 232 § 1.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Effective date—2003 c 353: See note following RCW 46.04.320.

Short title—2003 c 41: "This act shall be known as the Monty Lish Memorial Act." [2003 c 41 § 6.]

Effective date—2003 c 41: "This act takes effect January 1, 2004." [2003 c 41 § 7.]

Legislative review—2002 c 247: See note following RCW 46.04.1695.

Mopeds

operation and safety standards: RCW 46.61.710, 46.61.720.

registration: RCW 46.16.630.

Additional notes found at www.leg.wa.gov

46.20.505 Special endorsement fees. Every person applying for a special endorsement of a driver's license authorizing such person to drive a two or three-wheeled motorcycle or a motor-driven cycle shall pay a fee of five dollars, which is not refundable. In addition, the endorsement fee for the initial motorcycle endorsement shall not exceed ten dollars, and the subsequent renewal endorsement fee shall not exceed twenty-five dollars, unless the endorsement is renewed or extended for a period other than five years, in which case the subsequent renewal endorsement fee shall not exceed five dollars for each year that the endorsement is renewed or extended. Fees collected under this section shall be deposited in the motorcycle safety education account of the highway safety fund. [2007 c 97 § 1; 2003 c 41 § 2; 2002 c 352 § 16; 2001 c 104 § 1. Prior: 1999 c 308 § 5; 1999 c 274 § 9; 1993 c 115 § 1; 1989 c 203 § 2; 1988 c 227 § 5; 1987 c 454 § 2; 1985 ex.s. c 1 § 8; 1982 c 77 § 2; 1979 c 158 § 153; 1967 ex.s. c 145 § 50.]

Short title—Effective date—2003 c 41: See notes following RCW 46.20.500.

Effective dates—2002 c 352: See note following RCW 46.09.410.

Motorcycle safety education account: RCW 46.68.065.

Additional notes found at www.leg.wa.gov

(2010 Ed.)

46.20.510 Instruction permit—Fee. (1) **Motorcycle instruction permit.** A person holding a valid driver's license who wishes to learn to ride a motorcycle may apply for a motorcycle instruction permit. The department may issue a motorcycle instruction permit after the applicant has successfully passed all parts of the motorcycle examination other than the driving test. The director shall collect a fee of fifteen dollars for the motorcycle instruction permit or renewal, and deposit the fee in the motorcycle safety education account of the highway safety fund.

(2) **Effect of motorcycle instruction permit.** A person holding a motorcycle instruction permit may drive a motorcycle upon the public highways if the person has immediate possession of the permit and a valid driver's license. An individual with a motorcyclist's instruction permit may not carry passengers and may not operate a motorcycle during the hours of darkness.

(3) **Term of motorcycle instruction permit.** A motorcycle instruction permit is valid for ninety days from the date of issue.

(a) The department may issue one additional ninety-day permit.

(b) The department may issue a third motorcycle instruction permit if it finds after an investigation that the permittee is diligently seeking to improve driving proficiency. [2002 c 352 § 17; 1999 c 274 § 10; 1999 c 6 § 25; 1989 c 337 § 9; 1985 ex.s. c 1 § 9; 1985 c 234 § 3; 1982 c 77 § 3.]

Effective dates—2002 c 352: See note following RCW 46.09.410.

Intent—1999 c 6: See note following RCW 46.04.168.

Additional notes found at www.leg.wa.gov

46.20.515 Examination—Emphasis—Waiver. The motorcycle endorsement examination must emphasize maneuvers necessary for on-street operation, including emergency braking and turning as may be required to avoid an impending collision. The examination for a two-wheeled motorcycle endorsement and the examination for a three-wheeled motorcycle endorsement must be separate and distinct examinations emphasizing the skills and maneuvers necessary to operate each type of motorcycle. The department may waive all or part of the examination for persons who satisfactorily complete the voluntary motorcycle operator training and education program authorized under RCW 46.20.520 or who satisfactorily complete a private motorcycle skills education course that has been certified by the department under RCW 46.81A.020. [2003 c 41 § 3; 2002 c 197 § 1; 2001 c 104 § 2; 1999 c 274 § 11; 1982 c 77 § 4.]

Short title—Effective date—2003 c 41: See notes following RCW 46.20.500.

Additional notes found at www.leg.wa.gov

46.20.520 Training and education program—Advisory board. (1) The director of licensing shall use moneys designated for the motorcycle safety education account of the highway safety fund to implement by July 1, 1983, a voluntary motorcycle operator training and education program. The director may contract with public and private entities to implement this program.

(2) There is created a motorcycle safety education advisory board to assist the director of licensing in the develop-

ment of a motorcycle operator training education program. The board shall monitor this program following implementation and report to the director of licensing as necessary with recommendations including, but not limited to, administration, application, and substance of the motorcycle operator training and education program.

The board shall consist of five members appointed by the director of licensing. Three members of the board, one of whom shall be appointed chairperson, shall be active motorcycle riders or members of nonprofit motorcycle organizations which actively support and promote motorcycle safety education. One member shall be a currently employed Washington state patrol motorcycle officer with at least five years experience and at least one year cumulative experience as a motorcycle officer. One member shall be a member of the public. The term of appointment shall be two years. The board shall meet at the call of the director, but not less than two times annually and not less than five times during its term of appointment, and shall receive no compensation for services but shall be reimbursed for travel expenses while engaged in business of the board in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(3) The priorities of the program shall be in the following order of priority:

- (a) Public awareness of motorcycle safety.
- (b) Motorcycle safety education programs conducted by public and private entities.
- (c) Classroom and on-cycle training.
- (d) Improved motorcycle operator testing. [1998 c 245 § 89; 1987 c 454 § 3; 1982 c 77 § 5.]

Additional notes found at www.leg.wa.gov

ALCOHOL DETECTION DEVICES

46.20.710 Legislative finding. The legislature finds and declares:

(1) There is a need to reduce the incidence of drivers on the highways and roads of this state who, because of their use, consumption, or possession of alcohol, pose a danger to the health and safety of other drivers;

(2) One method of dealing with the problem of drinking drivers is to discourage the use of motor vehicles by persons who possess or have consumed alcoholic beverages;

(3) The installation of an ignition interlock breath alcohol device or other biological or technical device will provide a means of deterring the use of motor vehicles by persons who have consumed alcoholic beverages;

(4) Ignition interlock and other biological and technical devices are designed to supplement other methods of punishment that prevent drivers from using a motor vehicle after using, possessing, or consuming alcohol;

(5) It is economically and technically feasible to have an ignition interlock or other biological or technical device installed in a motor vehicle in such a manner that the vehicle will not start if the operator has recently consumed alcohol. [1994 c 275 § 21; 1987 c 247 § 1.]

Additional notes found at www.leg.wa.gov

46.20.720 Drivers convicted of alcohol offenses. (Effective until January 1, 2011.) (1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started. The court shall also establish the period of time for which interlock use will be required.

(2) Under RCW 46.61.5055, 10.05.020, or *section 18 of this act, the court shall order any person convicted of an alcohol-related violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance or participating in a deferred prosecution program under RCW 10.05.020 or *section 18 of this act for an alcohol-related violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department under RCW 46.20.385 and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(3) The department shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of an alcohol-related violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance.

The department may waive the requirement for the use of such a device if it concludes that such devices are not reasonably available in the local area. The device is not necessary on vehicles owned by a person's employer and driven as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer during working hours.

The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. The period of time of the restriction will be as follows:

(a) For a person who has not previously been restricted under this section, a period of one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of five years;

(c) For a person who has previously been restricted under (b) of this subsection, a period of ten years. [2008 c 282 § 12; 2004 c 95 § 11; 2003 c 366 § 1; 2001 c 247 § 1; 1999 c 331 § 3; 1998 c 210 § 2; 1997 c 229 § 8; 1994 c 275 § 22; 1987 c 247 § 2.]

*Reviser's note: Section 18 of this act was vetoed by the governor.

Effective date—2008 c 282: See note following RCW 46.20.308.

Finding—Intent—1998 c 210: "The legislature finds that driving is a privilege and that the state may restrict that privilege in the interests of public safety. One such reasonable restriction is requiring certain individuals, if they choose to drive, to drive only vehicles equipped with ignition interlock devices. The legislature further finds that the costs of these devices are minimal and are affordable. It is the intent of the legislature that these devices be paid for by the drivers using them and that neither the state nor entities of local government provide any public funding for this purpose." [1998 c 210 § 7.]

Additional notes found at www.leg.wa.gov

46.20.720 Drivers convicted of alcohol offenses. (Effective January 1, 2011.) (1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started. The court shall also establish the period of time for which interlock use will be required.

(2) Under RCW 46.61.5055 and subject to the exceptions listed in that statute, the court shall order any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department under RCW 46.20.385 and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(3) The department shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance.

The department may waive the requirement for the use of such a device if it concludes that such devices are not reasonably available in the local area. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. Subject to the provisions of subsection (4) of this section, the period of time of the restriction will be no less than:

(a) For a person who has not previously been restricted under this section, a period of one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of five years;

(c) For a person who has previously been restricted under (b) of this subsection, a period of ten years.

(4) A restriction imposed under subsection (3) of this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying that there have been none of the following incidents in the four consecutive months prior to the date of release:

(a) An attempt to start the vehicle with a breath alcohol concentration of 0.04 or more;

(b) Failure to take or pass any required retest; or

(c) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device. [2010 c 269 § 3; 2008 c 282 § 12; 2004 c 95 § 11;

(2010 Ed.)

2003 c 366 § 1; 2001 c 247 § 1; 1999 c 331 § 3; 1998 c 210 § 2; 1997 c 229 § 8; 1994 c 275 § 22; 1987 c 247 § 2.]

Effective date—2010 c 269: See note following RCW 46.20.385.

Effective date—2008 c 282: See note following RCW 46.20.308.

Finding—Intent—1998 c 210: "The legislature finds that driving is a privilege and that the state may restrict that privilege in the interests of public safety. One such reasonable restriction is requiring certain individuals, if they choose to drive, to drive only vehicles equipped with ignition interlock devices. The legislature further finds that the costs of these devices are minimal and are affordable. It is the intent of the legislature that these devices be paid for by the drivers using them and that neither the state nor entities of local government provide any public funding for this purpose." [1998 c 210 § 7.]

Additional notes found at www.leg.wa.gov

46.20.740 Notation on driving record—Verification of interlock—Penalty. (Effective until January 1, 2011.)

(1) The department shall attach or imprint a notation on the driving record of any person restricted under RCW 46.20.720 or 46.61.5055 stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device. The department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an ignition interlock required under this section is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(2) It is a misdemeanor for a person with such a notation on his or her driving record to operate a motor vehicle that is not so equipped. [2008 c 282 § 13; 2004 c 95 § 12; 2001 c 55 § 1; 1997 c 229 § 10; 1994 c 275 § 24; 1987 c 247 § 4.]

Effective date—2008 c 282: See note following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.20.740 Notation on driving record—Verification of interlock—Penalty. (Effective January 1, 2011.)

(1) The department shall attach or imprint a notation on the driving record of any person restricted under RCW 46.20.720, 46.61.5055, or 10.05.140 stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device. The department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an ignition interlock required under this section is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall

remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(2) It is a gross misdemeanor for a person with such a notation on his or her driving record to operate a motor vehicle that is not so equipped. [2010 c 269 § 8; 2008 c 282 § 13; 2004 c 95 § 12; 2001 c 55 § 1; 1997 c 229 § 10; 1994 c 275 § 24; 1987 c 247 § 4.]

Effective date—2010 c 269: See note following RCW 46.20.385.

Effective date—2008 c 282: See note following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.20.745 Ignition interlock device revolving account program—Pilot program. (1) The ignition interlock device revolving account program is created within the department to assist in covering the monetary costs of installing, removing, and leasing an ignition interlock device, and applicable licensing, for indigent persons who are required under *RCW 46.20.385 and 46.61.5055 to install an ignition interlock device in all vehicles owned or operated by the person. For purposes of this subsection, "indigent" has the same meaning as in RCW 10.101.010, as determined by the department.

(2) A pilot program is created within the ignition interlock device revolving account program for the purpose of monitoring compliance by persons required to use ignition interlock devices and by ignition interlock companies and vendors.

(3) The department, the state patrol, and the Washington traffic safety commission shall coordinate to establish a compliance pilot program that will target at least one county from eastern Washington and one county from western Washington, as determined by the department, state patrol, and Washington traffic safety commission.

(4) At a minimum, the compliance pilot program shall:

(a) Review the number of ignition interlock devices that are required to be installed in the targeted county and the number of ignition interlock devices actually installed;

(b) Work to identify those persons who are not complying with ignition interlock requirements or are repeatedly violating ignition interlock requirements; and

(c) Identify ways to track compliance and reduce non-compliance.

(5) As part of monitoring compliance, the Washington traffic safety commission shall also track recidivism for violations of RCW 46.61.502 and 46.61.504 by persons required to have an ignition interlock driver's license under *RCW 46.20.385. [2008 c 282 § 10.]

***Reviser's note:** The reference to RCW 46.20.385 appears to be erroneous. A reference to RCW 46.20.720 was apparently intended.

46.20.750 Circumventing ignition interlock—Penalty. (1) A person who is restricted to the use of a vehicle equipped with an ignition interlock device and who tampers with the device or directs, authorizes, or requests another to tamper with the device, in order to circumvent the device by modifying, detaching, disconnecting, or otherwise disabling it, is guilty of a gross misdemeanor.

(2) A person who knowingly assists another person who is restricted to the use of a vehicle equipped with an ignition

interlock device to circumvent the device or to start and operate that vehicle in violation of a court order is guilty of a gross misdemeanor. The provisions of this subsection do not apply if the starting of a motor vehicle, or the request to start a motor vehicle, equipped with an ignition interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle and the person subject to the court order does not operate the vehicle. [2005 c 200 § 2; 1994 c 275 § 25; 1987 c 247 § 5.]

Additional notes found at www.leg.wa.gov

46.20.755 Local verification of ignition interlock device installation—Immunity. (*Effective January 1, 2011.*) If a person is required, as part of the person's judgment and sentence, to install an ignition interlock device on all motor vehicles operated by the person and the person is under the jurisdiction of the municipality or county probation or supervision department, the probation or supervision department must verify the installation of the ignition interlock device or devices. The municipality or county probation or supervision department satisfies the requirement to verify the installation or installations if the municipality or county probation or supervision department receives written verification by one or more companies doing business in the state that it has installed the required device on a vehicle owned or operated by the person. The municipality or county shall have no further obligation to supervise the use of the ignition interlock device or devices by the person and shall not be civilly liable for any injuries or damages caused by the person for failing to use an ignition interlock device or for driving under the influence of intoxicating liquor or any drug or being in actual physical control of a motor vehicle under the influence of intoxicating liquor or any drug. [2010 c 269 § 5.]

Reviser's note: 2010 c 269 § 5 directed that this section be added to chapter 46.61 RCW, but codification in chapter 46.20 RCW appears to be more appropriate.

Effective date—2010 c 269: See note following RCW 46.20.385.

MISCELLANEOUS

46.20.900 Repeal and saving. Section 46.20.010, chapter 12, Laws of 1961 and RCW 46.20.010, section 46.20.020, chapter 12, Laws of 1961 as amended by section 1, chapter 134, Laws of 1961 and RCW 46.20.020, section 46.20.030, chapter 12, Laws of 1961 as amended by section 12, chapter 39, Laws of 1963 and RCW 46.20.030, section 46.20.060, chapter 12, Laws of 1961 and RCW 46.20.060, sections 46.20.080 through 46.20.090, chapter 12, Laws of 1961 and RCW 46.20.080 through 46.20.090, section 46.20.110, chapter 12, Laws of 1961 as last amended by section 10, chapter 39, Laws of 1963 and RCW 46.20.110, sections 46.20.140 through 46.20.180, chapter 12, Laws of 1961 and RCW 46.20.140 through 46.20.180, section 46.20.210, chapter 12, Laws of 1961 and RCW 46.20.210, sections 46.20.230 through 46.20.250, chapter 12, Laws of 1961 and RCW 46.20.230 through 46.20.250, section 46.20.280, chapter 12, Laws of 1961 and RCW 46.20.280, section 46.20.290, chapter 12, Laws of 1961 and RCW 46.20.290, section 46.20.310, chapter 12, Laws of 1961 and RCW 46.20.310, and section 46.20.330, chapter 12, Laws of 1961 and RCW 46.20.330; section 46.20.350, chapter 12, Laws of 1961 and

RCW 46.20.350; section 46.20.360, chapter 12, Laws of 1961 and RCW 46.20.360 are each hereby repealed. Such repeals shall not be construed as affecting any existing right acquired under the statutes repealed, nor as affecting any proceedings instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder. [1965 ex.s. c 121 § 46.]

46.20.910 Severability—1965 ex.s. c 121. If any provision of this 1965 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1965 amendatory act, or the application of the provision to other persons or circumstances is not affected. [1965 ex.s. c 121 § 47.]

46.20.911 Severability, implied consent law—1969 c 1. If any provision of RCW 46.20.308, 46.20.311, and 46.61.506 or its application to any person or circumstance is held invalid, the remainder of RCW 46.20.308, 46.20.311, and 46.61.506, or the application of the provision to other persons or circumstances is not affected. [1990 c 250 § 49; 1969 c 1 § 6 (Initiative Measure No. 242, approved November 5, 1968).]

Additional notes found at www.leg.wa.gov

Chapter 46.21 RCW DRIVER LICENSE COMPACT

Sections

46.21.010	Compact enacted—Provisions.
46.21.020	"Licensing authority" defined—Duty to furnish information.
46.21.030	Expenses of compact administrator.
46.21.040	"Executive head" defined.

46.21.010 Compact enacted—Provisions. The driver license compact prepared pursuant to resolutions of the western governors' conference and the western interstate committee on highway policy problems of the council of state governments is hereby entered into and enacted into law, the terms and provisions of which shall be as follows:

DRIVER LICENSE COMPACT

ARTICLE I—Findings and Declaration of Policy

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2010 Ed.)

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the over-all compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE II—Definitions

As used in this compact:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE III—Reports of Conviction

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.

ARTICLE IV—Effect of Conviction

(a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:

(1) Vehicular homicide;

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;

(3) Any felony in the commission of which a motor vehicle is used;

(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (a) of this Article, such party state shall construe the denominations and descriptions appearing in subdivision (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar

nature and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this Article.

ARTICLE V—Applications for New Licenses

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

(1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license.

ARTICLE VI—Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a non-party state.

ARTICLE VII—Compact Administrator and Interchange of Information

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

ARTICLE VIII—Entry into Force and Withdrawal

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

ARTICLE IX—Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1983 c 164 § 5; 1963 c 120 § 1.]

46.21.020 "Licensing authority" defined—Duty to furnish information. As used in the compact, the term "licensing authority" with reference to this state, shall mean the department of licensing. Said department shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of Articles III, IV, and V of the compact. [1979 c 158 § 154; 1967 c 32 § 36; 1963 c 120 § 2.]

46.21.030 Expenses of compact administrator. The compact administrator provided for in Article VII of the compact shall not be entitled to any additional compensation on account of his service as such administrator, but shall be entitled to expenses incurred in connection with his duties and responsibilities as such administrator, in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment. [1963 c 120 § 3.]

46.21.040 "Executive head" defined. As used in the compact, with reference to this state, the term "executive head" shall mean governor. [1963 c 120 § 4.]

Chapter 46.23 RCW

NONRESIDENT VIOLATOR COMPACT

Sections

46.23.010	Compact established—Provisions.
46.23.020	Reciprocal agreements authorized—Provisions.
46.23.050	Rules.

46.23.010 Compact established—Provisions. The nonresident violator compact, hereinafter called "the compact," is hereby established in the form substantially as follows, and the Washington state department of licensing is authorized to enter into such compact with all other jurisdictions legally joining therein:

NONRESIDENT VIOLATOR COMPACT

Article I — Findings, Declaration of Policy, and Purpose

(a) The party jurisdictions find that:

(1) In most instances, a motorist who is cited for a traffic violation in a jurisdiction other than his home jurisdiction: Must post collateral or bond to secure appearance for trial at a later date; or if unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or is taken directly to court for his trial to be held.

(2) In some instances, the motorist's driver's license may be deposited as collateral to be returned after he has complied with the terms of the citation.

(3) The purpose of the practices described in paragraphs (1) and (2) above is to ensure compliance with the terms of a traffic citation by the motorist who, if permitted to continue on his way after receiving the traffic citation, could return to him [his] home jurisdiction and disregard his duty under the terms of the traffic citation.

(4) A motorist receiving a traffic citation in his home jurisdiction is permitted, except for certain violations, to accept the citation from the officer at the scene of the violation and to immediately continue on his way after promising or being instructed to comply with the terms of the citation.

(5) The practice described in paragraph (1) above, causes unnecessary inconvenience and, at times, a hardship for the motorist who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some arrangement can be made.

(6) The deposit of a driver's license as a bail bond, as described in paragraph (2) above, is viewed with disfavor.

(7) The practices described herein consume an undue amount of law enforcement time.

(b) It is the policy of the party jurisdictions to:

(1) Seek compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles in each of the jurisdictions.

(2) Allow motorists to accept a traffic citation for certain violations and proceed on their way without delay whether or not the motorist is a resident of the jurisdiction in which the citation was issued.

(3) Extend cooperation to its fullest extent among the jurisdictions for obtaining compliance with the terms of a traffic citation issued in one jurisdiction to a resident of another jurisdiction.

(4) Maximize effective utilization of law enforcement personnel and assist court systems in the efficient disposition of traffic violations.

(c) The purpose of this compact is to:

(1) Provide a means through which the party jurisdictions may participate in a reciprocal program to effectuate the policies enumerated in paragraph (b) above in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of traffic violators operating within party jurisdictions in recognition of the motorist's right of due process and the sovereign status of a party jurisdiction.

Article II — Definitions

As used in the compact, the following words have the meaning indicated, unless the context requires otherwise.

(1) "Citation" means any summons, ticket, notice of infraction, or other official document issued by a police officer for a traffic offense containing an order which requires the motorist to respond.

(2) "Collateral" means any cash or other security deposited to secure an appearance for trial, following the issuance by a police officer of a citation for a traffic offense.

(3) "Court" means a court of law or traffic tribunal.

(4) "Driver's license" means any license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction.

(5) "Home jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

(6) "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist.

(7) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(8) "Motorist" means a driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(9) "Personal recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that he will comply with the terms of that traffic citation.

(10) "Police officer" means any individual authorized by the party jurisdiction to issue a citation for a traffic offense.

(11) "Terms of the citation" means those options expressly stated upon the citation.

Article III — Procedure for Issuing Jurisdiction

(a) When issuing a citation for a traffic violation or infraction, a police officer shall issue the citation to a motorist who possesses a driver's license issued by a party jurisdiction and shall not, subject to the exceptions noted in paragraph (b) of this article, require the motorist to post collateral to secure appearance, if the officer receives the motorist's personal recognizance that he or she will comply with the terms of the citation.

(b) Personal recognizance is acceptable only if not prohibited by law. If mandatory appearance is required, it must take place immediately following issuance of the citation.

(c) Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official shall report the failure to comply to the licensing authority of the jurisdiction in which the traffic citation was issued. The report shall be made in accordance with procedures specified by the issuing jurisdiction and insofar as practical shall contain information as specified in the compact manual as minimum requirements for effective processing by the home jurisdiction.

(d) Upon receipt of the report, the licensing authority of the issuing jurisdiction shall transmit to the licensing authority in the home jurisdiction of the motorist the information in a form and content substantially conforming to the compact manual.

(e) The licensing authority of the issuing jurisdiction may not suspend the privilege of a motorist for whom a report has been transmitted.

(f) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation if the date of transmission is more than six months after the date on which the traffic citation was issued.

(g) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation where the date of issuance of the citation predates the most recent of the effective dates of entry for the two jurisdictions affected.

Article IV — Procedure for Home Jurisdiction

(a) Upon receipt of a report of a failure to comply from the licensing authority of the issuing jurisdiction, the licensing authority of the home jurisdiction shall notify the motorist and initiate a suspension action, in accordance with the home jurisdiction's procedures, to suspend the motorist's driver's license until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the home jurisdiction licensing authority. Due process safeguards will be accorded.

(b) The licensing authority of the home jurisdiction shall maintain a record of actions taken and make reports to issuing jurisdictions as provided in the compact manual.

Article V — Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party jurisdiction to apply any of its other laws relating to licenses to drive to any person or circumstance, or to invalidate or prevent any driver license agreement or other cooperative arrangement between a party jurisdiction and a nonparty jurisdiction.

Article VI — Compact Administrator Procedures

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each party jurisdiction to be known as the compact administrator. The compact administrator shall be appointed by the jurisdiction executive and will serve and be subject to removal in accordance with the laws of the jurisdiction he represents. A compact administrator may provide for the discharge of his duties and the performance of his functions as a board member by an alternate. An alternate may not be entitled to serve unless written notification of his identity has been given to the board.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor. Action by the board shall be only at a meeting at which a majority of the party jurisdictions are represented.

(c) The board shall elect annually, from its membership, a chairman and a vice chairman.

(d) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party jurisdiction, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any jurisdiction, the United States, or any other governmental agency, and may receive, utilize, and dispose of the same.

(f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, person, firm, or corporation, or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in the compact manual.

Article VII — Entry into Compact and Withdrawal

(a) This compact shall become effective when it has been adopted by at least two jurisdictions.

(b) Entry into the compact shall be made by a resolution of ratification executed by the department of licensing and submitted to the chairman of the board. The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:

(1) A citation of the authority by which the jurisdiction is empowered to become a party to this compact.

(2) Agreement to comply with the terms and provisions of the compact.

(3) That compact entry is with all jurisdictions then party to the compact and with any jurisdiction that legally becomes a party to the compact.

(c) The effective date of entry shall be specified by the applying jurisdiction, but it shall not be less than sixty days after notice has been given by the chairman of the board of compact administrators or by the secretariat of the board to each party jurisdiction that the resolution from the applying jurisdiction has been received.

(d) A party jurisdiction may withdraw from this compact by official written notice to the other party jurisdictions, but a withdrawal shall not take effect until ninety days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member jurisdiction. No withdrawal shall affect the validity of this compact as to the remaining party jurisdictions.

Article VIII — Exceptions

The provisions of this compact shall not apply to parking or standing violations, highway weight limit violations, and violations of law governing the transportation of hazardous materials.

Article IX — Amendments to the Compact

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the board of compact administrators and may be initiated by one or more party jurisdictions.

(b) Adoption of an amendment shall require endorsement of all party jurisdictions and shall become effective thirty days after the date of the last endorsement.

(c) Failure of a party jurisdiction to respond to the compact chairman within one hundred twenty days after receipt of the proposed amendment shall constitute endorsement.

Article X — Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party jurisdiction or of the United States or the applicability thereof to any government, agency, per-

son, or circumstance, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any jurisdiction party thereto, the compact shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdiction affected as to all severable matters.

Article XI — Title

This compact shall be known as the nonresident violator compact. [1982 c 212 § 1.]

46.23.020 Reciprocal agreements authorized—Provisions. (1) The Washington state department of licensing is authorized and encouraged to execute a reciprocal agreement with the Canadian province of British Columbia, and with any other state which is not a member of the nonresident violator compact, concerning the rendering of mutual assistance in the disposition of traffic infractions committed by persons licensed in one state or province while in the jurisdiction of the other.

(2) Such agreements shall provide that if a person licensed by either state or province is issued a citation by the other state or province for a moving traffic violation covered by the agreement, he shall not be detained or required to furnish bail or collateral, and that if he fails to comply with the terms of the citation, his license shall be suspended or renewal refused by the state or province that issued the license until the home jurisdiction is notified by the issuing jurisdiction that he has complied with the terms of the citation.

(3) Such agreement shall also provide such terms and procedures as are necessary and proper to facilitate its administration. [1982 c 212 § 2.]

46.23.050 Rules. The department shall adopt rules for the administration and enforcement of RCW 46.23.010 and 46.23.020 in accordance with chapter 34.05 RCW. [1982 c 212 § 6.]

Chapter 46.25 RCW

UNIFORM COMMERCIAL DRIVER'S LICENSE ACT

Sections

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46.25.001 Short title. This chapter may be cited as the Uniform Commercial Driver's License Act. [1989 c 178 § 1.]

46.25.005 Purpose—Construction. (1) The purpose of this chapter is to implement the federal Commercial Motor Vehicle Safety Act of 1986 (CMVSA), Title XII, P.L. 99-570, and reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by:

(a) Permitting commercial drivers to hold only one license;

(b) Disqualifying commercial drivers who have committed certain serious traffic violations, or other specified offenses;

(c) Strengthening licensing and testing standards.

(2) This chapter is a remedial law and shall be liberally construed to promote the public health, safety, and welfare. To the extent that this chapter conflicts with general driver licensing provisions, this chapter prevails. Where this chapter is silent, the general driver licensing provisions apply. [1989 c 178 § 2.]

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

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

(2) "Alcohol concentration" means:

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

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

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

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

(5) "Commercial driver's instruction permit" means a permit issued under RCW 46.25.060(5).

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

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

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

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

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

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

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

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

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

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

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

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

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

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

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

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

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

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

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

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

(18) "Serious traffic violation" means:

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

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

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

(d) Driving a commercial motor vehicle without obtaining a commercial driver's license;

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

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

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

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

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

(21) "Tank vehicle" means a vehicle that is designed to transport a liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Tank vehicles include, but are not limited to cargo tanks and portable tanks. However, this definition does not include portable tanks having a rated capacity under one thousand gallons.

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

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

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

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

A report that a person has refused a drug test, under circumstances that constitute the refusal of a federal department of transportation drug test under 49 C.F.R. 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter. [2009 c 181 § 2. Prior: 2006 c 327 § 2; 2006 c 50 § 1; 2005 c 325 § 2; 2004 c 187 § 2; 1996 c 30 § 1; 1989 c 178 § 3.]

Intent—2005 c 325: "It is the intent of the legislature to promote the safety of drivers and passengers on Washington roads and public transportation systems. To this end, Washington has established a reporting requirement for employers of commercial drivers who test positive for unlawful substances. The legislature recognizes that transit operators and their employers are an asset to the public transportation system and continuously strive to provide a safe and efficient mode of travel. In light of this, the legislature further intends that the inclusion of transit employers in the reporting requirements serve only to enhance the current efforts of these dedicated employers and employees as they continue to provide a safe public transportation system to the citizens of Washington." [2005 c 325 § 1.]

Additional notes found at www.leg.wa.gov

46.25.020 One license limit. No person who drives a commercial motor vehicle may have more than one driver's license. [1989 c 178 § 4.]

46.25.030 Duties of driver—Notice to department and employer. (1)(a) A driver of a commercial motor vehicle holding a driver's license issued by this state who is convicted of violating a state law or local ordinance relating to motor vehicle traffic control, in any other state or federal, provincial, territorial, or municipal laws of Canada, other than parking violations, shall notify the department in the manner specified by rule of the department within thirty days of the date of conviction.

(b) A driver of a commercial motor vehicle holding a driver's license issued by this state who is convicted of violating a state law or local ordinance relating to motor vehicle traffic control in this or any other state or federal, provincial, territorial, or municipal laws of Canada, other than parking violations, shall notify his or her employer in writing of the conviction within thirty days of the date of conviction.

(c) The notification requirements contained in (a) and (b) of this subsection as they relate to the federal, provincial, territorial, or municipal laws of Canada become effective only when the federal law or federal rules are changed to require the notification or a bilateral or multilateral agreement is entered into between the state of Washington and any Canadian province implementing essentially the same standards of regulation and penalties of all parties as encompassed in this chapter.

(2) A driver whose driver's license is suspended, revoked, or canceled by a state, who loses the privilege to drive a commercial motor vehicle in a state for any period, or who is disqualified from driving a commercial motor vehicle for any period, shall notify his or her employer of that fact before the end of the business day following the day the driver received notice of that fact.

(3) A person who applies to be a commercial motor vehicle driver shall provide the employer, at the time of the application, with the following information for the ten years preceding the date of application:

(a) A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;

(b) The dates between which the applicant drove for each employer; and

(c) The reason for leaving that employer.

The applicant shall certify that all information furnished is true and complete. An employer may require an applicant to provide additional information. [1989 c 178 § 5.]

46.25.040 Duties of employer. (1) An employer shall require the applicant to provide the information specified in RCW 46.25.030(3).

(2) No employer may knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period:

(a) In which the driver has a driver's license suspended, revoked, or canceled by a state, has lost the privilege to drive a commercial motor vehicle in a state, or has been disqualified from driving a commercial motor vehicle; or

(b) In which the driver has more than one driver's license. [1989 c 178 § 6.]

46.25.050 Commercial driver's license required—Exceptions, restrictions, reciprocity. (1) Drivers of commercial motor vehicles shall obtain a commercial driver's license as required under this chapter. Except when driving under a commercial driver's instruction permit and a valid automobile or classified license and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, no person may drive a commercial motor vehicle unless the person holds and is in immediate possession of a commercial driver's license and applicable endorsements valid for the vehicle they are driving. However, this requirement does not apply to any person:

(a) Who is the operator of a farm vehicle, and the vehicle is:

(i) Controlled and operated by a farmer;

(ii) Used to transport either agricultural products, which in this section include Christmas trees and wood products harvested from private tree farms and transported by vehicles weighing no more than forty thousand pounds licensed gross vehicle weight, farm machinery, farm supplies, or any combination of those materials to or from a farm;

(iii) Not used in the operations of a common or contract motor carrier; and

(iv) Used within one hundred fifty miles of the person's farm; or

(b) Who is a firefighter or law enforcement officer operating emergency equipment, and:

(i) The firefighter or law enforcement officer has successfully completed a driver training course approved by the director; and

(ii) The firefighter or law enforcement officer carries a certificate attesting to the successful completion of the approved training course; or

(c) Who is operating a recreational vehicle for noncommercial purposes. As used in this section, "recreational vehicle" includes a vehicle towing a horse trailer for a noncommercial purpose; or

(d) Who is operating a commercial motor vehicle for military purposes. This exemption is applicable to active duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. This exception is not applicable to United States reserve technicians.

(2) No person may drive a commercial motor vehicle while his or her driving privilege is suspended, revoked, or canceled, while subject to disqualification, or in violation of an out-of-service order. Violations of this subsection shall be punished in the same way as violations of RCW 46.20.342(1).

(3) The department shall to the extent possible enter into reciprocity agreements with adjoining states to allow the waivers described in subsection (1) of this section to apply to drivers holding commercial driver's licenses from those adjoining states. [2006 c 327 § 3; 1995 c 393 § 1; 1990 c 56 § 1; 1989 c 178 § 7.]

46.25.055 Medical examiner's certificate—Required.

A person may not drive a commercial motor vehicle unless he or she is physically qualified to do so and, except as provided in 49 C.F.R. Sec. 391.67, has on his or her person the original, or a photographic copy, of a medical examiner's certificate that he or she is physically qualified to drive a commercial motor vehicle. [2003 c 195 § 3.]

Findings—2003 c 195: See note following RCW 46.25.070.

46.25.057 Medical examiner's certificate—Failure to carry—Penalty. (1) It is a traffic infraction for a licensee under this chapter to drive a commercial vehicle without having on his or her person the original, or a photographic copy, of a medical examiner's certificate that he or she is physically qualified to drive a commercial motor vehicle.

(2) A person who violates this section is subject to a penalty of two hundred fifty dollars. If the person appears in person before the court or submits by mail written proof that he or she had, at the time the infraction took place, the medical examiner's certificate, the court shall reduce the penalty to fifty dollars. [2003 c 195 § 4.]

Findings—2003 c 195: See note following RCW 46.25.070.

46.25.060 Knowledge and skills test, exemptions—Expiration of subsection—Instruction permit. (1)(a) No person may be issued a commercial driver's license unless that person is a resident of this state, has successfully completed a course of instruction in the operation of a commercial motor vehicle that has been approved by the director or has been certified by an employer as having the skills and training necessary to operate a commercial motor vehicle safely, and has passed a knowledge and skills test for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. part 383, subparts G and H, and has satisfied all other requirements of the CMVSA in addition to other requirements imposed by state law or federal regulation. The

tests must be prescribed and conducted by the department. In addition to the fee charged for issuance or renewal of any license, the applicant shall pay a fee of no more than ten dollars for each classified knowledge examination, classified endorsement knowledge examination, or any combination of classified license and endorsement knowledge examinations. The applicant shall pay a fee of no more than one hundred dollars for each classified skill examination or combination of classified skill examinations conducted by the department.

(b) The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills test specified by this section under the following conditions:

(i) The test is the same which would otherwise be administered by the state;

(ii) The third party has entered into an agreement with the state that complies with the requirements of 49 C.F.R. part 383.75; and

(iii) The director has adopted rules as to the third party testing program and the development and justification for fees charged by any third party.

(c) If the applicant's primary use of a commercial driver's license is for any of the following, then the applicant shall pay a fee of no more than seventy-five dollars for each classified skill examination or combination of classified skill examinations whether conducted by the department or a third-party tester:

(i) Public benefit not-for-profit corporations that are federally supported head start programs; or

(ii) Public benefit not-for-profit corporations that support early childhood education and assistance programs as described in *RCW 43.215.405(4).

(2) The department shall work with the office of the superintendent of public instruction to develop modified P1 and P2 skill examinations that also include the skill examination components required to obtain an "S" endorsement. In no event may a new applicant for an "S" endorsement be required to take two separate examinations to obtain an "S" endorsement and either a P1 or P2 endorsement, unless that applicant is upgrading his or her existing commercial driver's license to include an "S" endorsement. The combined P1/S or P2/S skill examination must be offered to the applicant at the same cost as a regular P1 or P2 skill examination.

(3)(a) The department may waive the skills test and the requirement for completion of a course of instruction in the operation of a commercial motor vehicle specified in this section for a commercial driver's license applicant who meets the requirements of 49 C.F.R. part 383.77.

(b) An applicant who operates a commercial motor vehicle for agribusiness purposes is exempt from the course of instruction completion and employer skills and training certification requirements under this section. By January 1, 2010, the department shall submit recommendations regarding the continuance of this exemption to the transportation committees of the legislature. For purposes of this subsection (3)(b), "agribusiness" means a private carrier who in the normal course of business primarily transports:

(i) Farm machinery, farm equipment, implements of husbandry, farm supplies, and materials used in farming;

(ii) Agricultural inputs, such as seed, feed, fertilizer, and crop protection products;

(iii) Unprocessed agricultural commodities, as defined in RCW 17.21.020, where such commodities are produced by farmers, ranchers, vineyardists, or orchardists; or

(iv) Any combination of (b)(i) through (iii) of this subsection.

This subsection (3)(b) expires July 1, 2011.

(4) A commercial driver's license or commercial driver's instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked, or canceled in any state, nor may a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state for cancellation.

(5)(a) The department may issue a commercial driver's instruction permit to an applicant who is at least eighteen years of age and holds a valid Washington state driver's license and who has submitted a proper application, passed the general knowledge examination required for issuance of a commercial driver's license under subsection (1) of this section, and paid the appropriate fee for the knowledge examination and an application fee of ten dollars.

(b) A commercial driver's instruction permit may not be issued for a period to exceed six months. Only one renewal or reissuance may be granted within a two-year period.

(c) The holder of a commercial driver's instruction permit may drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. The holder of a commercial driver's instruction permit is not authorized to operate a commercial motor vehicle transporting hazardous materials.

(d) The department shall transmit the fees collected for commercial driver's instruction permits to the state treasurer. [2009 c 339 § 1; 2007 c 418 § 1; 2004 c 187 § 3; 2002 c 352 § 18; 1989 c 178 § 8.]

***Reviser's note:** RCW 43.215.405 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (4) to subsection (2).

Effective date—2007 c 418: "This act takes effect January 15, 2008." [2007 c 418 § 2.]

Effective dates—2002 c 352: See note following RCW 46.09.410.

46.25.070 Application—Change of address—Residency—Hazardous materials endorsement. (1) The application for a commercial driver's license or commercial driver's instruction permit must include the following:

(a) The full name and current mailing and residential address of the person;

(b) A physical description of the person, including sex, height, weight, and eye color;

(c) Date of birth;

(d) The applicant's social security number;

(e) The person's signature;

(f) Certifications including those required by 49 C.F.R. part 383.71(a);

(2010 Ed.)

(g) The names of all states where the applicant has previously been licensed to drive any type of motor vehicle during the previous ten years;

(h) Any other information required by the department; and

(i) A consent to release driving record information to parties identified in chapter 46.52 RCW and this chapter.

(2) An applicant for a hazardous materials endorsement must submit an application and comply with federal transportation security administration requirements as specified in 49 C.F.R. part 1572, and meet the requirements specified in 49 C.F.R. 383.71(a)(9).

(3) When a licensee changes his or her name, mailing address, or residence address, the person shall notify the department as provided in RCW 46.20.205.

(4) No person who has been a resident of this state for thirty days may drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction. [2004 c 187 § 4; 2003 c 195 § 2; 1991 c 73 § 2; 1989 c 178 § 9.]

Findings—2003 c 195: "The legislature finds that current economic conditions impose severe hardships on many commercial vehicle drivers. The legislature finds that commercial drivers who may not currently be working may not be able to afford the expense of a required physical in order to maintain their commercial driver's license. The legislature finds that Washington's commercial driver's license statutes should be harmonized with federal requirements, which require proof of a physical capacity to drive a commercial vehicle, along with a valid commercial driver's license, but do not link the two requirements. The legislature finds that allowing commercial drivers to delay getting a physical until they are actually driving a commercial vehicle will prevent the imposition of unnecessary expense and hardship on Washington's commercial vehicle drivers." [2003 c 195 § 1.]

46.25.080 License contents, classifications, endorsements, restrictions, expiration—Exchange of information. (1) The commercial driver's license must be marked "commercial driver's license" or "CDL," and must be, to the maximum extent practicable, tamperproof. It must include, but not be limited to, the following information:

(a) The name and residence address of the person;

(b) The person's color photograph;

(c) A physical description of the person including sex, height, weight, and eye color;

(d) Date of birth;

(e) The person's social security number or any number or identifier deemed appropriate by the department;

(f) The person's signature;

(g) The class or type of commercial motor vehicle or vehicles that the person is authorized to drive, together with any endorsements or restrictions;

(h) The name of the state; and

(i) The dates between which the license is valid.

(2) Commercial driver's licenses may be issued with the classifications, endorsements, and restrictions set forth in this subsection. The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles and vehicles that require an endorsement, unless the proper endorsement appears on the license.

(a) Licenses may be classified as follows:

(i) Class A is a combination of vehicles with a gross combined weight rating (GCWR) of 26,001 pounds or more,

if the GVWR of the vehicle or vehicles being towed is in excess of 10,000 pounds.

(ii) Class B is a single vehicle with a GVWR of 26,001 pounds or more, and any such vehicle towing a vehicle not in excess of 10,000 pounds.

(iii) Class C is a single vehicle with a GVWR of less than 26,001 pounds or any such vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds consisting of:

(A) Vehicles designed to transport sixteen or more passengers, including the driver; or

(B) Vehicles used in the transportation of hazardous materials.

(b) The following endorsements and restrictions may be placed on a license:

(i) "H" authorizes the driver to drive a vehicle transporting hazardous materials.

(ii) "K" restricts the driver to vehicles not equipped with air brakes.

(iii) "T" authorizes driving double and triple trailers.

(iv) "P1" authorizes driving all vehicles, other than school buses, carrying passengers.

(v) "P2" authorizes driving vehicles with a GVWR of less than 26,001 pounds, other than school buses, carrying sixteen or more passengers, including the driver.

(vi) "N" authorizes driving tank vehicles.

(vii) "X" represents a combination of hazardous materials and tank vehicle endorsements.

(viii) "S" authorizes driving school buses.

The license may be issued with additional endorsements and restrictions as established by rule of the director.

(3) All school bus drivers must have either a "P1" or "P2" endorsement depending on the GVWR of the school bus being driven.

(4) Before issuing a commercial driver's license, the department shall obtain driving record information:

(a) Through the commercial driver's license information system;

(b) Through the national driver register;

(c) From the current state of record; and

(d) From all states where the applicant was previously licensed over the last ten years to drive any type of motor vehicle.

A check under (d) of this subsection need be done only once, either at the time of application for a new commercial driver's license, or upon application for a renewal of a commercial driver's license for the first time after July 1, 2005, provided a notation is made on the driver's record confirming that the driving record check has been made and noting the date it was completed.

(5) Within ten days after issuing a commercial driver's license, the department must notify the commercial driver's license information system of that fact, and provide all information required to ensure identification of the person.

(6) A commercial driver's license shall expire in the same manner as provided in RCW 46.20.181.

(7) When applying for renewal of a commercial driver's license, the applicant shall:

(a) Complete the application form required by RCW 46.25.070(1), providing updated information and required certifications;

(b) Submit the application to the department in person; and

(c) If the applicant wishes to retain a hazardous materials endorsement, take and pass the written test for a hazardous materials endorsement. [2004 c 249 § 8; 2004 c 187 § 5; 1996 c 30 § 2; 1989 c 178 § 10.]

Reviser's note: This section was amended by 2004 c 187 § 5 and by 2004 c 249 § 8, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2004 c 187 §§ 1, 5, 7, 8, and 10: See note following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.25.085 Hazardous materials endorsement. (1) The department may not issue, renew, upgrade, or transfer a hazardous materials endorsement for a commercial driver's license to any individual authorizing that individual to operate a commercial motor vehicle transporting a hazardous material in commerce unless the federal transportation security administration has determined that the individual does not pose a security risk warranting denial of the endorsement.

(2) An individual who is prohibited from holding a commercial driver's license with a hazardous materials endorsement under 49 C.F.R. 1572.5 must surrender any hazardous materials endorsement in his or her possession to the department.

(3) The department may adopt such rules as may be necessary to comply with the provisions of 49 C.F.R. part 1572. [2004 c 187 § 6.]

46.25.090 Disqualification—Grounds for, period of—Records. (1) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if a report has been received by the department pursuant to RCW 46.20.308 or 46.25.120, or if the person has been convicted of a first violation, within this or any other jurisdiction, of:

(a) Driving a motor vehicle under the influence of alcohol or any drug;

(b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more, or driving a noncommercial motor vehicle while the alcohol concentration in the person's system is 0.08 or more, or is 0.02 or more if the person is under age twenty-one, as determined by any testing methods approved by law in this state or any other state or jurisdiction;

(c) Leaving the scene of an accident involving a motor vehicle driven by the person;

(d) Using a motor vehicle in the commission of a felony;

(e) Refusing to submit to a test or tests to determine the driver's alcohol concentration or the presence of any drug while driving a motor vehicle;

(f) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle;

(g) Causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular homicide and negligent homicide.

If any of the violations set forth in this subsection occurred while transporting hazardous material, the person is disqualified for a period of not less than three years.

(2) A person is disqualified for life if it has been determined that the person has committed or has been convicted of two or more violations of any of the offenses specified in subsection (1) of this section, or any combination of those offenses, arising from two or more separate incidents.

(3) The department may adopt rules, in accordance with federal regulations, establishing guidelines, including conditions, under which a disqualification for life under subsection (2) of this section may be reduced to a period of not less than ten years.

(4) A person is disqualified from driving a commercial motor vehicle for life who uses a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by chapter 69.50 RCW, or possession with intent to manufacture, distribute, or dispense a controlled substance, as defined by chapter 69.50 RCW.

(5)(a) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than sixty days if:

(A) Convicted of or found to have committed a second serious traffic violation while driving a commercial motor vehicle; or

(B) Convicted of reckless driving, where there has been a prior serious traffic violation; or

(ii) Not less than one hundred twenty days if:

(A) Convicted of or found to have committed a third or subsequent serious traffic violation while driving a commercial motor vehicle; or

(B) Convicted of reckless driving, where there has been two or more prior serious traffic violations.

(b) The disqualification period under (a)(ii) of this subsection must be in addition to any other previous period of disqualification.

(c) For purposes of determining prior serious traffic violations under this subsection, each conviction of or finding that a driver has committed a serious traffic violation while driving a commercial motor vehicle or noncommercial motor vehicle, arising from a separate incident occurring within a three-year period, must be counted.

(6) A person is disqualified from driving a commercial motor vehicle for a period of:

(a) Not less than ninety days nor more than one year if convicted of or found to have committed a first violation of an out-of-service order while driving a commercial vehicle;

(b) Not less than one year nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed two violations of out-of-service orders while driving a commercial motor vehicle in separate incidents;

(c) Not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed three or more violations of out-of-service orders while driving commercial motor vehicles in separate incidents;

(d) Not less than one hundred eighty days nor more than two years if the person is convicted of or is found to have committed a first violation of an out-of-service order while

transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver. A person is disqualified for a period of not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver.

(7) A person is disqualified from driving a commercial motor vehicle if a report has been received by the department under RCW 46.25.125 that the person has received a verified positive drug test or positive alcohol confirmation test as part of the testing program conducted under 49 C.F.R. 40. A disqualification under this subsection remains in effect until the person undergoes a drug and alcohol assessment by a substance abuse professional meeting the requirements of 49 C.F.R. 40, and the person presents evidence of satisfactory participation in or successful completion of a drug or alcohol treatment and/or education program as recommended by the substance abuse professional, and until the person has met the requirements of RCW 46.25.100. The substance abuse professional shall forward a diagnostic evaluation and treatment recommendation to the department of licensing for use in determining the person's eligibility for driving a commercial motor vehicle. Persons who are disqualified under this subsection more than twice in a five-year period are disqualified for life.

(8)(a) A person is disqualified from driving a commercial motor vehicle for the period of time specified in (b) of this subsection if he or she is convicted of or is found to have committed one of the following six offenses at a railroad-highway grade crossing while operating a commercial motor vehicle in violation of a federal, state, or local law or regulation:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement officer at the crossing;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(b) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than sixty days if the driver is convicted of or is found to have committed a first violation of a railroad-highway grade crossing violation;

(ii) Not less than one hundred twenty days if the driver is convicted of or is found to have committed a second railroad-highway grade crossing violation in separate incidents within a three-year period;

(iii) Not less than one year if the driver is convicted of or is found to have committed a third or subsequent railroad-

highway grade crossing violation in separate incidents within a three-year period.

(9) A person is disqualified from driving a commercial motor vehicle for not more than one year if a report has been received by the department from the federal motor carrier safety administration that the person's driving has been determined to constitute an imminent hazard as defined by 49 C.F.R. 383.5. A person who is simultaneously disqualified from driving a commercial motor vehicle under this subsection and under other provisions of this chapter, or under 49 C.F.R. 383.52, shall serve those disqualification periods concurrently.

(10) Within ten days after suspending, revoking, or canceling a commercial driver's license or disqualifying a driver from operating a commercial motor vehicle, the department shall update its records to reflect that action. [2006 c 327 § 4; 2005 c 325 § 5; 2004 c 187 § 7. Prior: 2002 c 272 § 3; 2002 c 193 § 1; 1996 c 30 § 3; 1989 c 178 § 11.]

Intent—2005 c 325: See note following RCW 46.25.010.

Effective date—2004 c 187 §§ 1, 5, 7, 8, and 10: See note following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.25.100 Restoration after disqualification. When a person has been disqualified from operating a commercial motor vehicle, the person is not entitled to have the commercial driver's license restored until after the expiration of the appropriate disqualification period required under RCW 46.25.090 or until the department has received a drug and alcohol assessment and evidence is presented of satisfactory participation in or completion of any required drug or alcohol treatment program for ending the disqualification under RCW 46.25.090(7). After expiration of the appropriate period and upon payment of a requalification fee of twenty dollars, or one hundred fifty dollars if the person has been disqualified under RCW 46.25.090(7), the person may apply for a new, duplicate, or renewal commercial driver's license as provided by law. If the person has been disqualified for a period of one year or more, the person shall demonstrate that he or she meets the commercial driver's license qualification standards specified in RCW 46.25.060. [2002 c 272 § 4; 1989 c 178 § 12.]

46.25.110 Driving with alcohol in system. (1) Notwithstanding any other provision of Title 46 RCW, a person may not drive, operate, or be in physical control of a commercial motor vehicle while having alcohol in his or her system.

(2) Law enforcement or appropriate officials shall issue an out-of-service order valid for twenty-four hours against a person who drives, operates, or is in physical control of a commercial motor vehicle while having alcohol in his or her system or who refuses to take a test to determine his or her alcohol content as provided by RCW 46.25.120. [1989 c 178 § 13.]

46.25.120 Test for alcohol or drugs—Disqualification for refusal of test or positive test—Procedures. (1) A person who drives a commercial motor vehicle within this state is deemed to have given consent, subject to RCW 46.61.506, to take a test or tests of that person's blood or breath for the

purpose of determining that person's alcohol concentration or the presence of other drugs.

(2) A test or tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol in his or her system or while under the influence of any drug.

(3) The law enforcement officer requesting the test under subsection (1) of this section shall warn the person requested to submit to the test that a refusal to submit will result in that person being disqualified from operating a commercial motor vehicle under RCW 46.25.090.

(4) If the person refuses testing, or submits to a test that discloses an alcohol concentration of 0.04 or more, the law enforcement officer shall submit a sworn report to the department certifying that the test was requested pursuant to subsection (1) of this section and that the person refused to submit to testing, or submitted to a test that disclosed an alcohol concentration of 0.04 or more.

(5) Upon receipt of the sworn report of a law enforcement officer under subsection (4) of this section, the department shall disqualify the driver from driving a commercial motor vehicle under RCW 46.25.090, subject to the hearing provisions of RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle within this state while having alcohol in the person's system or while under the influence of any drug, whether the person refused to submit to the test or tests upon request of the officer after having been informed that the refusal would result in the disqualification of the person from driving a commercial motor vehicle, and, if the test was administered, whether the results indicated an alcohol concentration of 0.04 percent or more. The department shall order that the disqualification of the person either be rescinded or sustained. Any decision by the department disqualifying a person from driving a commercial motor vehicle is stayed and does not take effect while a formal hearing is pending under this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation during the pendency of the hearing and appeal. If the disqualification of the person is sustained after the hearing, the person who is disqualified may file a petition in the superior court of the county of arrest to review the final order of disqualification by the department in the manner provided in RCW 46.20.334.

(6) If a motor carrier or employer who is required to have a testing program under 49 C.F.R. 382 knows that a commercial driver in his or her employ has refused to submit to testing under this section and has not been disqualified from driving a commercial motor vehicle, the employer may notify law enforcement or his or her medical review officer or breath alcohol technician that the driver has refused to submit to the required testing.

(7) The hearing provisions of this section do not apply to those persons disqualified from driving a commercial motor

vehicle under RCW 46.25.090(7). [2006 c 327 § 5; 2002 c 272 § 5; 1998 c 41 § 6; 1990 c 250 § 50; 1989 c 178 § 14.]

Intent—Construction—Effective date—1998 c 41: See notes following RCW 46.20.265.

Additional notes found at www.leg.wa.gov

46.25.123 Mandatory reporting of positive test. (1) All medical review officers or breath alcohol technicians hired by or under contract to a motor carrier or employer who employs drivers who operate commercial motor vehicles and who is required to have a testing program conducted under the procedures established by 49 C.F.R. 40 or to a consortium the carrier or employer belongs to, as defined in 49 C.F.R. 40.3, shall report the finding of a commercial motor vehicle driver's verified positive drug test or positive alcohol confirmation test to the department of licensing on a form provided by the department. If the employer is required to have a testing program under 49 C.F.R. 655, a report of a verified positive drug test or positive alcohol confirmation test must not be forwarded to the department under this subsection unless the test is a preemployment drug test conducted under 49 C.F.R. 655.41 or a preemployment alcohol test conducted under 49 C.F.R. 655.42.

(2)(a) A motor carrier or employer who employs drivers who operate commercial motor vehicles and who is required to have a testing program conducted under the procedures established by 49 C.F.R. 40, or the consortium the carrier or employer belongs to, must report a refusal by a commercial motor vehicle driver to take a drug or alcohol test, under circumstances that constitute the refusal of a test under 49 C.F.R. 40 and where such refusal has not been reported by a medical review officer or breath alcohol technician, to the department of licensing on a form provided by the department.

(b) An employer who is required to have a testing program under 49 C.F.R. 655 must report a commercial motor vehicle driver's verified positive drug test or a positive alcohol confirmation test when: (i) The driver's employment has been terminated or the driver has resigned; (ii) any grievance process, up to but not including arbitration, has been concluded; and (iii) at the time of termination or resignation the driver has not been cleared to return to safety-sensitive functions.

(3) Motor carriers, employers, or consortiums shall make it a written condition of their contract or agreement with a medical review officer or breath alcohol technician, regardless of the state where the medical review officer or breath alcohol technician is located, that the medical review officer or breath alcohol technician is required to report all Washington state licensed drivers who have a verified positive drug test or positive alcohol confirmation test to the department of licensing within three business days of the verification or confirmation. Failure to obtain this contractual condition or agreement with the medical review officer or breath alcohol technician by the motor carrier, employer, or consortium, or failure to report a refusal as required by subsection (2) of this section, will result in an administrative fine as provided in RCW 46.32.100 or 81.04.405.

(4) Substances obtained for testing may not be used for any purpose other than drug or alcohol testing under 49 C.F.R. 40. [2005 c 325 § 3; 2002 c 272 § 1.]

(2010 Ed.)

Intent—2005 c 325: See note following RCW 46.25.010.

46.25.125 Disqualification for positive test—Procedure. (1) When the department of licensing receives a report from a medical review officer, breath alcohol technician, employer, contractor, or consortium that a driver has a verified positive drug test or positive alcohol confirmation test, as part of the testing program conducted under 49 C.F.R. 40, the department shall disqualify the driver from driving a commercial motor vehicle under RCW 46.25.090(7) subject to a hearing as provided in this section. The department shall notify the person in writing of the disqualification by first-class mail. The notice must explain the procedure for the person to request a hearing.

(2) A person disqualified from driving a commercial motor vehicle for having a verified positive drug test or positive alcohol confirmation test may request a hearing to challenge the disqualification within twenty days from the date notice is given. If the request for a hearing is mailed, it must be postmarked within twenty days after the department has given notice of the disqualification.

(3) The hearing must be conducted in the county of the person's residence, except that the department may conduct all or part of the hearing by telephone or other electronic means.

(4) For the purposes of this section, or for the purpose of a hearing de novo in an appeal to superior court, the hearing must be limited to the following issues: (a) Whether the driver is the person who is the subject of the report; (b) whether the motor carrier, employer, or consortium has a program that is subject to the federal requirements under 49 C.F.R. 40; and (c) whether the medical review officer or breath alcohol technician making the report accurately followed the protocols established to verify or confirm the results, or if the driver refused a test, whether the circumstances constitute the refusal of a test under 49 C.F.R. 40. Evidence may be presented to demonstrate that the test results are a false positive. For the purpose of a hearing under this section, a copy of a positive test result with a declaration by the tester or medical review officer or breath alcohol technician stating the accuracy of the laboratory protocols followed to arrive at the test result is prima facie evidence:

(i) Of a verified positive drug test or positive alcohol confirmation test result;

(ii) That the motor carrier, employer, or consortium has a program that is subject to the federal requirements under 49 C.F.R. 40; and

(iii) That the medical review officer or breath alcohol technician making the report accurately followed the protocols for testing established to verify or confirm the results.

After the hearing, the department shall order the disqualification of the person either be rescinded or sustained.

(5) If the person does not request a hearing within the twenty-day time limit, or if the person fails to appear at a hearing, the person has waived the right to a hearing and the department shall sustain the disqualification.

(6) A decision by the department disqualifying a person from driving a commercial motor vehicle is stayed and does not take effect while a formal hearing is pending under this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving

violation or no finding that the person has committed a traffic infraction that is a moving violation and the department receives no further report of a verified positive drug test or positive alcohol confirmation test during the pendency of the hearing and appeal. If the disqualification is sustained after the hearing, the person who is disqualified may file a petition in the superior court of the county of his or her residence to review the final order of disqualification by the department in the manner provided in RCW 46.20.334.

(7) The department of licensing may adopt rules specifying further requirements for requesting and conducting a hearing under this section.

(8) The department of licensing is not civilly liable for damage resulting from disqualifying a driver based on a verified positive drug test or positive alcohol confirmation test result as required by this section or for damage resulting from release of this information that occurs in the normal course of business. [2005 c 325 § 4; 2002 c 272 § 2.]

Intent—2005 c 325: See note following RCW 46.25.010.

46.25.130 Report of violation, disqualification by nonresident. (1) Within ten days after receiving a report of the conviction of or finding that a traffic infraction has been committed by any nonresident holder of a commercial driver's license, or any nonresident operating a commercial motor vehicle, for any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, the department shall notify the driver licensing authority in the licensing state of the conviction.

(2)(a) No later than ten days after disqualifying any nonresident holder of a commercial driver's license from operating a commercial motor vehicle, or revoking, suspending, or canceling the nonresident driving privileges of the nonresident holder of a commercial driver's license for at least sixty days, the department must notify the state that issued the license of the disqualification, revocation, suspension, or cancellation.

(b) The notification must include both the disqualification and the violation that resulted in the disqualification, revocation, suspension, or cancellation. The notification and the information it provides must be recorded on the driver's record. [2004 c 187 § 8; 1989 c 178 § 15.]

Effective date—2004 c 187 §§ 1, 5, 7, 8, and 10: See note following RCW 46.20.308.

46.25.140 Rules. The department may adopt rules necessary to carry out this chapter. [1989 c 178 § 16.]

46.25.150 Agreements to carry out chapter. The department may enter into or make agreements, arrangements, or declarations to carry out this chapter. [1989 c 178 § 17.]

46.25.160 Licenses issued by other jurisdictions. Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle if the person has a commercial driver's license or commercial driver's instruction permit issued by any state or jurisdiction in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver's licenses or permits, if the person's license or

permit is not suspended, revoked, or canceled, and if the person is not disqualified from driving a commercial motor vehicle or is subject to an out-of-service order. [2004 c 187 § 9; 1989 c 178 § 18.]

46.25.170 Civil and criminal penalties. (1) A person subject to RCW 81.04.405 who is determined by the utilities and transportation commission, after notice, to have committed an act that is in violation of RCW 46.25.020, 46.25.030, 46.25.040, 46.25.050, or 46.25.110 is liable to Washington state for the civil penalties provided for in RCW 81.04.405.

(2) A person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provision of RCW 46.25.020, 46.25.030, 46.25.040, 46.25.050, or 46.25.110 is guilty of a gross misdemeanor. [1989 c 178 § 19.]

46.25.900 Severability—1989 c 178. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 c 178 § 30.]

46.25.901 Effective dates—1989 c 178. Sections 25, 26, 28, and 32 of this act shall take effect on April 1, 1992. The remainder of this act shall take effect on October 1, 1989. The director of licensing may immediately take such steps as are necessary to insure that all sections of this act are implemented on their respective effective dates. [1989 c 178 § 33.]

Chapter 46.29 RCW

FINANCIAL RESPONSIBILITY

Sections

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- 46.29.520 Bond as proof.
- 46.29.530 When bond constitutes a lien.
- 46.29.540 Action on bond.
- 46.29.550 Money or securities as proof.
- 46.29.560 Application of deposit.
- 46.29.570 Owner may give proof for others.
- 46.29.580 Substitution of proof.
- 46.29.590 Other proof required, when.
- 46.29.600 Duration of proof—When proof may be canceled or returned.

VIOLATIONS

- 46.29.605 Suspension of registration, notice—Surrender of license plates—Penalties.
- 46.29.610 Surrender of license—Penalty.
- 46.29.620 Forged proof—Penalty.

MISCELLANEOUS

- 46.29.630 Self-insurers.
- 46.29.640 Chapter not to prevent other process.
- 46.29.900 Construction—1963 c 169.
- 46.29.910 Severability—1963 c 169.
- 46.29.920 Repeals and saving.

Revoked license not to be renewed or restored until proof of financial responsibility given: RCW 46.20.311.

ADMINISTRATION

46.29.010 Purpose. It is the purpose of this chapter to adopt in substance the provisions of the uniform vehicle code relating to financial responsibility in order to achieve greater uniformity with the laws of other states and thereby reduce the conflicts in laws confronting motorists as they travel between states. [1963 c 169 § 1.]

46.29.020 Definitions. (1) The term "owner" as used in this chapter shall mean registered owner as defined in RCW 46.04.460.

(2) The term "registration" as used in this chapter shall mean the certificate of license registration issued under the laws of this state. [1963 c 169 § 2.]

46.29.030 Director to administer chapter. (1) The director shall administer and enforce the provisions of this

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chapter and may make rules and regulations necessary for its administration.

(2) The director shall prescribe and provide suitable forms requisite or deemed necessary for the purposes of this chapter. [1963 c 169 § 3.]

46.29.040 Court review. Any order of the director under the provisions of this chapter shall be subject to review, at the instance of any party in interest, by appeal to the superior court of Thurston county, or at his or her option to the superior court of the county of his or her residence. The scope of such review shall be limited to that prescribed by RCW 7.16.120 governing review by certiorari. Notice of appeal must be filed within thirty days after service of the notice of such order. The court shall determine whether the filing of the appeal shall operate as a stay of any such order of the director. Upon the filing the notice of appeal the court shall issue an order to the director to show cause why the order should not be reversed or modified. The order to show cause shall be returnable not less than ten nor more than thirty days after the date of service thereof upon the director. The court after hearing the matter may modify, affirm, or reverse the order of the director in whole or in part. [2010 c 8 § 9027; 1998 c 41 § 7; 1963 c 169 § 4.]

Intent—Construction—Effective date—1998 c 41: See notes following RCW 46.20.265.

46.29.050 Furnishing driving record and evidence of ability to respond in damages—Fees. (1) The department shall upon request furnish any person or his or her attorney a certified abstract of his or her driving record, which abstract shall include enumeration of any motor vehicle accidents in which such person has been involved. Such abstract shall (a) indicate the total number of vehicles involved, whether the vehicles were legally parked or moving, and whether the vehicles were occupied at the time of the accident; and (b) contain reference to any convictions of the person for violation of the motor vehicle laws as reported to the department, reference to any findings that the person has committed a traffic infraction which have been reported to the department, and a record of any vehicles registered in the name of the person. The department shall collect for each abstract the sum of ten dollars, fifty percent of which shall be deposited in the highway safety fund and fifty percent of which must be deposited according to RCW 46.68.038.

(2) The department shall upon request furnish any person who may have been injured in person or property by any motor vehicle, with an abstract of all information of record in the department pertaining to the evidence of the ability of any driver or owner of any motor vehicle to respond in damages. The department shall collect for each abstract the sum of ten dollars, fifty percent of which shall be deposited in the highway safety fund and fifty percent of which must be deposited according to RCW 46.68.038. [2010 c 8 § 9028; 2007 c 424 § 2; 2002 c 352 § 19; 1987 1st ex.s. c 9 § 1; 1985 ex.s. c 1 § 10; 1979 ex.s. c 136 § 63; 1969 ex.s. c 40 § 1; 1967 c 174 § 1; 1963 c 169 § 5.]

Effective date—2007 c 424: See note following RCW 46.20.293.

Effective dates—2002 c 352: See note following RCW 46.09.410.

Abstract of driving record furnished to insurance company: RCW 46.52.130.

Additional notes found at www.leg.wa.gov

SECURITY FOLLOWING ACCIDENT

46.29.060 Application of sections requiring deposit of security and suspensions for failure to deposit security.

The provisions of this chapter, requiring deposit of security and suspensions for failure to deposit security, subject to certain exemptions, shall apply to the driver and owner of any vehicle of a type subject to registration under the motor vehicle laws of this state which is in any manner involved in an accident within this state, which accident has resulted in bodily injury or death of any person or damage to the property of any one person to an apparent extent equal to or greater than the minimum amount established by rule adopted by the director. The director shall adopt rules establishing the property damage threshold at which the provisions of this chapter apply with respect to the deposit of security and suspensions for failure to deposit security. Beginning October 1, 1987, the property damage threshold shall be five hundred dollars. The thresholds shall be revised when necessary, but not more frequently than every two years. The revisions shall only be for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the time period since the last revision and by the threshold established by the chief of the Washington state patrol for the filing of accident reports as provided in RCW 46.52.030. [1987 c 463 § 1; 1977 ex.s. c 369 § 1; 1971 ex.s. c 22 § 2; 1963 c 169 § 6.]

46.29.070 Department to determine amount of security required—Notices. (1) The department, not less than twenty days after receipt of a report of an accident as described in the preceding section, shall determine the amount of security which shall be sufficient in its judgment to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against each driver or owner. Such determination shall not be made with respect to drivers or owners who are exempt under succeeding sections of this chapter from the requirements as to security and suspension.

(2) The department shall determine the amount of security deposit required of any person upon the basis of the reports or other information submitted. In the event a person involved in an accident as described in this chapter fails to make a report or submit information indicating the extent of his or her injuries or the damage to his or her property within one hundred eighty days after the accident and the department does not have sufficient information on which to base an evaluation of such injuries or damage, then the department after reasonable notice to such person, if it is possible to give such notice, otherwise without such notice, shall not require any deposit of security for the benefit or protection of such person.

(3) The department after receipt of report of any accident referred to herein and upon determining the amount of security to be required of any person involved in such accident or to be required of the owner of any vehicle involved in such accident shall give written notice to every such person of the amount of security required to be deposited by him or her and

that an order of suspension will be made as hereinafter provided not less than twenty days and not more than sixty days after the sending of such notice unless within said time security be deposited as required by said notice. [2010 c 8 § 9029; 1981 c 309 § 1; 1979 c 78 § 1; 1963 c 169 § 7.]

Proof of financial security for the future required in addition to security after accident: RCW 46.29.420.

46.29.080 Exceptions as to requirement of security.

The requirements as to security and suspension in this chapter shall not apply:

(1) To the driver or owner if the owner had in effect at the time of the accident an automobile liability policy or bond with respect to the vehicle involved in the accident, except that a driver shall not be exempt under this subsection if at the time of the accident the vehicle was being operated without the owner's permission, express or implied;

(2) To the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident an automobile liability policy or bond with respect to his or her driving of vehicles not owned by him or her;

(3) To the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident an automobile liability policy or bond as to which there is a bona fide dispute concerning coverage of such driver as evidenced by the pendency of litigation seeking a declaration of said driver's coverage under such policy or bond;

(4) To the driver, whether or not the owner, if there is a bona fide claim on the part of the driver that there was in effect at the time of the accident, an automobile liability policy or bond insuring or covering such driver;

(5) To any person qualifying as a self-insurer under RCW 46.29.630 or to any person operating a vehicle for such self-insurer;

(6) To the driver or the owner of a vehicle involved in an accident wherein no injury or damage was caused to the person or property of anyone other than such driver or owner;

(7) To the driver or owner of a vehicle which at the time of the accident was parked, unless such vehicle was parked at a place where parking was at the time of the accident prohibited under any applicable law or ordinance;

(8) To the owner of a vehicle if at the time of the accident the vehicle was being operated without his or her permission, express or implied, or was parked by a person who had been operating such vehicle without such permission, except if the vehicle was operated by his or her minor child or spouse;

(9) To the owner of a vehicle involved in an accident if at the time of the accident such vehicle was owned by or leased to the United States, this state or any political subdivision of this state or a municipality thereof, or to the driver of such vehicle if operating such vehicle with permission; or

(10) To the driver or the owner of a vehicle in the event at the time of the accident the vehicle was being operated by or under the direction of a police officer who, in the performance of his or her duties, shall have assumed custody of such vehicle. [2010 c 8 § 9030; 1965 c 124 § 1; 1963 c 169 § 8.]

46.29.090 Requirements as to policy or bond. (1) No policy or bond is effective under RCW 46.29.080 unless issued by an insurance company or surety company author-

rized to do business in this state, except as provided in subsection (2) of this section, nor unless such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and if the accident has resulted in injury to, or destruction of, property to a limit of not less than ten thousand dollars because of injury to or destruction of property of others in any one accident.

(2) No policy or bond is effective under RCW 46.29.080 with respect to any vehicle which was not registered in this state or was a vehicle which was registered elsewhere than in this state at the effective date of the policy or bond or the most recent renewal thereof, unless the insurance company or surety company issuing such policy or bond is authorized to do business in this state, or if said company is not authorized to do business in this state, unless it executes a power of attorney authorizing the director of licensing to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident.

(3) The department may rely upon the accuracy of the information in a required report of an accident as to the existence of insurance or a bond unless and until the department has reason to believe that the information is erroneous. [1980 c 117 § 3; 1979 c 158 § 155; 1967 ex.s. c 3 § 1; 1963 c 169 § 9.]

Additional notes found at www.leg.wa.gov

46.29.100 Form and amount of security. (1) The security required under this chapter shall be in such form and in such amount as the department may require, but in no case in excess of the limits specified in RCW 46.29.090 in reference to the acceptable limits of a policy or bond.

(2) Every depositor of security shall designate in writing every person in whose name such deposit is made and may at any time change such designation, but any single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident. [1963 c 169 § 10.]

46.29.110 Failure to deposit security—Suspensions. If a person required to deposit security under this chapter fails to deposit such security within sixty days after the department has sent the notice as hereinbefore provided, the department shall thereupon suspend:

(1) The driver's license of each driver in any manner involved in the accident;

(2) The driver's license of the owner of each vehicle of a type subject to registration under the laws of this state involved in the accident;

(3) If the driver or owner is a nonresident, the privilege of operating within this state a vehicle of a type subject to registration under the laws of this state.

Such suspensions shall be made in respect to persons required by the department to deposit security who fail to deposit such security except as otherwise provided under suc-

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ceeding sections of this chapter. [1990 c 250 § 51; 1987 c 378 § 1; 1967 c 32 § 37; 1963 c 169 § 11.]

Additional notes found at www.leg.wa.gov

46.29.120 Release from liability. (1) A person shall be relieved from the requirement for deposit of security for the benefit or protection of another person injured or damaged in the accident in the event he or she is released from liability by such other person.

(2) In the event the department has evaluated the injuries or damage to any minor the department may accept, for the purposes of this chapter only, evidence of a release from liability executed by a natural guardian or a legal guardian on behalf of such minor without the approval of any court or judge. [2010 c 8 § 9031; 1965 c 124 § 2; 1963 c 169 § 12.]

46.29.130 Adjudication of nonliability. A person shall be relieved from the requirement for deposit of security in respect to a claim for injury or damage arising out of the accident in the event such person has been finally adjudicated not to be liable in respect to such claim. [1963 c 169 § 13.]

46.29.140 Agreements for payment of damages. (1) Any two or more of the persons involved in or affected by an accident as described in RCW 46.29.060 may at any time enter into a written agreement for the payment of an agreed amount with respect to all claims of any of such persons because of bodily injury to or death or property damage arising from such accident, which agreement may provide for payment in installments, and may file a signed copy thereof with the department.

(2) The department, to the extent provided by any such written agreement filed with it, shall not require the deposit of security and shall terminate any prior order of suspension, or, if security has previously been deposited, the department shall immediately return such security to the depositor or his or her personal representative.

(3) In the event of a default in any payment under such agreement and upon notice of such default the department shall take action suspending the license of such person in default as would be appropriate in the event of failure of such person to deposit security when required under this chapter.

(4) Such suspension shall remain in effect and such license shall not be restored unless and until:

(a) Security is deposited as required under this chapter in such amount as the department may then determine,

(b) When, following any such default and suspension, the person in default has paid the balance of the agreed amount,

(c) When, following any such default and suspension, the person in default has resumed installment payments under an agreement acceptable to the creditor, or

(d) Three years have elapsed following the accident and evidence satisfactory to the department has been filed with it that during such period no action at law upon such agreement has been instituted and is pending. [2010 c 8 § 9032; 1981 c 309 § 2; 1963 c 169 § 14.]

46.29.150 Payment upon judgment. The payment of a judgment arising out of an accident or the payment upon such

judgment of an amount equal to the maximum amount which could be required for deposit under this chapter shall, for the purposes of this chapter, release the judgment debtor from the liability evidenced by such judgment. [1963 c 169 § 15.]

46.29.160 Termination of security requirement. The department, if satisfied as to the existence of any fact which under RCW 46.29.120, 46.29.130, 46.29.140 or 46.29.150 would entitle a person to be relieved from the security requirements of this chapter, shall not require the deposit of security by the person so relieved from such requirement, or if security has previously been deposited by such person, the department shall immediately return such deposit to such person or to his or her personal representative. [2010 c 8 § 9033; 1963 c 169 § 16.]

46.29.170 Duration of suspension. Unless a suspension is terminated under other provisions of this chapter, any order of suspension by the department under this chapter shall remain in effect and no license shall be renewed for or issued to any person whose license is so suspended until:

(1) Such person shall deposit or there shall be deposited on his or her behalf the security required under this chapter, or

(2) Three years have elapsed following the date of the accident resulting in such suspension and evidence satisfactory to the department has been filed with it that during such period no action for damages arising out of the accident resulting in such suspension has been instituted.

An affidavit of the applicant that no action at law for damages arising out of the accident has been filed against him or her or, if filed, that it is not still pending shall be prima facie evidence of that fact. The department may take whatever steps are necessary to verify the statement set forth in any said affidavit. [2010 c 8 § 9034; 1981 c 309 § 3; 1963 c 169 § 17.]

46.29.180 Application to nonresidents, unlicensed drivers, unregistered vehicles, and accidents in other states. (1) In case the driver or the owner of a vehicle of a type subject to registration under the laws of this state involved in an accident within this state has no driver's license in this state, then such driver shall not be allowed a driver's license until he or she has complied with the requirements of this chapter to the same extent that would be necessary if, at the time of the accident, he or she had held a license or been the owner of a vehicle registered in this state.

(2) When a nonresident's driving privilege is suspended pursuant to RCW 46.29.110, the department shall transmit a certified copy of the record or abstract of such action to the official in charge of the issuance of licenses and registration certificates in the state in which such nonresident resides, if the law of such other state provided for action in relation thereto similar to that provided for in subsection (3) of this section.

(3) Upon receipt of such certification that the driving privilege of a resident of this state has been suspended or revoked in any such other state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle

accident, under circumstances which would require the department to suspend a nonresident's driving privilege had the accident occurred in this state, the department shall suspend the license of such resident. Such suspension shall continue until such resident furnishes evidence of his or her compliance with the law of such other state relating to the deposit of such security. [2010 c 8 § 9035; 1967 c 32 § 38; 1963 c 169 § 18.]

46.29.190 Authority of department to decrease amount of security. The department may reduce the amount of security ordered in any case if in its judgment the amount ordered is excessive. In case the security originally ordered has been deposited, the excess deposit over the reduced amount ordered shall be returned to the depositor or his or her personal representative forthwith. [2010 c 8 § 9036; 1965 c 124 § 3; 1963 c 169 § 19.]

46.29.200 Correction of action by department. Whenever the department has taken any action or has failed to take any action under this chapter by reason of having received erroneous information, then upon receiving correct information within three years after the date of an accident the department shall take appropriate action to carry out the purposes and effect of this chapter. The foregoing, however, shall not be deemed to require the department to reevaluate the amount of any deposit required under this chapter. [1967 c 61 § 1; 1965 c 124 § 4; 1963 c 169 § 20.]

46.29.210 Custody of security. The department shall place any security deposited with it under this chapter in the custody of the state treasurer. [1963 c 169 § 21.]

46.29.220 Disposition of security. (1) Such security shall be applicable and available only:

(a) For the payment of any settlement agreement covering any claim arising out of the accident upon instruction of the person who made the deposit, or

(b) For the payment of a judgment or judgments, rendered against the person required to make the deposit, for damages arising out of the accident in an action at law begun not later than three years after the date of the accident.

(2) Every distribution of funds from the security deposits shall be subject to the limits of the department's evaluation on behalf of a claimant. [1981 c 309 § 4; 1963 c 169 § 22.]

46.29.230 Return of deposit. Upon the expiration of three years from the date of the accident resulting in the security requirement, any security remaining on deposit shall be returned to the person who made such deposit or to his or her personal representative if an affidavit or other evidence satisfactory to the department has been filed with it:

(1) That no action for damages arising out of the accident for which deposit was made is pending against any person on whose behalf the deposit was made, and

(2) That there does not exist any unpaid judgment rendered against any such person in such an action.

The foregoing provisions of this section shall not be construed to limit the return of any deposit of security under any

other provision of this chapter authorizing such return. [2010 c 8 § 9037; 1981 c 309 § 5; 1963 c 169 § 23.]

46.29.240 Certain matters not evidence in civil suits.

The report required following an accident, the action taken by the department pursuant to this chapter, the findings, if any, of the department upon which such action is based, and the security filed as provided in this chapter, shall not be referred to in any way, and shall not be any evidence of the negligence or due care of either party, at the trial of any action at law to recover damages. [1963 c 169 § 24.]

PROOF OF FINANCIAL RESPONSIBILITY
FOR THE FUTURE

46.29.250 Application of sections requiring deposit of proof of financial responsibility for the future. The provisions of this chapter requiring the deposit of proof of financial responsibility for the future, subject to certain exemptions, shall apply with respect to persons who have been convicted of or forfeited bail for certain offenses under motor vehicle laws, or who have failed to pay judgments upon causes of action arising out of ownership, maintenance or use of vehicles of a type subject to registration under the laws of this state, or who having driven or owned a vehicle involved in an accident are required to deposit security under the provisions of RCW 46.29.070. [1963 c 169 § 25.]

46.29.260 "Proof of financial responsibility for the future" defined. The term "proof of financial responsibility for the future" as used in this chapter means: Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance, or use of a vehicle of a type subject to registration under the laws of this state, in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of ten thousand dollars because of injury to or destruction of property of others in any one accident. Wherever used in this chapter the terms "proof of financial responsibility" or "proof" shall be synonymous with the term "proof of financial responsibility for the future." [1980 c 117 § 4; 1967 ex.s. c 3 § 2; 1963 c 169 § 26.]

Additional notes found at www.leg.wa.gov

46.29.270 "Judgment," "state" defined. The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section.

(1) The term "judgment" shall mean: Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any vehicle of a type subject to registration under the laws of this state, for damages, including damages

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for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages. The first page of a judgment must include a judgment summary that states damages are awarded under this section and the clerk of the court must give notice as outlined in RCW 46.29.310.

(2) The term "state" shall mean: Any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada. [1999 c 296 § 2; 1963 c 169 § 27.]

46.29.280 Suspension continues until proof furnished. Whenever, under any law of this state, the license of any person is suspended or revoked by reason of a conviction, forfeiture of bail, or finding that a traffic infraction has been committed, the suspension or revocation hereinbefore required shall remain in effect and the department shall not issue to such person any new or renewal of license until permitted under the motor vehicle laws of this state, and not then unless and until such person shall give and thereafter maintain proof of financial responsibility for the future. Upon receiving notice of the termination or cancellation of proof of financial responsibility for the future, the department shall resuspend or rerevoke the person's driving privilege until the person again gives and thereafter maintains proof of financial responsibility for the future. [1985 c 157 § 1; 1979 ex.s. c 136 § 64; 1963 c 169 § 28.]

Additional notes found at www.leg.wa.gov

46.29.290 Action in respect to unlicensed person. If a person has no license, but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the suspension or revocation of license, no license shall be thereafter issued to such person unless he or she shall give and thereafter maintain proof of financial responsibility for the future. [2010 c 8 § 9038; 1965 c 124 § 5; 1963 c 169 § 29.]

46.29.300 Action in respect to nonresidents. Whenever the department suspends or revokes a nonresident's driving privilege by reason of a conviction, forfeiture of bail, or finding that a traffic infraction has been committed such privilege shall remain so suspended or revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility for the future. [1979 ex.s. c 136 § 65; 1967 c 32 § 39; 1963 c 169 § 30.]

Additional notes found at www.leg.wa.gov

46.29.310 When courts to report nonpayment of judgments. Whenever any person fails within thirty days to satisfy any judgment, then it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state to forward immediately to the department the following:

- (1) A certified copy or abstract of such judgment;
- (2) A certificate of facts relative to such judgment;

(3) Where the judgment is by default, a certified copy or abstract of that portion of the record which indicates the manner in which service of summons was effectuated and all the measures taken to provide the defendant with timely and actual notice of the suit against him or her. [2010 c 8 § 9039; 1969 ex.s. c 44 § 1; 1963 c 169 § 31.]

46.29.320 Further action with respect to nonresidents. If the defendant named in any certified copy or abstract of a judgment reported to the department is a nonresident, the department shall transmit those certificates furnished to it under RCW 46.29.310 to the official in charge of the issuance of licenses and registrations of the state of which the defendant is a resident. [1969 ex.s. c 44 § 2; 1963 c 169 § 32.]

46.29.330 Suspension for nonpayment of judgments. The department upon receipt of the certificates provided for by RCW 46.29.310, on a form provided by the department, shall forthwith suspend the license and any nonresident's driving privilege of any person against whom such judgment was rendered, except as otherwise provided in this chapter. [1990 c 250 § 52; 1969 ex.s. c 44 § 3; 1967 c 32 § 40; 1963 c 169 § 33.]

Additional notes found at www.leg.wa.gov

46.29.340 Exception in relation to government vehicles. The provisions of RCW 46.29.330 shall not apply with respect to any such judgment arising out of an accident caused by the ownership or operation, with permission, of a vehicle owned or leased to the United States, this state or any political subdivision of this state or a municipality thereof. [1963 c 169 § 34.]

46.29.350 Exception when consent granted by judgment creditor. If the judgment creditor consents in writing, in such form as the department may prescribe, that the judgment debtor be allowed a license or nonresident's driving privilege, the same may be allowed by the department, in its discretion, for six months from the date of such consent and thereafter until such consent is revoked in writing, notwithstanding default in the payment of such judgment, or of any installments thereof prescribed in RCW 46.29.400, provided the judgment debtor furnishes proof of financial responsibility. [1967 c 32 § 41; 1963 c 169 § 35.]

46.29.360 Exception when insurer liable. No license or nonresident's driving privilege of any person shall be suspended under the provisions of this chapter if the department shall find that an insurer was obligated to pay the judgment upon which suspension is based, at least to the extent and for the amounts required in this chapter, but has not paid such judgment for any reason. A finding by the department that an insurer is obligated to pay a judgment shall not be binding upon such insurer and shall have no legal effect whatever except for the purpose of administering this section. If the department finds that no insurer is obligated to pay such a judgment, the judgment debtor may file with the department a written notice of his or her intention to contest such finding by an action in the superior court. In such a case the license

or the nonresident's driving privilege of such judgment debtor shall not be suspended by the department under the provisions of this chapter for thirty days from the receipt of such notice nor during the pendency of any judicial proceedings brought in good faith to determine the liability of an insurer so long as the proceedings are being diligently prosecuted to final judgment by such judgment debtor. Whenever in any judicial proceedings it shall be determined by any final judgment, decree, or order that an insurer is not obligated to pay any such judgment, the department, notwithstanding any contrary finding theretofore made by it, shall forthwith suspend the license and any nonresident's driving privilege of any person against whom such judgment was rendered, as provided in RCW 46.29.330. [2010 c 8 § 9040; 1967 c 32 § 42; 1963 c 169 § 36.]

46.29.370 Suspension continues until judgments paid and proof given. Such license and nonresident's driving privilege shall remain so suspended and shall not be renewed, nor shall any such license be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied in full or to the extent hereinafter provided and until the said person gives proof of financial responsibility subject to the exemptions stated in RCW 46.29.350, 46.29.360 and 46.29.400. [1967 c 32 § 43; 1963 c 169 § 37.]

46.29.390 Payments sufficient to satisfy requirements. (1) Judgments herein referred to are, for the purpose of this chapter only, deemed satisfied:

(a) When twenty-five thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; or

(b) When, subject to such limit of twenty-five thousand dollars because of bodily injury to or death of one person, the sum of fifty thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

(c) When ten thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.

(2) Payments made in settlements of any claims because of bodily injury, death, or property damage arising from such accident shall be credited in reduction of the amounts provided for in this section. [1980 c 117 § 5; 1979 c 61 § 14; 1967 ex.s. c 3 § 3; 1963 c 169 § 39.]

Additional notes found at www.leg.wa.gov

46.29.400 Installment payment of judgments—Default. (1) A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.

(2) The department shall not suspend a license or nonresident's driving privilege, and shall restore any license or nonresident's driving privilege suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtain such an order permitting the payment of such judgment in installments, and while the payment of any said installments is not in default. [1967 c 32 § 44; 1963 c 169 § 40.]

46.29.410 Action if breach of agreement. In the event the judgment debtor fails to pay any installment as specified by such order, then upon notice of such default, the department shall forthwith suspend the license or nonresident's driving privilege of the judgment debtor until such judgment is satisfied, as provided in this chapter. [1967 c 32 § 45; 1963 c 169 § 41.]

46.29.420 Proof required in addition to deposit of security after accident. Any person required to deposit security under RCW 46.29.070, for the benefit or protection of another person injured or damaged in an accident, shall in addition be required to give proof of financial responsibility for the future. The department shall give written notice of such additional requirement to every such person at the time and in the manner provided in RCW 46.29.070 for giving notice of the requirement for security. [1963 c 169 § 42.]

46.29.430 Additional proof required—Suspension or revocation for failure to give proof. If a person required to give proof of financial responsibility under RCW 46.29.420 fails to give such proof within sixty days after the department has sent notice as hereinbefore provided, the department shall suspend, or continue in effect any existing suspension or revocation of, the license or any nonresident's driving privilege of the person. [1990 c 250 § 53; 1987 c 371 § 1; 1967 c 32 § 46; 1963 c 169 § 43.]

Additional notes found at www.leg.wa.gov

46.29.440 Additional proof required—Suspension to continue until proof given and maintained. Such license or nonresident's driving privilege shall remain so suspended and shall not be renewed, nor shall any such license be thereafter issued in the name of such person, including any such person not previously licensed, unless and until such person shall give and thereafter maintain proof of financial responsibility for the future. The furnishing of such proof shall permit such person to operate only a motor vehicle covered by such proof. The department shall endorse appropriate restrictions on the license held by such person or may issue a new license containing such restrictions. [1967 c 32 § 47; 1965 c 124 § 6; 1963 c 169 § 44.]

46.29.450 Alternate methods of giving proof. Proof of financial responsibility when required under this chapter, with respect to such a vehicle or with respect to a person who is not the owner of such a vehicle, may be given by filing:

(1) A certificate of insurance as provided in RCW 46.29.460 or 46.29.470;

(2) A bond as provided in RCW 46.29.520;

(3) A certificate of deposit of money or securities as provided in RCW 46.29.550; or

(4) A certificate of self-insurance, as provided in RCW 46.29.630, supplemented by an agreement by the self-insurer that, with respect to accidents occurring while the certificate is in force, he or she will pay the same amounts that an insurer would have been obliged to pay under an owner's motor vehicle liability policy if it had issued such a policy to said self-insurer. [2010 c 8 § 9041; 1963 c 169 § 45.]

46.29.460 Certificate of insurance as proof. Proof of financial responsibility for the future may be furnished by filing with the department the written certificate of any insurance carrier duly authorized to do business in this state certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle. [1963 c 169 § 46.]

46.29.470 Certificate furnished by nonresident as proof. A nonresident may give proof of financial responsibility by filing with the department a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the vehicle, or vehicles, owned by such nonresident is registered, or in the state in which such nonresident resides, if he or she does not own a vehicle, provided such certificate otherwise conforms with the provisions of this chapter, and the department shall accept the same upon condition that said insurance carrier complies with the following provisions with respect to the policies so certified:

(1) Said insurance carrier shall execute a power of attorney authorizing the director to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state;

(2) Said insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of this state relating to the terms of motor vehicle liability policies issued therein. [2010 c 8 § 9042; 1963 c 169 § 47.]

46.29.480 Default by nonresident insurer. If any insurance carrier not authorized to transact business in this state, which has qualified to furnish proof of financial responsibility, defaults in any said undertakings or agreements, the department shall not thereafter accept as proof any certificate of said carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues. [1963 c 169 § 48.]

46.29.490 "Motor vehicle liability policy" defined. (1) Certification. A "motor vehicle liability policy" as said term is used in this chapter means an "owner's policy" or an "operator's policy" of liability insurance, certified as provided in RCW 46.29.460 or 46.29.470 as proof of financial responsibility for the future, and issued, except as otherwise provided in RCW 46.29.470, by an insurance carrier duly

authorized to transact business in this state, to or for the benefit of the person named in the policy as insured.

(2) Owner's policy. Such owner's policy of liability insurance:

(a) Shall designate by explicit description or by appropriate reference all vehicles with respect to which coverage is to be granted by the policy; and

(b) Shall insure the person named therein and any other person, as insured, using any such vehicle or vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of such vehicle or vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such vehicle as follows: Twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and ten thousand dollars because of injury to or destruction of property of others in any one accident.

(3) Operator's policy. Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him or her by law for damages arising out of the use by him or her of any motor vehicle not owned by him or her, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(4) Required statements in policies. Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided under the policy in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

(5) Policy need not insure workers' compensation, etc. Such motor vehicle liability policy need not insure any liability under any workers' compensation law nor any liability on account of bodily injury or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance, or repair of any such vehicle nor any liability for damage to property owned by, rented to, in charge of, or transported by the insured.

(6) Provisions incorporated in policy. Every motor vehicle liability policy is subject to the following provisions which need not be contained therein:

(a) The liability of the insurance carrier with respect to the insurance required by this chapter becomes absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his or her behalf and no violation of said policy defeats or voids said policy.

(b) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the

right or duty of the insurance carrier to make payment on account of such injury or damage.

(c) The insurance carrier may settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof is deductible from the limits of liability specified in subsection (2)(b) of this section.

(d) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this chapter constitutes the entire contract between the parties.

(7) Excess or additional coverage. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and such excess or additional coverage is not subject to the provisions of this chapter. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" applies only to that part of the coverage which is required by this section.

(8) Reimbursement provision permitted. Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

(9) Proration of insurance permitted. Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(10) Multiple policies. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carrier which policies together meet such requirements.

(11) Binders. Any binder issued pending the issuance of a motor vehicle liability policy is deemed to fulfill the requirements for such a policy. [2010 c 8 § 9043; 1980 c 117 § 6; 1967 ex.s. c 3 § 4; 1963 c 169 § 49.]

Additional notes found at www.leg.wa.gov

46.29.500 Notice of cancellation or termination of certified policy. When an insurance carrier has certified a motor vehicle liability policy under RCW 46.29.460 or 46.29.470 the insurance so certified shall not be canceled or terminated until at least ten days after a notice of cancellation or termination of the insurance so certified shall be filed in the department, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any vehicle designated in both certificates. [1963 c 169 § 50.]

46.29.510 Chapter not to affect other policies. (1) This chapter shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this state, and such policies, if they contain an agreement or are endorsed to conform with the requirements of this chapter, may be certified as proof of financial responsibility under this chapter.

(2) This chapter shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on his or her behalf of vehi-

cles not owned by the insured. [2010 c 8 § 9044; 1963 c 169 § 51.]

46.29.520 Bond as proof. Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within this state, or a bond with at least two individual sureties each owning real estate within this state, and together having equities equal in value to at least twice the amount of the bond, which real estate shall be scheduled in the bond approved by a judge of the superior court, which said bond shall be conditioned for payment of the amounts specified in RCW 46.29.260. Such bond shall be filed with the department and shall not be cancellable except after ten days written notice to the department. [1963 c 169 § 52.]

46.29.530 When bond constitutes a lien. Before a bond with individual sureties is accepted by the department it shall be recorded as other instruments affecting real property in the county or counties wherein any real estate scheduled in such bond is located. Such bond shall constitute a lien from the date of such recording in favor of the state upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed such bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damage because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a vehicle of a type subject to registration under the laws of this state after such bond was filed. [1963 c 169 § 53.]

46.29.540 Action on bond. If a judgment, rendered against the principal on any bond described in RCW 46.29.520, shall not be satisfied within thirty days after it has become final, the judgment creditor may, for his or her own use and benefit and at his or her sole expense, bring an action or actions in the name of the state against the company or persons executing such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond. Such an action to foreclose a lien shall be prosecuted in the same manner as an action to foreclose a mortgage on real estate. [2010 c 8 § 9045; 1963 c 169 § 54.]

46.29.550 Money or securities as proof. Proof of financial responsibility may be evidenced by the certificate of the state treasurer that the person named therein has deposited with him or her sixty thousand dollars in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of sixty thousand dollars. The state treasurer shall not accept any such deposit and issue a certificate therefor and the department shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides. [2010 c 8 § 9046; 1980 c 117 § 7; 1967 ex.s. c 3 § 5; 1963 c 169 § 55.]

Additional notes found at www.leg.wa.gov

(2010 Ed.)

46.29.560 Application of deposit. Such deposit shall be held by the state treasurer to satisfy, in accordance with the provisions of this chapter, any execution on a judgment issued against such person making the deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a vehicle of a type subject to registration under the laws of this state after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid. Any interest or other income accruing to such money or securities, so deposited, shall be paid by the state treasurer to the depositor, or his or her order, as received. [2010 c 8 § 9047; 1963 c 169 § 56.]

46.29.570 Owner may give proof for others. The owner of a motor vehicle may give proof of financial responsibility on behalf of his or her employee or a member of his or her immediate family or household in lieu of the furnishing of proof by any said person. The furnishing of such proof shall permit such person to operate only a motor vehicle covered by such proof. The department shall endorse appropriate restrictions on the license held by such person, or may issue a new license containing such restrictions. [2010 c 8 § 9048; 1963 c 169 § 57.]

46.29.580 Substitution of proof. The department shall consent to the cancellation of any bond or certificate of insurance or the department shall direct and the state treasurer shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter. [1963 c 169 § 58.]

46.29.590 Other proof required, when. Whenever any proof of financial responsibility filed under the provisions of this chapter no longer fulfills the purposes for which required, the department shall, for the purpose of this chapter, require other proof as required by this chapter and shall suspend the license and registration pending the filing of such other proof. [1963 c 169 § 59.]

46.29.600 Duration of proof—When proof may be canceled or returned. (1) The department shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the department shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the department shall waive the requirement of filing proof, in any of the following events:

(a) At any time after three years from the date such proof was required when, during the three-year period preceding the request, the department has not received record of a conviction, forfeiture of bail, or finding that a traffic infraction has been committed which would require or permit the sus-

pension or revocation of the license of the person by or for whom such proof was furnished; or

(b) In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or

(c) In the event the person who has given proof surrenders his or her license to the department.

(2) Provided, however, that the department shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has within one year immediately preceding such request been involved as a driver or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he or she has been released from all of his or her liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

(3) Whenever any person whose proof has been canceled or returned under subsection (1)(c) of this section applies for a license within a period of three years from the date proof was originally required, any such application shall be refused unless the applicant shall reestablish such proof for the remainder of such three-year period. [2010 c 8 § 9049; 1979 ex.s. c 136 § 66; 1963 c 169 § 60.]

Additional notes found at www.leg.wa.gov

VIOLATIONS

46.29.605 Suspension of registration, notice—Surrender of license plates—Penalties. (Effective until July 1, 2011.) (1) Whenever the involvement in a motor vehicle accident in this state results in the driving privilege of a person being suspended for failure to pay a judgment or deposit security, the department shall suspend the Washington registration of the motor vehicle if the person driving at the time of the accident was also the registered owner of the motor vehicle.

(2) A notice of suspension shall be mailed by first-class mail to the owner's last known address of record in the department and shall be effective notwithstanding the owner's failure to receive the notice.

(3) Upon suspension of the registration of a motor vehicle, the registered owner shall surrender all vehicle license plates registered to the vehicle. The department shall destroy the license plates and, upon reinstatement of the registration, shall issue new vehicle license plates as provided in RCW 46.16.270.

(4) Failure to surrender license plates under subsection (3) of this section is a misdemeanor punishable by imprisonment for not less than one day nor more than five days and by a fine of not less than fifty dollars nor more than two hundred fifty dollars.

(5) No vehicle license plates or certificate of ownership or registration for a motor vehicle may be issued and no vehicle license may be renewed during the time the registration of the motor vehicle is suspended.

(6) Any person who operates a vehicle in this state while the registration of the vehicle is suspended is guilty of a gross misdemeanor and upon conviction thereof shall be imprisoned for not less than two days nor more than five days and fined not less than one hundred dollars nor more than five hundred dollars. [1981 c 309 § 6.]

46.29.605 Suspension of registration, notice—Surrender of license plates—Penalties. (Effective July 1, 2011.) (1) Whenever the involvement in a motor vehicle accident in this state results in the driving privilege of a person being suspended for failure to pay a judgment or deposit security, the department shall suspend the Washington registration of the motor vehicle if the person driving at the time of the accident was also the registered owner of the motor vehicle.

(2) A notice of suspension shall be mailed by first-class mail to the owner's last known address of record in the department and shall be effective notwithstanding the owner's failure to receive the notice.

(3) Upon suspension of the registration of a motor vehicle, the registered owner shall surrender all vehicle license plates registered to the vehicle. The department shall destroy the license plates and, upon reinstatement of the registration, shall issue new vehicle license plates as provided in RCW 46.16A.200(9).

(4) Failure to surrender license plates under subsection (3) of this section is a misdemeanor punishable by imprisonment for not less than one day nor more than five days and by a fine of not less than fifty dollars nor more than two hundred fifty dollars.

(5) No vehicle license plates, certificate of title, or registration certificate for a motor vehicle may be issued, and no vehicle registration may be renewed during the time the registration of the motor vehicle is suspended.

(6) Any person who operates a vehicle in this state while the registration of the vehicle is suspended is guilty of a gross misdemeanor and upon conviction thereof shall be imprisoned for not less than two days nor more than five days and fined not less than one hundred dollars nor more than five hundred dollars. [2010 c 161 § 1114; 1981 c 309 § 6.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.29.610 Surrender of license—Penalty. (1) Any person whose license shall have been suspended under any provision of this chapter, or whose policy of insurance or bond, when required under this chapter, shall have been canceled or terminated, shall immediately return the license to the department.

(2) Any person willfully failing to return a license as required in subsection (1) of this section is guilty of a misdemeanor. [1990 c 250 § 54; 1963 c 169 § 61.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Additional notes found at www.leg.wa.gov

46.29.620 Forged proof—Penalty. Any person who shall forge, or, without authority, sign any evidence of proof of financial responsibility for the future, or who files or offers

for filing any such evidence of proof knowing or having reason to believe that it is forged or signed without authority, shall be guilty of a gross misdemeanor. [1963 c 169 § 62.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

MISCELLANEOUS

46.29.630 Self-insurers. (1) Any person in whose name more than twenty-five vehicles are registered in this state may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the department as provided in subsection (2) of this section.

(2) The department may, in its discretion, upon the application of such a person, issue a certificate of self-insurance when it is satisfied that such person is possessed and will continue to be possessed of ability to pay judgment obtained against such person. Such certificate may be issued authorizing a person to act as a self-insurer for either property damage or bodily injury, or both.

(3) Upon not less than five days' notice and a hearing pursuant to such notice, the department may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within thirty days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance. [1963 c 169 § 63.]

46.29.640 Chapter not to prevent other process. Nothing in this chapter shall be construed as preventing the plaintiff in any action at law from relying for relief upon the other processes provided by law. [1963 c 169 § 64.]

46.29.900 Construction—1963 c 169. RCW 46.29.010 through 46.29.640 shall be codified as a single chapter of the Revised Code of Washington. RCW 46.29.010 through 46.29.050 shall be captioned "ADMINISTRATION." RCW 46.29.060 through 46.29.240 shall be captioned "SECURITY FOLLOWING ACCIDENT." RCW 46.29.250 through 46.29.600 shall be captioned "PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE." RCW 46.29.610 through 46.29.620 shall be captioned "VIOLATIONS OF THIS CHAPTER." RCW 46.29.630 through 46.29.640 shall be captioned "MISCELLANEOUS PROVISIONS RELATING TO FINANCIAL RESPONSIBILITY." Such captions and subsection headings, as used in this chapter, do not constitute any part of the law. [1963 c 169 § 67.]

46.29.910 Severability—1963 c 169. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1963 c 169 § 68.]

46.29.920 Repeals and saving. Sections 46.24.010 through 46.24.910 and sections 46.28.010 through 46.28.200, chapter 12, Laws of 1961 and RCW 46.24.010 through 46.24.910 and RCW 46.28.010 through 46.28.200 are each repealed.

(2010 Ed.)

Such repeals shall not be construed as affecting any existing right acquired under the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder. [1963 c 169 § 69.]

Chapter 46.30 RCW

MANDATORY LIABILITY INSURANCE

Sections

46.30.010	Legislative intent.
46.30.020	Liability insurance or other financial responsibility required—Violations—Exceptions.
46.30.030	Insurance identification card.
46.30.040	Providing false evidence of financial responsibility—Penalty.
46.30.900	Severability—1989 c 353.
46.30.901	Effective date—1989 c 353.

46.30.010 Legislative intent. It is a privilege granted by the state to operate a motor vehicle upon the highways of this state. The legislature recognizes the threat that uninsured drivers are to the people of the state. In order to alleviate the threat posed by uninsured drivers it is the intent of the legislature to require that all persons driving vehicles registered in this state satisfy the financial responsibility requirements of this chapter. By enactment of this chapter it is not the intent of the legislature to modify, amend, or invalidate existing insurance contract terms, conditions, limitations, or exclusions or to preclude insurance companies from using similar terms, conditions, limitations, or exclusions in future contracts. [1989 c 353 § 1.]

46.30.020 Liability insurance or other financial responsibility required—Violations—Exceptions. (Effective until July 1, 2011.) (1)(a) No person may operate a motor vehicle subject to registration under chapter 46.16 RCW in this state unless the person is insured under a motor vehicle liability policy with liability limits of at least the amounts provided in RCW 46.29.090, is self-insured as provided in RCW 46.29.630, is covered by a certificate of deposit in conformance with RCW 46.29.550, or is covered by a liability bond of at least the amounts provided in RCW 46.29.090. Written proof of financial responsibility for motor vehicle operation must be provided on the request of a law enforcement officer in the format specified under RCW 46.30.030.

(b) A person who drives a motor vehicle that is required to be registered in another state that requires drivers and owners of vehicles in that state to maintain insurance or financial responsibility shall, when requested by a law enforcement officer, provide evidence of financial responsibility or insurance as is required by the laws of the state in which the vehicle is registered.

(c) When asked to do so by a law enforcement officer, failure to display an insurance identification card as specified under RCW 46.30.030 creates a presumption that the person does not have motor vehicle insurance.

(d) Failure to provide proof of motor vehicle insurance is a traffic infraction and is subject to penalties as set by the supreme court under RCW 46.63.110 or community restitution.

(2) If a person cited for a violation of subsection (1) of this section appears in person before the court or a violations bureau and provides written evidence that at the time the person was cited, he or she was in compliance with the financial responsibility requirements of subsection (1) of this section, the citation shall be dismissed and the court or violations bureau may assess court administrative costs of twenty-five dollars at the time of dismissal. In lieu of personal appearance, a person cited for a violation of subsection (1) of this section may, before the date scheduled for the person's appearance before the court or violations bureau, submit by mail to the court or violations bureau written evidence that at the time the person was cited, he or she was in compliance with the financial responsibility requirements of subsection (1) of this section, in which case the citation shall be dismissed without cost, except that the court or violations bureau may assess court administrative costs of twenty-five dollars at the time of dismissal.

(3) The provisions of this chapter shall not govern:

(a) The operation of a motor vehicle registered under RCW 46.16.305(1), governed by RCW 46.16.020, or registered with the Washington utilities and transportation commission as common or contract carriers; or

(b) The operation of a motorcycle as defined in RCW 46.04.330, a motor-driven cycle as defined in RCW 46.04.332, or a moped as defined in RCW 46.04.304.

(4) RCW 46.29.490 shall not be deemed to govern all motor vehicle liability policies required by this chapter but only those certified for the purposes stated in chapter 46.29 RCW. [2003 c 221 § 1; 2002 c 175 § 35; 1991 sp.s. c 25 § 1; 1991 c 339 § 24; 1989 c 353 § 2.]

Effective date—2002 c 175: See note following RCW 7.80.130.

Notice of liability insurance requirement: RCW 46.16.212.

46.30.020 Liability insurance or other financial responsibility required—Violations—Exceptions. (Effective July 1, 2011.) (1)(a) No person may operate a motor vehicle subject to registration under *chapter 46.16 RCW in this state unless the person is insured under a motor vehicle liability policy with liability limits of at least the amounts provided in RCW 46.29.090, is self-insured as provided in RCW 46.29.630, is covered by a certificate of deposit in conformance with RCW 46.29.550, or is covered by a liability bond of at least the amounts provided in RCW 46.29.090. Written proof of financial responsibility for motor vehicle operation must be provided on the request of a law enforcement officer in the format specified under RCW 46.30.030.

(b) A person who drives a motor vehicle that is required to be registered in another state that requires drivers and owners of vehicles in that state to maintain insurance or financial responsibility shall, when requested by a law enforcement officer, provide evidence of financial responsibility or insurance as is required by the laws of the state in which the vehicle is registered.

(c) When asked to do so by a law enforcement officer, failure to display an insurance identification card as specified under RCW 46.30.030 creates a presumption that the person does not have motor vehicle insurance.

(d) Failure to provide proof of motor vehicle insurance is a traffic infraction and is subject to penalties as set by the

supreme court under RCW 46.63.110 or community restitution.

(2) If a person cited for a violation of subsection (1) of this section appears in person before the court or a violations bureau and provides written evidence that at the time the person was cited, he or she was in compliance with the financial responsibility requirements of subsection (1) of this section, the citation shall be dismissed and the court or violations bureau may assess court administrative costs of twenty-five dollars at the time of dismissal. In lieu of personal appearance, a person cited for a violation of subsection (1) of this section may, before the date scheduled for the person's appearance before the court or violations bureau, submit by mail to the court or violations bureau written evidence that at the time the person was cited, he or she was in compliance with the financial responsibility requirements of subsection (1) of this section, in which case the citation shall be dismissed without cost, except that the court or violations bureau may assess court administrative costs of twenty-five dollars at the time of dismissal.

(3) The provisions of this chapter shall not govern:

(a) The operation of a motor vehicle registered under RCW 46.18.255, governed by RCW 46.16A.170, or registered with the Washington utilities and transportation commission as common or contract carriers; or

(b) The operation of a motorcycle as defined in RCW 46.04.330, a motor-driven cycle as defined in RCW 46.04.332, or a moped as defined in RCW 46.04.304.

(4) RCW 46.29.490 shall not be deemed to govern all motor vehicle liability policies required by this chapter but only those certified for the purposes stated in chapter 46.29 RCW. [2010 c 161 § 1115; 2003 c 221 § 1; 2002 c 175 § 35; 1991 sp.s. c 25 § 1; 1991 c 339 § 24; 1989 c 353 § 2.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2002 c 175: See note following RCW 7.80.130.

Notice of liability insurance requirement: RCW 46.16A.130.

46.30.030 Insurance identification card. (1) Whenever an insurance company issues or renews a motor vehicle liability insurance policy, the company shall provide the policyholder with an identification card as specified by the department of licensing. At the policyholder's request, the insurer shall provide the policyholder a card for each vehicle covered under the policy.

(2) The department of licensing shall adopt rules specifying the type, style, and content of insurance identification cards to be used for proof of compliance with RCW 46.30.020, including the method for issuance of such identification cards by persons or organizations providing proof of compliance through self-insurance, certificate of deposit, or bond. In adopting such rules the department shall consider the guidelines for insurance identification cards developed by the insurance industry committee on motor vehicle administration. [1989 c 353 § 3.]

46.30.040 Providing false evidence of financial responsibility—Penalty. Any person who knowingly provides false evidence of financial responsibility to a law enforcement officer or to a court, including an expired or canceled insurance policy, bond, or certificate of deposit is guilty of a misdemeanor. [1991 sp.s. c 25 § 2; 1989 c 353 § 4.]

46.30.900 Severability—1989 c 353. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 c 353 § 12.]

46.30.901 Effective date—1989 c 353. This act shall take effect January 1, 1990. The director of the department of licensing may immediately take such steps as are necessary to ensure that this act is implemented on its effective date. [1989 c 353 § 13.]

Chapter 46.32 RCW VEHICLE INSPECTION

Sections

46.32.005	Definitions.
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46.32.090	Fees.
46.32.100	Violations—Penalties—Out-of-service orders.
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46.32.120	Application to state and publicly owned vehicles.

46.32.005 Definitions. For the purpose of this chapter "commercial motor vehicle" means a self-propelled or towed vehicle used on a highway in interstate or intrastate commerce to transport passengers or property, when the vehicle:

(1) Has a gross vehicle weight rating or gross combination weight rating or gross weight or gross combination weight of 4,536 kilograms or more (10,001 pounds or more); or

(2) Is designed or used to transport more than eight passengers, including the driver, for compensation; or

(3) Is designed or used to transport more than fifteen passengers, including the driver, and is not used to transport passengers for compensation; or

(4) Is used in transporting materials found by the secretary of transportation to be hazardous under 49 U.S.C. Sec. 5103 and transported in a quantity requiring placarding under regulations prescribed by the secretary under 49 C.F.R., subchapter B, Chapter I, subchapter C.

A recreational vehicle used for noncommercial purposes is not considered a commercial motor vehicle. "Recreational vehicle" includes a vehicle towing a horse trailer for a non-commercial purpose. [2006 c 50 § 2; 1993 c 403 § 1.]

(2010 Ed.)

46.32.010 Types of inspection authorized—Duties of state patrol—Penalties. (1) The chief of the Washington state patrol may operate, maintain, or designate, throughout the state of Washington, stations for the inspection of commercial motor vehicles, school buses, and private carrier buses, with respect to vehicle equipment, drivers' qualifications, and hours of service and to set reasonable times when inspection of vehicles shall be performed.

(2) The state patrol may inspect a commercial motor vehicle while the vehicle is operating on the public highways of this state with respect to vehicle equipment, hours of service, and driver qualifications.

(3) It is unlawful for any vehicle required to be inspected to be operated over the public highways of this state unless and until it has been approved periodically as to equipment.

(4) Inspections shall be performed by a responsible employee of the chief of the Washington state patrol, who shall be duly authorized and who shall have authority to secure and withhold, with written notice to the director of licensing, the certificate of license registration and license plates of any vehicle found to be defective in equipment so as to be unsafe or unfit to be operated upon the highways of this state, and it shall be unlawful for any person to operate a vehicle placed out of service by an officer unless and until it has been placed in a condition satisfactory to pass a subsequent equipment inspection. The officer in charge of such vehicle equipment inspection shall grant to the operator of such defective vehicle the privilege to move such vehicle to a place for repair under such restrictions as may be reasonably necessary.

(5) In the event any insignia, sticker, or other marker is adopted to be displayed upon vehicles in connection with the inspection of vehicle equipment, it shall be displayed as required by the rules of the chief of the Washington state patrol, and it is a traffic infraction for any person to mutilate, destroy, remove, or otherwise interfere with the display thereof.

(6) It is a traffic infraction for any person to refuse to have his or her motor vehicle examined as required by the chief of the Washington state patrol, or, after having had it examined, to refuse to place an insignia, sticker, or other marker, if issued, upon the vehicle, or fraudulently to obtain any such insignia, sticker, or other marker, or to refuse to place his or her motor vehicle in proper condition after having had it examined, or in any manner, to fail to conform to the provisions of this chapter.

(7) It is a traffic infraction for any person to perform false or improvised repairs, or repairs in any manner not in accordance with acceptable and customary repair practices, upon a motor vehicle. [2010 c 8 § 9050; 2007 c 419 § 7; 1993 c 403 § 2; 1986 c 123 § 1; 1979 ex.s. c 136 § 67; 1979 c 158 § 156; 1967 c 32 § 48; 1961 c 12 § 46.32.010. Prior: 1947 c 267 § 1; 1945 c 44 § 1; 1937 c 189 § 7; Rem. Supp. 1947 § 6360-7.]

Findings—Short title—2007 c 419: See notes following RCW 46.16A.010.

Additional notes found at www.leg.wa.gov

46.32.020 Rules—Supplies—Assistants—Prioritization of higher risk motor carriers. (1)(a) The chief of the Washington state patrol may adopt reasonable rules regard-

ing types of vehicles to be inspected, inspection criteria, times for the inspection of vehicle equipment, drivers' qualifications, hours of service, and all other matters with respect to the conduct of vehicle equipment and driver inspections.

(b) The chief of the Washington state patrol shall prepare and furnish such stickers, tags, record and report forms, stationery, and other supplies as shall be deemed necessary. The chief of the Washington state patrol is empowered to appoint and employ such assistants as he or she may consider necessary and to fix hours of employment and compensation.

(2) The chief of the Washington state patrol shall use data-driven analysis to prioritize for inspections and compliance reviews those motor carriers whose relative safety fitness identify them as higher risk motor carriers. [2010 c 8 § 9051; 2007 c 419 § 8; 1993 c 403 § 3; 1986 c 123 § 2; 1961 c 12 § 46.32.020. Prior: 1945 c 44 § 2; 1937 c 189 § 8; Rem. Supp. 1945 § 6360-8.]

Findings—Short title—2007 c 419: See notes following RCW 46.16A.010.

46.32.040 Frequency of inspection—High-risk carrier compliance review fee. (1) Except as provided in subsection (2) of this section, vehicle equipment inspection shall be at such intervals as required by the chief of the Washington state patrol and shall be made without charge.

(2) When a motor carrier is identified as a high-risk carrier through a data-driven analysis due to formerly or recently identified deficiencies or violations, the fee for each motor carrier compliance review follow-up to ensure those deficiencies or violations have been corrected is two hundred fifty dollars. The fee shall be collected by the Washington state patrol and shall be deposited into the state patrol highway account. This fee applies to motor carriers already identified as a high-risk carrier or a motor carrier that has been reclassified as a high-risk carrier due to recently identified deficiencies or violations. [2007 c 419 § 9; 1986 c 123 § 3; 1961 c 12 § 46.32.040. Prior: 1945 c 44 § 4; 1937 c 189 § 10; Rem. Supp. 1945 § 6360-10.]

Findings—Short title—2007 c 419: See notes following RCW 46.16A.010.

46.32.050 Prohibited practices—Penalty. It shall be unlawful for any person employed by the chief of the Washington state patrol at any vehicle equipment inspection station, to order, direct, recommend, or influence the correction of vehicle equipment defects by any person or persons whomsoever.

It shall be unlawful for any person employed by the chief of the Washington state patrol while in or about any vehicle equipment inspection station, to perform any repair or adjustment upon any vehicle or any equipment or appliance of any vehicle whatsoever.

It shall be unlawful for any person to solicit in any manner the repair to any vehicle or the adjustment of any equipment or appliance of any vehicle, upon the property of any vehicle equipment inspection station or upon any public highway adjacent thereto.

Violation of the provisions of this section is a traffic infraction. [1986 c 123 § 4; 1979 ex.s. c 136 § 68; 1961 c 12 § 46.32.050. Prior: 1945 c 44 § 5; 1937 c 189 § 11; Rem. Supp. 1945 § 6360-11.]

46.32.060 Moving defective vehicle unlawful—Impounding authorized. It shall be unlawful for any person to operate or move, or for any owner to cause or permit to be operated or moved upon any public highway, any vehicle or combination of vehicles, which is not at all times equipped in the manner required by this title, or the equipment of which is not in a proper condition and adjustment as required by this title or rules adopted by the chief of the Washington state patrol.

Any vehicle operating upon the public highways of this state and at any time found to be defective in equipment in such a manner that it may be considered unsafe shall be an unlawful vehicle and may be prevented from further operation until such equipment defect is corrected and any peace officer is empowered to impound such vehicle until the same has been placed in a condition satisfactory to vehicle inspection. The necessary cost of impounding any such unlawful vehicle and any cost for the storage and keeping thereof shall be paid by the owner thereof. The impounding of any such vehicle shall be in addition to any penalties for such unlawful operation.

The provisions of this section shall not be construed to prevent the operation of any such defective vehicle to a place for correction of equipment defect in the manner directed by any peace officer or representative of the state patrol. [1987 c 330 § 705; 1986 c 123 § 5; 1961 c 12 § 46.32.060. Prior: 1937 c 189 § 12; RRS § 6360-12.]

Moving unsafe or noncomplying vehicle: RCW 46.37.010.

46.32.070 Inspection of damaged vehicle. If a vehicle required to be inspected becomes damaged or deteriorated in such a manner that such vehicle has become unsafe for operation upon the public highways of this state, it is unlawful for the owner or operator thereof to cause such vehicle to be operated upon a public highway upon its return to service unless such owner or operator presents such vehicle for inspection of equipment within twenty-four hours after its return to service. [1986 c 123 § 6; 1961 c 12 § 46.32.070. Prior: 1937 c 189 § 13; RRS § 6360-13.]

46.32.080 Commercial motor vehicle safety enforcement—Application for department of transportation number. (1) The Washington state patrol is responsible for enforcement of safety requirements for commercial motor vehicles including, but not limited to, safety audits and compliance reviews. Those motor carriers that have operations in this state are subject to the patrol's safety audits and compliance review programs. Compliance reviews may result in the initiation of an enforcement action, which may include monetary penalties. The utilities and transportation commission is responsible for adoption and enforcement of safety requirements for vehicles operated by entities holding authority under chapters 81.66, 81.68, 81.70, and 81.77 RCW, and by household goods carriers holding authority under chapter 81.80 RCW.

(2) Motor vehicles owned and operated by farmers in the transportation of their own farm, orchard, or dairy products,

including livestock and plant or animal wastes, from point of production to market or disposal, or supplies or commodities to be used on the farm, orchard, or dairy, must have a department of transportation number, as defined in *RCW 46.16.004, but are exempt from safety audits and compliance reviews.

(3) All records and documents required of motor carriers with operations in this state must be available for review and inspection during normal business hours. Duly authorized agents of the state patrol conducting safety audits and compliance reviews may enter the motor carrier's place of business, or any location where records or equipment are located, at reasonable times and without advanced notice. Motor carriers who do not permit duly authorized agents to enter their place of business, or any location where records or equipment are located, for safety audits and compliance reviews are subject to enforcement action, including a monetary penalty.

(4)(a) All motor carriers with a commercial motor vehicle, as defined in *RCW 46.16.004, that operate in this state must apply for a department of transportation number, as defined in *RCW 46.16.004, by January 1, 2008. All entities with authority under chapters 81.66, 81.68, 81.70, and 81.77 RCW, and all household goods carriers with authority under chapter 81.80 RCW, must apply for a department of transportation number by January 1, 2010.

(b) All motor carriers operating in this state who (i) have not applied under (a) of this subsection for a department of transportation number, as defined in *RCW 46.16.004, and (ii) have a commercial motor vehicle that has a gross vehicle weight rating of 7,258 kilograms (16,001 pounds) or more, must apply for a department of transportation number by January 1, 2011.

(c) The state patrol may deny an application if the applicant does not meet the requirements and standards under this chapter. The state patrol shall not issue a department of transportation number to an applicant who at the time of application has been placed out of service by the federal motor carrier safety administration. Commercial motor vehicles must be marked as prescribed by the state patrol. Those applicants with a current United States department of transportation number are exempt from applying for a department of transportation number.

(d) The state patrol may (i) place a motor carrier out of service or (ii) refuse to issue or recognize as valid a department of transportation number to an applicant who: (A) Formerly held a department of transportation number that was placed out of service for cause, and where cause has not been removed; (B) is a subterfuge for the real party in interest whose department of transportation number was placed out of service for cause, and where cause has not been removed; (C) as an individual licensee, or officer, director, owner, or managing employee of a nonindividual licensee, had a department of transportation number and was placed out of service for cause, and where cause has not been removed; or (D) has an unsatisfied debt to the state assessed under this chapter.

(e) Upon a finding by the chief of the state patrol or the chief's designee that a motor carrier is an imminent hazard or danger to the public health, safety, or welfare, the state patrol shall notify the department, and the department shall revoke the registrations for all commercial motor vehicles that are

owned by the motor carrier subject to RCW 46.32.080. In determining whether a motor carrier is an imminent hazard or danger to the public health, safety, or welfare, the chief or the chief's designee shall consider safety factors. [2009 c 46 § 1; 2007 c 419 § 10; 1995 c 272 § 1.]

***Reviser's note:** RCW 46.16.004 was recodified as RCW 46.16A.010 pursuant to 2010 c 161 § 1215, effective July 1, 2011.

Effective date—2007 c 419 § 10: "Section 10 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 11, 2007]." [2007 c 419 § 19.]

Findings—Short title—2007 c 419: See notes following RCW 46.16A.010.

Transfer of powers, duties, and functions: "(1) All powers, duties, and functions of the utilities and transportation commission pertaining to safety inspections of commercial vehicles, including but not limited to terminal safety audits, except for those carriers subject to the economic regulation of the commission, are transferred to the Washington state patrol.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the utilities and transportation commission pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the Washington state patrol. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the utilities and transportation commission in carrying out the powers, functions, and duties transferred shall be made available to the Washington state patrol. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the Washington state patrol.

(b) Any appropriations made to the utilities and transportation commission for carrying out the powers, functions, and duties transferred shall, on January 1, 1996, be transferred and credited to the Washington state patrol.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the utilities and transportation commission engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the Washington state patrol. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the Washington state patrol to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service. These employees will only be transferred upon successful completion of the Washington state patrol background investigation.

(4) All rules and all pending business before the utilities and transportation commission pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the Washington state patrol. All existing contracts and obligations remain in full force and shall be performed by the Washington state patrol.

(5) The transfer of the powers, duties, functions, and personnel of the utilities and transportation commission does not affect the validity of any act performed before January 1, 1996.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) Nothing contained in this section alters an existing collective bargaining unit or the provisions of an existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel board as provided by law." [1995 c 272 § 4.]

Additional notes found at www.leg.wa.gov

46.32.085 Rules to regulate commercial motor vehicle safety requirements. (1) The Washington state patrol, in consultation with the department of licensing, shall adopt rules consistent with this chapter to regulate vehicle safety requirements for motor carriers who own, control, manage, or

operate a commercial motor vehicle within this state. Except as otherwise provided in this chapter, the rules adopted by the state patrol under this section must be as rigorous as federal regulations governing certain interstate motor carriers at 49 C.F.R. Parts 40 and 380 through 397, which cover the areas of commercial motor carrier driver training, controlled substance and alcohol use and testing, compliance with the federal driver's license requirements and penalties, vehicle equipment and safety standards, hazardous material practices, financial responsibility, driver qualifications, hours of service, vehicle inspection and corrective actions, and assessed penalties for noncompliance. The state patrol shall amend these rules periodically to maintain, to the extent permissible under this chapter, standards as rigorous as the federal regulations governing certain interstate motor carriers. The state patrol shall submit a report to the legislature by December 31st of each year that outlines new rules or rule changes and explains how the state rules compare to the federal regulations.

(2) Motor vehicles operated by entities with authority under chapters 81.66, 81.68, 81.70, and 81.77 RCW, and by household goods carriers operating under chapter 81.80 RCW, must comply with rules regulating vehicle safety adopted by the utilities and transportation commission. [2009 c 46 § 2; 2007 c 419 § 14.]

Findings—Short title—2007 c 419: See notes following RCW 46.16A.010.

46.32.090 Fees. (Effective until July 1, 2011.) The department shall collect a fee of sixteen dollars, in addition to all other fees and taxes, for each motor vehicle base plated in the state of Washington that is subject to highway inspections and compliance reviews by the state patrol under RCW 46.32.080, at the time of registration and renewal of registration under chapter 46.16 or 46.87 RCW, or the international registration plan if base plated in a foreign jurisdiction. The fee must be apportioned for those vehicles operating interstate and registered under the international registration plan. This fee does not apply to nonmotor-powered vehicles, including trailers. Refunds will not be provided for fees paid under this section when the vehicle is no longer subject to RCW 46.32.080. The department may deduct an amount equal to the cost of administering the program. All remaining fees shall be deposited with the state treasurer and credited to the state patrol highway account of the motor vehicle fund. [2009 c 46 § 3; 2007 c 419 § 11; 1996 c 86 § 1; 1995 c 272 § 2.]

Findings—Short title—2007 c 419: See notes following RCW 46.16.004.

Additional notes found at www.leg.wa.gov

46.32.100 Violations—Penalties—Out-of-service orders. (Effective until July 1, 2011.) (1)(a) In addition to all other penalties provided by law, and except as provided otherwise in (a)(i), (ii), or (iii) of this subsection, a commercial motor vehicle that is subject to compliance reviews under this chapter and an officer, agent, or employee of a company operating a commercial motor vehicle who violates or who procures, aids, or abets in the violation of this title or any order or rule of the state patrol is liable for a penalty of one hundred dollars for each violation.

(i) It is a violation of this chapter for a person operating a commercial motor vehicle to fail to comply with the requirements of 49 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec. 396.9(c)(2), moving a vehicle placed out of service before the out of service defects have been satisfactorily repaired. For each violation the person is liable for a penalty of five hundred dollars.

(ii) The driver of a commercial motor vehicle who violates an out-of-service order is liable for a penalty of at least one thousand one hundred dollars but not more than two thousand seven hundred fifty dollars for each violation.

(iii) An employer who allows a driver to operate a commercial motor vehicle when there is an out-of-service order is liable for a penalty of at least two thousand seven hundred fifty dollars but not more than eleven thousand dollars for each violation.

(iv) Each violation under this subsection (1)(a) is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(b) In addition to all other penalties provided by law, any motor carrier, company, or any officer or agent of a motor carrier or company operating a commercial motor vehicle subject to compliance reviews under this chapter who refuses entry or to make the required records, documents, and vehicles available to a duly authorized agent of the state patrol is liable for a penalty of at least five thousand dollars as well as an out-of-service order being placed on the department of transportation number, as defined in RCW 46.16.004, and vehicle registration to operate. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(c) A motor carrier operating a commercial motor vehicle after receiving a final unsatisfactory rating or being placed out of service is liable for a penalty of not more than eleven thousand dollars for each violation. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(d) A high-risk carrier is liable for double the amount of the penalty of a prior violation if the high-risk carrier repeats the same violation during a follow-up compliance review. Each repeat violation is a separate and distinct offense, and in case of a repeat continuing violation every day's continuance is a separate and distinct violation.

(2) The Washington state patrol may place an out-of-service order on a department of transportation number, as defined in RCW 46.16.004, for violations of this chapter or for nonpayment of any monetary penalties assessed by the state patrol or the utilities and transportation commission, as a result of compliance reviews, or for violations of cease and desist orders issued by the utilities and transportation commission. The state patrol shall notify the department of licensing when an out-of-service order has been placed on a motor carrier's department of transportation number. The state patrol shall notify the motor carrier when there has been an out-of-service order placed on the motor carrier's department of transportation number and the vehicle registrations have been revoked by sending a notice by first-class mail using the last known address for the registered or legal owner or owners, and recording the transmittal on an affidavit of

first-class mail. Notices under this section fulfill the requirements of RCW 46.12.160. Motor carriers may not be eligible for a new department of transportation number, vehicle registration, or temporary permits to operate unless the violations that resulted in the out-of-service order have been corrected.

(3) Any penalty provided in this section is due and payable when the person incurring it receives a notice in writing from the state patrol describing the violation and advising the person that the penalty is due.

(a)(i) Any motor carrier who incurs a penalty as provided in this section, except for a high-risk carrier that incurs a penalty for a repeat violation during a follow-up compliance review, may, upon written application, request that the state patrol mitigate the penalty. An application for mitigation must be received by the state patrol within twenty days of the receipt of notice.

(ii) The state patrol may decline to consider any application for mitigation.

(b) Any motor carrier who incurs a penalty as provided in this section has a right to an administrative hearing under chapter 34.05 RCW to contest the violation or the penalty imposed, or both. In all such hearings, the procedure and rules of evidence are as specified in chapter 34.05 RCW except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the later of (i) receipt of the notice imposing the penalty, or (ii) disposition of a request for mitigation, or the right to a hearing is waived.

(c) All penalties recovered under this section shall be paid into the state treasury and credited to the state patrol highway account of the motor vehicle fund. [2009 c 46 § 4; 2007 c 419 § 12; 2005 c 444 § 1; 1998 c 172 § 1; 1995 c 272 § 3.]

Findings—Short title—2007 c 419: See notes following RCW 46.16.004.

Additional notes found at www.leg.wa.gov

46.32.100 Violations—Penalties—Out-of-service orders. (Effective July 1, 2011.) (1)(a) In addition to all other penalties provided by law, and except as provided otherwise in (a)(i), (ii), or (iii) of this subsection, a commercial motor vehicle that is subject to compliance reviews under this chapter and an officer, agent, or employee of a company operating a commercial motor vehicle who violates or who procures, aids, or abets in the violation of this title or any order or rule of the state patrol is liable for a penalty of one hundred dollars for each violation.

(i) It is a violation of this chapter for a person operating a commercial motor vehicle to fail to comply with the requirements of 49 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec. 396.9(c)(2), moving a vehicle placed out of service before the out of service defects have been satisfactorily repaired. For each violation the person is liable for a penalty of five hundred dollars.

(ii) The driver of a commercial motor vehicle who violates an out-of-service order is liable for a penalty of at least one thousand one hundred dollars but not more than two thousand seven hundred fifty dollars for each violation.

(iii) An employer who allows a driver to operate a commercial motor vehicle when there is an out-of-service order is liable for a penalty of at least two thousand seven hundred fifty dollars but not more than eleven thousand dollars for each violation.

(iv) Each violation under this subsection (1)(a) is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(b) In addition to all other penalties provided by law, any motor carrier, company, or any officer or agent of a motor carrier or company operating a commercial motor vehicle subject to compliance reviews under this chapter who refuses entry or to make the required records, documents, and vehicles available to a duly authorized agent of the state patrol is liable for a penalty of at least five thousand dollars as well as an out-of-service order being placed on the department of transportation number, as defined in RCW 46.16A.010, and vehicle registration to operate. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(c) A motor carrier operating a commercial motor vehicle after receiving a final unsatisfactory rating or being placed out of service is liable for a penalty of not more than eleven thousand dollars for each violation. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(d) A high-risk carrier is liable for double the amount of the penalty of a prior violation if the high-risk carrier repeats the same violation during a follow-up compliance review. Each repeat violation is a separate and distinct offense, and in case of a repeat continuing violation every day's continuance is a separate and distinct violation.

(2) The Washington state patrol may place an out-of-service order on a department of transportation number, as defined in RCW 46.16A.010, for violations of this chapter or for nonpayment of any monetary penalties assessed by the state patrol or the utilities and transportation commission, as a result of compliance reviews, or for violations of cease and desist orders issued by the utilities and transportation commission. The state patrol shall notify the department of licensing when an out-of-service order has been placed on a motor carrier's department of transportation number. The state patrol shall notify the motor carrier when there has been an out-of-service order placed on the motor carrier's department of transportation number and the vehicle registrations have been revoked by sending a notice by first-class mail using the last known address for the registered or legal owner or owners, and recording the transmittal on an affidavit of first-class mail. Notices under this section fulfill the requirements of RCW 46.12.550. Motor carriers may not be eligible for a new department of transportation number, vehicle registration, or temporary permits to operate unless the violations that resulted in the out-of-service order have been corrected.

(3) Any penalty provided in this section is due and payable when the person incurring it receives a notice in writing from the state patrol describing the violation and advising the person that the penalty is due.

(a)(i) Any motor carrier who incurs a penalty as provided in this section, except for a high-risk carrier that incurs a penalty for a repeat violation during a follow-up compliance

review, may, upon written application, request that the state patrol mitigate the penalty. An application for mitigation must be received by the state patrol within twenty days of the receipt of notice.

(ii) The state patrol may decline to consider any application for mitigation.

(b) Any motor carrier who incurs a penalty as provided in this section has a right to an administrative hearing under chapter 34.05 RCW to contest the violation or the penalty imposed, or both. In all such hearings, the procedure and rules of evidence are as specified in chapter 34.05 RCW except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the later of (i) receipt of the notice imposing the penalty, or (ii) disposition of a request for mitigation, or the right to a hearing is waived.

(c) All penalties recovered under this section shall be paid into the state treasury and credited to the state patrol highway account of the motor vehicle fund. [2010 c 161 § 1116; 2009 c 46 § 4; 2007 c 419 § 12; 2005 c 444 § 1; 1998 c 172 § 1; 1995 c 272 § 3.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Findings—Short title—2007 c 419: See notes following RCW 46.16A.010.

Additional notes found at www.leg.wa.gov

46.32.110 Controlled substances, alcohol. A person or employer operating as a motor carrier shall comply with the requirements of the United States department of transportation federal motor carrier safety regulations as contained in Title 49 C.F.R. Part 382, controlled substances and alcohol use and testing. A person or employer who begins or conducts commercial motor vehicle operations without having a controlled substance and alcohol testing program that is in compliance with the requirements of Title 49 C.F.R. Part 382 is subject to a penalty, under the process set forth in RCW 46.32.100, of up to one thousand five hundred dollars and up to an additional five hundred dollars for each motor vehicle driver employed by the person or employer who is not in compliance with the motor vehicle driver testing requirements. A person or employer having actual knowledge that a driver has tested positive for controlled substances or alcohol who allows a positively tested person to continue to perform a safety-sensitive function is subject to a penalty, under the process set forth in RCW 46.32.100, of one thousand five hundred dollars. [1999 c 351 § 5.]

46.32.120 Application to state and publicly owned vehicles. This chapter does not apply to vehicles exempted from registration by *RCW 46.16.020. [2009 c 46 § 7.]

***Reviser's note:** RCW 46.16.020 was recodified as RCW 46.16A.170 pursuant to 2010 c 161 § 1215, effective July 1, 2011.

Chapter 46.35 RCW

RECORDING DEVICES IN MOTOR VEHICLES

Sections

46.35.010 Definitions.

[Title 46 RCW—page 232]

46.35.020	Disclosure in owner's manual, subscription service agreement, and product manual.
46.35.030	Confidential information—Exceptions—Penalty.
46.35.040	Tools available to access and retrieve information—When.
46.35.050	Application of consumer protection act.

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

(1) "Owner" means:

(a) A person having all the incidents of ownership, including legal title, of a motor vehicle, whether or not the person lends, rents, or creates a security interest in the motor vehicle;

(b) A person entitled to the possession of a motor vehicle as the purchaser under a security agreement;

(c) A person entitled to possession of a motor vehicle as a lessee pursuant to a written lease agreement for a period of more than three months; or

(d) If a third party requests access to a recording device to investigate a collision, the owner of the motor vehicle at the time the collision occurred.

(2) "Recording device" means an electronic system, and the physical device or mechanism containing the electronic system, that primarily, or incidental to its primary function, preserves or records, in electronic form, data collected by sensors or provided by other systems within a motor vehicle. "Recording device" includes event data recorders, sensing and diagnostic modules, electronic control modules, automatic crash notification systems, geographic information systems, and any other device that records and preserves data that can be accessed related to that motor vehicle. "Recording device" does not include onboard diagnostic systems whose exclusive function is to capture fault codes used to diagnose or service the motor vehicle. [2009 c 485 § 1.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—2009 c 485: "Sections 1 through 4 and 6 of this act take effect July 1, 2010." [2009 c 485 § 8.]

46.35.020 Disclosure in owner's manual, subscription service agreement, and product manual. (1) A manufacturer of a motor vehicle sold or leased in this state, that is equipped with one or more recording devices, shall disclose in the owner's manual that the motor vehicle is equipped with one or more recording devices and, if so, the type of data recorded and whether the recording device or devices have the ability to transmit information to a central communications system or other external device.

(2) If a recording device is used as part of a subscription service, the subscription service agreement must disclose the type of information that the device may record or transmit.

(3) A disclosure made in writing is deemed a disclosure in the owner's manual.

(4) If a recording device is to be installed in a vehicle aftermarket, the manufacturer or distributor of the device shall disclose in the product manual the type of information that the device may record and whether the recording device has the ability to transmit information to a central communications system or other external device.

(5) A disclosure made in writing is deemed a disclosure in the product manual. [2009 c 485 § 2.]

(2010 Ed.)

Effective date—2009 c 485: See note following RCW 46.35.010.

46.35.030 Confidential information—Exceptions—

Penalty. (1) Information recorded or transmitted by a recording device may not be retrieved, downloaded, scanned, read, or otherwise accessed by a person other than the owner of the motor vehicle in which the recording device is installed except:

(a) Upon a court order or pursuant to discovery. Any information recorded or transmitted by a recording device and obtained by a court order or pursuant to discovery is private and confidential and is not subject to public disclosure;

(b) With the consent of the owner, given for a specific instance of access, for any purpose;

(c) For improving motor vehicle safety, including medical research on the human body’s reaction to motor vehicle collisions, if the identity of the motor vehicle or the owner or driver of the motor vehicle is not disclosed in connection with the retrieved information;

(d) For determining the need for or facilitating emergency medical response if a motor vehicle collision occurs, provided that the information retrieved is used solely for medical purposes; or

(e) For subscription services pursuant to an agreement in which disclosure required under RCW 46.35.020 has been made, provided that the information retrieved is used solely for the purposes of fulfilling the subscription service.

(2) For the purposes of subsection (1)(c) of this section:

(a) The disclosure of a motor vehicle’s vehicle identification number with the last six digits deleted or redacted is not a disclosure of the identity of the owner or driver; and

(b) Retrieved information may only be disclosed to a data processor.

(3) Information that can be associated with an individual and that is recorded or transmitted by a recording device may not be sold to a third party unless the owner of the information explicitly grants permission for the sale.

(4) Any person who violates this section is guilty of a misdemeanor. [2009 c 485 § 3.]

Effective date—2009 c 485: See note following RCW 46.35.010.

46.35.040 Tools available to access and retrieve information—When.

A manufacturer of a motor vehicle sold or leased in this state that is equipped with a recording device shall ensure by licensing agreement or other means that a tool or tools are available that are capable of accessing and retrieving the information stored in a recording device. The tool or tools must be commercially available no later than ninety days after July 26, 2009. [2009 c 485 § 5.]

46.35.050 Application of consumer protection act.

The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying chapter 19.86 RCW. [2009 c 485 § 4.]

Effective date—2009 c 485: See note following RCW 46.35.010.

Chapter 46.37 RCW

VEHICLE LIGHTING AND OTHER EQUIPMENT

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Emission control program: Chapter 70.120 RCW.

Lowering vehicle below legal clearance: RCW 46.61.680.

Moving defective vehicle: RCW 46.32.060.

46.37.005 State patrol—Additional powers and duties. In addition to those powers and duties elsewhere granted, the chief of the Washington state patrol shall have the power and the duty to adopt, apply, and enforce such reasonable rules and regulations (1) relating to proper types of vehicles or combinations thereof for hauling passengers, commodities, freight, and supplies, (2) relating to vehicle equipment, and (3) relating to the enforcement of the provisions of this title with regard to vehicle equipment, as may be deemed necessary for the public welfare and safety in addition to but not inconsistent with the provisions of this title.

The chief of the Washington state patrol is authorized to adopt by regulation, federal standards relating to motor vehicles and vehicle equipment, issued pursuant to the National Traffic and Motor Vehicle Safety Act of 1966, or any amendment to said act, notwithstanding any provision in Title 46 RCW inconsistent with such standards. Federal standards adopted pursuant to this section shall be applicable only to vehicles manufactured in a model year following the adoption of such standards. [1987 c 330 § 706; 1985 c 165 § 1; 1982 c 106 § 1; 1967 ex.s. c 145 § 56; 1967 c 32 § 49; 1961 c 12 § 46.37.005. Prior: 1943 c 133 § 1; 1937 c 189 § 6; Rem. Supp. 1943 § 6360-6; 1927 c 309 § 14, part; RRS § 6362-14, part. Formerly RCW 46.36.010.]

Towing operators, appointment of: RCW 46.55.115.

Additional notes found at www.leg.wa.gov

46.37.010 Scope and effect of regulations—General penalty. (1) It is a traffic infraction for any person to drive or move, or for a vehicle owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles that:

- (a) Is in such unsafe condition as to endanger any person;
- (b) Is not at all times equipped with such lamps and other equipment in proper working condition and adjustment as required by this chapter or by rules issued by the Washington state patrol;
- (c) Contains any parts in violation of this chapter or rules issued by the Washington state patrol.

(2) It is a traffic infraction for any person to do any act forbidden or fail to perform any act required under this chapter or rules issued by the Washington state patrol.

(3) Nothing contained in this chapter or the state patrol's regulations shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter or the state patrol's regulations.

(4) The provisions of the chapter and the state patrol's regulations with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

(5) No owner or operator of a farm tractor, self-propelled unit of farm equipment, or implement of husbandry shall be guilty of a crime or subject to penalty for violation of RCW 46.37.160 as now or hereafter amended unless such violation occurs on a public highway.

(6) It is a traffic infraction for any person to sell or offer for sale vehicle equipment which is required to be approved by the state patrol as prescribed in RCW 46.37.005 unless it has been approved by the state patrol.

(7) The provisions of this chapter with respect to equipment required on vehicles shall not apply to:

(a) Motorcycles or motor-driven cycles except as herein made applicable;

(b) Golf carts, as defined in RCW 46.04.1945, operating within a designated golf cart zone as described in RCW 46.08.175, except as provided in RCW 46.08.175(8).

(8) This chapter does not apply to off-road vehicles used on nonhighway roads or used on streets, roads, or highways as authorized under *RCW 46.09.180.

(9) This chapter does not apply to vehicles used by the state parks and recreation commission exclusively for park

maintenance and operations upon public highways within state parks.

(10) Notices of traffic infraction issued to commercial drivers under the provisions of this chapter with respect to equipment required on commercial motor vehicles shall not be considered for driver improvement purposes under chapter 46.20 RCW.

(11) Whenever a traffic infraction is chargeable to the owner or lessee of a vehicle under subsection (1) of this section, the driver shall not be arrested or issued a notice of traffic infraction unless the vehicle is registered in a jurisdiction other than Washington state, or unless the infraction is for an offense that is clearly within the responsibility of the driver.

(12) Whenever the owner or lessee is issued a notice of traffic infraction under this section the court may, on the request of the owner or lessee, take appropriate steps to make the driver of the vehicle, or any other person who directs the loading, maintenance, or operation of the vehicle, a codefendant. If the codefendant is held solely responsible and is found to have committed the traffic infraction, the court may dismiss the notice against the owner or lessee. [2010 c 217 § 6. Prior: 2006 c 306 § 1; 2006 c 212 § 5; 2005 c 213 § 7; 1997 c 241 § 14; 1989 c 178 § 22; 1987 c 330 § 707; 1979 ex.s. c 136 § 69; 1977 ex.s. c 355 § 1; 1963 c 154 § 1; 1961 c 12 § 46.37.010; prior: 1955 c 269 § 1; prior: 1937 c 189 § 14, part; RRS § 6360-14, part; RCW 46.40.010, part; 1929 c 178 § 2; 1927 c 309 § 19; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part; 1915 c 142 § 21, part; RRS § 6362-19.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

***Reviser's note:** RCW 46.09.180 was recodified as RCW 46.09.360 pursuant to 2010 c 161 § 1202, effective July 1, 2011.

Findings—Construction—Effective date—2005 c 213: See notes following RCW 46.09.300.

Moving defective vehicle: RCW 46.32.060.

Additional notes found at www.leg.wa.gov

46.37.020 When lighted lamps and signaling devices are required. Every vehicle upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of one thousand feet ahead shall display lighted headlights, other lights, and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles, and such stop lights, turn signals, and other signaling devices shall be lighted as prescribed for the use of such devices. [1977 ex.s. c 355 § 2; 1974 ex.s. c 124 § 2; 1963 c 154 § 2; 1961 c 12 § 46.37.020. Prior: 1955 c 269 § 2; prior: 1937 c 189 § 14, part; RRS § 6360-14, part; RCW 46.40.010, part; 1929 c 178 § 2; 1927 c 309 § 19; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part; 1915 c 142 § 21, part; RRS § 6362-19.]

Local twenty-four hour headlight policy: RCW 47.04.180.

Motorcycles and motor-driven cycles—When headlamps and tail lamps to be lighted: RCW 46.37.522.

Additional notes found at www.leg.wa.gov

(2010 Ed.)

46.37.030 Visibility distance and mounted height of lamps. (1) Whenever requirement is hereinafter declared as to distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in RCW 46.37.020 in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(2) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

(3) No additional lamp, reflective device, or other motor vehicle equipment shall be added which impairs the effectiveness of this standard. [1977 ex.s. c 355 § 3; 1961 c 12 § 46.37.030. Prior: 1955 c 269 § 3; prior: 1937 c 189 § 14, part; RRS § 6360-14, part; RCW 46.40.010, part.]

Additional notes found at www.leg.wa.gov

46.37.040 Head lamps on motor vehicles. (1) Every motor vehicle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this chapter.

(2) Every head lamp upon every motor vehicle shall be located at a height measured from the center of the head lamp of not more than fifty-four inches nor less than twenty-four inches to be measured as set forth in RCW 46.37.030(2). [1977 ex.s. c 355 § 4; 1961 c 12 § 46.37.040. Prior: 1955 c 269 § 4; prior: 1937 c 189 § 15; RRS § 6360-15; RCW 46.40.020; 1933 c 156 § 1, part; 1929 c 178 § 3, part; 1927 c 309 §§ 20, part, 24; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part; 1915 c 142 § 21, part; RRS §§ 6362-20, part, 6362-24.]

Additional notes found at www.leg.wa.gov

46.37.050 Tail lamps. (1) After January 1, 1964, every motor vehicle, trailer, semitrailer, and pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two tail lamps mounted on the rear, which, when lighted as required in RCW 46.37.020, shall emit a red light plainly visible from a distance of one thousand feet to the rear, except that passenger cars manufactured or assembled prior to January 1, 1939, shall have at least one tail lamp. On a combination of vehicles only the tail lamps on the rearmost vehicle need actually be seen from the distance specified. On vehicles equipped with more than one tail lamp, the lamps shall be mounted on the same level and as widely spaced laterally as practicable.

(2) Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two inches nor less than fifteen inches.

(3) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp or lamps for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted. [1977

ex.s. c 355 § 5; 1963 c 154 § 3; 1961 c 12 § 46.37.050. Prior: 1955 c 269 § 5; prior: 1947 c 267 § 2, part; 1937 c 189 § 16, part; Rem. Supp. 1947 § 6360-16, part; RCW 46.40.030, part; 1929 c 178 § 7; 1927 c 309 § 27; RRS § 6362-27; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part; 1915 c 142 § 21, part.]

Additional notes found at www.leg.wa.gov

46.37.060 Reflectors. (1) Every motor vehicle, trailer, semitrailer, and pole trailer shall carry on the rear, either as a part of the tail lamps or separately, two or more red reflectors meeting the requirements of this section: PROVIDED, HOWEVER, That vehicles of the types mentioned in RCW 46.37.090 shall be equipped with reflectors meeting the requirements of RCW 46.37.110 and 46.37.120.

(2) Every such reflector shall be mounted on the vehicle at a height not less than fifteen inches nor more than seventy-two inches measured as set forth in RCW 46.37.030(2), and shall be of such size and characteristics and so mounted as to be visible at night from all distances within six hundred feet to one hundred feet from such vehicle when directly in front of lawful upper beams of head lamps, except that reflectors on vehicles manufactured or assembled prior to January 1, 1970, shall be visible at night from all distances within three hundred and fifty feet to one hundred feet when directly in front of lawful upper beams of head lamps. [1977 ex.s. c 355 § 6; 1963 c 154 § 4; 1961 c 12 § 46.37.060. Prior: 1955 c 269 § 6; prior: 1947 c 267 § 2, part; 1937 c 189 § 16, part; Rem. Supp. 1947 § 6360-16, part; RCW 46.40.030, part.]

Additional notes found at www.leg.wa.gov

46.37.070 Stop lamps and electric turn signals required. (1) After January 1, 1964, every motor vehicle, trailer, semitrailer, and pole trailer shall be equipped with two or more stop lamps meeting the requirements of RCW 46.37.200, except that passenger cars manufactured or assembled prior to January 1, 1964, shall be equipped with at least one such stop lamp. On a combination of vehicles, only the stop lamps on the rearmost vehicle need actually be seen from the distance specified in RCW 46.37.200(1).

(2) After January 1, 1960, every motor vehicle, trailer, semitrailer and pole trailer shall be equipped with electric turn signal lamps meeting the requirements of RCW 46.37.200(2), except that passenger cars, trailers, semitrailers, pole trailers, and trucks less than eighty inches in width, manufactured or assembled prior to January 1, 1953, need not be equipped with electric turn signal lamps.

(3) Every passenger car manufactured or assembled after September 1, 1985; and every passenger truck, passenger van, or passenger sports [sport] utility vehicle manufactured or assembled after September 1, 1993, must be equipped with a rear center high-mounted stop lamp meeting the requirements of RCW 46.37.200(3). [2006 c 306 § 2; 1977 ex.s. c 355 § 7; 1963 c 154 § 5; 1961 c 12 § 46.37.070. Prior: 1959 c 319 § 32; 1955 c 269 § 7; prior: 1953 c 248 § 2, part; 1947 c 267 § 4, part; 1937 c 189 § 23, part; Rem. Supp. 1947 § 6360-23, part; RCW 46.40.090, part; 1929 c 178 § 1, part; 1927 c 309 § 15, part; RRS § 6362-15, part.]

Additional notes found at www.leg.wa.gov

46.37.080 Application of succeeding sections. Those sections of this chapter which follow immediately, including RCW 46.37.090, 46.37.100, 46.37.110, 46.37.120, and 46.37.130, relating to clearance lamps, marker lamps, and reflectors, shall apply as stated in said sections to vehicles of the type therein enumerated, namely buses, trucks, truck tractors, and trailers, semitrailers, and pole trailers, respectively, when operated upon any highway, and said vehicles shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in RCW 46.37.020. For purposes of the sections enumerated above, a camper, when mounted upon a motor vehicle, shall be considered part of the permanent structure of that motor vehicle. [1977 ex.s. c 355 § 8; 1963 c 154 § 6; 1961 c 12 § 46.37.080. Prior: 1955 c 269 § 8; prior: 1947 c 267 § 3, part; 1937 c 189 § 17, part; Rem. Supp. 1947 § 6360-17, part; RCW 46.40.040, part.]

Additional notes found at www.leg.wa.gov

46.37.090 Additional equipment required on certain vehicles. In addition to other equipment required in RCW 46.37.040, 46.37.050, 46.37.060, and 46.37.070, the following vehicles shall be equipped as herein stated under the conditions stated in RCW 46.37.080, and in addition, the reflectors elsewhere enumerated for such vehicles shall conform to the requirements of RCW 46.37.120(1).

(1) Buses, trucks, motor homes, and motor vehicles with mounted campers eighty inches or more in over-all width:

(a) On the front, two clearance lamps, one at each side, and on vehicles manufactured or assembled after January 1, 1964, three identification lamps meeting the specifications of subdivision (6) [(7)] of this section;

(b) On the rear, two clearance lamps, one at each side, and after January 1, 1964, three identification lamps meeting the specifications of subdivision (6) [(7)] of this section;

(c) On each side, two side marker lamps, one at or near the front and one at or near the rear;

(d) On each side, two reflectors, one at or near the front and one at or near the rear.

(2) Trailers and semitrailers eighty inches or more in over-all width:

(a) On the front, two clearance lamps, one at each side;

(b) On the rear, two clearance lamps, one at each side, and after January 1, 1964, three identification lamps meeting the specifications of subdivision (6) [(7)] of this section;

(c) On each side, two side marker lamps, one at or near the front and one at or near the rear;

(d) On each side, two reflectors, one at or near the front and one at or near the rear: PROVIDED, That a mobile home as defined by RCW 46.04.302 need not be equipped with two side marker lamps or two side reflectors as required by subsection (2) (c) and (d) of this section while operated under the terms of a special permit authorized by RCW 46.44.090.

(3) Truck tractors:

On the front, two cab clearance lamps, one at each side, and on vehicles manufactured or assembled after January 1, 1964, three identification lamps meeting the specifications of subdivision (6) [(7)] of this section.

(4) Trailers, semitrailers, and pole trailers thirty feet or more in over-all length:

On each side, one amber side marker lamp and one amber reflector, centrally located with respect to the length of

the vehicle: PROVIDED, That a mobile home as defined by RCW 46.04.302 need not be equipped with such side marker lamp or reflector while operated under the terms of a special permit authorized by RCW 46.44.090.

(5) Pole trailers:

(a) On each side, one amber side marker lamp at or near the front of the load;

(b) One amber reflector at or near the front of the load;

(c) On the rearmost support for the load, one combination marker lamp showing amber to the front and red to the rear and side, mounted to indicate maximum width of the pole trailer.

(6) Boat trailers eighty inches or more in overall width:

(a) One on each side, at or near the midpoint, one clearance lamp performing the function of both a front and rear clearance lamp;

(b) On the rear, after June 1, 1978, three identification lamps meeting the specifications of subsection (7) of this section;

(c) One on each side, two side marker lamps, one at or near the front and one at or near the rear;

(d) On each side, two reflectors, one at or near the front and one at or near the rear.

(7) Whenever required or permitted by this chapter, identification lamps shall be grouped in a horizontal row, with lamp centers spaced not less than six nor more than twelve inches apart, and mounted on the permanent structure of the vehicle as close as practicable to the vertical centerline: PROVIDED, HOWEVER, That where the cab of a vehicle is not more than forty-two inches wide at the front roof line, a single identification lamp at the center of the cab shall be deemed to comply with the requirements for front identification lamps. [1977 ex.s. c 355 § 9; 1963 c 154 § 7; 1961 c 12 § 46.37.090. Prior: 1955 c 269 § 9; prior: 1947 c 267 § 3, part; 1937 c 189 § 17, part; Rem. Supp. 1947 § 6360-17, part; RCW 46.40.040, part; 1933 c 156 §§ 5, part, 6, part; 1929 c 178 §§ 7, part, 8, part; 1927 c 309 §§ 27, part, 28, part; RRS §§ 6362-27, part, 6362-28, part; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part.]

Additional notes found at www.leg.wa.gov

46.37.100 Color of clearance lamps, side marker lamps, back-up lamps, and reflectors. (1) Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.

(2) Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.

(3) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop lamp or other signal device, which may be red, amber, or yellow, and except that on any vehicle forty or more years old, or on any motorcycle regardless of age, the taillight may also contain a blue or purple insert of not more than one inch in diameter, and except that the light illuminating the license plate shall be white and the light emitted by a back-up lamp shall be white or amber. [2002 c 196 § 1; 1992 c 46 § 1; 1961 c 12 § 46.37.100. Prior: 1955 c 269 § 10; prior: 1947 c 267 § 3, part; 1937 c 189 § 17, part; Rem. Supp. 1947

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§ 6360-17, part; RCW 46.40.040, part; 1933 c 156 §§ 5, part, 6, part; 1929 c 178 §§ 7, part, 8, part; 1927 c 309 §§ 27, part, 28, part; RRS §§ 6362-27, part, 6362-28, part; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part; 1915 c 142 § 21, part.]

46.37.110 Mounting of reflectors, clearance lamps, identification lamps, and side marker lamps. (1) Reflectors when required by RCW 46.37.090 shall be mounted at a height not less than twenty-four inches and not higher than sixty inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than twenty-four inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit.

The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.

Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this chapter.

(2) Clearance lamps shall be mounted on the permanent structure of the vehicle in such a manner as to indicate the extreme height and width of the vehicle. When rear identification lamps are required and are mounted as high as is practicable, rear clearance lamps may be mounted at optional height, and when the mounting of front clearance lamps results in such lamps failing to indicate the extreme width of the trailer, such lamps may be mounted at optional height but must indicate, as near as practicable, the extreme width of the trailer. Clearance lamps on truck tractors shall be located so as to indicate the extreme width of the truck tractor cab. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both: PROVIDED, That no rear clearance lamp may be combined in any shell or housing with any tail lamp or identification lamp. [1977 ex.s. c 355 § 10; 1961 c 12 § 46.37.110. Prior: 1955 c 269 § 11; prior: 1947 c 267 § 3, part; 1937 c 189 § 17, part; Rem. Supp. 1947 § 6360-17, part; RCW 46.40.040, part; 1933 c 156 §§ 5, part, 6, part; 1929 c 178 §§ 7, part, 8, part; 1927 c 309 §§ 27, part, 28, part; RRS §§ 6362-27, part, 6362-28, part; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part.]

Additional notes found at www.leg.wa.gov

46.37.120 Visibility of reflectors, clearance lamps, identification lamps, and side marker lamps. (1) Every reflector upon any vehicle referred to in RCW 46.37.090 shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within six hundred feet to one hundred feet from the vehicle when directly in front of lawful lower beams of head lamps, except that the visibility for reflectors on vehicles manufactured or assembled prior to January 1, 1970, shall be measured in front of the lawful upper beams of headlamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

(2) Front and rear clearance lamps and identification lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are

required at all distances between five hundred feet and fifty feet from the front and rear, respectively, of the vehicle.

(3) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at all distances between five hundred feet and fifty feet from the side of the vehicle on which mounted. [1977 ex.s. c 355 § 11; 1963 c 154 § 8; 1961 c 12 § 46.37.120. Prior: 1955 c 269 § 12; prior: 1947 c 267 § 3, part; 1937 c 189 § 17, part; Rem. Supp. 1947 § 6360-17, part; RCW 46.40.040, part; 1933 c 156 §§ 5, part, 6, part; 1929 c 178 §§ 7, part, 8, part; 1927 c 309 §§ 27, part, 28, part; RRS §§ 6362-27, part, 6362-28, part; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part.]

Additional notes found at www.leg.wa.gov

46.37.130 Obstructed lights not required. Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp (except tail lamps) need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted. [1961 c 12 § 46.37.130. Prior: 1955 c 269 § 13.]

46.37.140 Lamps, reflectors, and flags on projecting load. Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the times specified in RCW 46.37.020, two red lamps, visible from a distance of at least five hundred feet to the rear, two red reflectors visible at night from all distances within six hundred feet to one hundred feet to the rear when directly in front of lawful lower beams of headlamps, and located so as to indicate maximum width, and on each side one red lamp, visible from a distance of at least five hundred feet to the side, located so as to indicate maximum overhang. There shall be displayed at all other times on any vehicle having a load which extends beyond its sides or more than four feet beyond its rear, red flags, not less than twelve inches square, marking the extremities of such loads, at each point where a lamp would otherwise be required by this section, under RCW 46.37.020. [1977 ex.s. c 355 § 12; 1963 c 154 § 9; 1961 c 12 § 46.37.140. Prior: 1955 c 269 § 14; prior: 1937 c 189 § 18; RRS § 6360-18; RCW 46.40.050; 1929 c 178 § 11, part; 1927 c 309 § 32, part; RRS § 6362-32, part; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part.]

Additional notes found at www.leg.wa.gov

46.37.150 Lamps on vehicles—Parked or stopped vehicles, lighting requirements. (1) Every vehicle shall be equipped with one or more lamps, which, when lighted, shall display a white or amber light visible from a distance of one thousand feet to the front of the vehicle, and a red light visible from a distance of one thousand feet to the rear of the vehicle. The location of said lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the

requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic.

(2) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of one thousand feet upon such street or highway, no lights need be displayed upon such parked vehicle.

(3) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, outside an incorporated city or town, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is insufficient light to reveal any person or object within a distance of one thousand feet upon such highway, such vehicle so parked or stopped shall be equipped with and shall display lamps meeting the requirements of subsection (1) of this section.

(4) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed. [1977 ex.s. c 355 § 13; 1963 c 154 § 10; 1961 c 12 § 46.37.150. Prior: 1955 c 269 § 15; prior: 1937 c 189 § 19; RRS § 6360-19; RCW 46.40.060; 1933 c 156 § 8; 1929 c 178 § 10; 1927 c 309 § 31; RRS § 6362-31.]

Additional notes found at www.leg.wa.gov

46.37.160 Hazard warning lights and reflectors on farm equipment—Slow-moving vehicle emblem. (1) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1970, shall be equipped with vehicular hazard warning lights of the type described in RCW 46.37.215 visible from a distance of not less than one thousand feet to the front and rear in normal sunlight, which shall be displayed whenever any such vehicle is operated upon a highway.

(2) Every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1970, shall at all times, and every other motor vehicle shall at times mentioned in RCW 46.37.020, be equipped with lamps and reflectors as follows:

(a) At least two headlamps meeting the requirements of RCW 46.37.220, 46.37.240, or 46.37.260;

(b) At least one red lamp visible when lighted from a distance of not less than one thousand feet to the rear mounted as far to the left of center of vehicle as practicable;

(c) At least two red reflectors visible from all distances within six hundred to one hundred feet to the rear when directly in front of lawful lower beams of headlamps.

(3) Every combination of farm tractor and towed farm equipment or towed implement of husbandry shall at all times mentioned in RCW 46.37.020 be equipped with lamps and reflectors as follows:

(a) The farm tractor element of every such combination shall be equipped as required in subsections (1) and (2) of this section;

(b) The towed unit of farm equipment or implement of husbandry element of such combination shall be equipped on the rear with two red lamps visible when lighted from a distance of not less than one thousand feet to the rear, and two red reflectors visible to the rear from all distances within six hundred feet to one hundred feet to the rear when directly in

front of lawful upper beams of head lamps. One reflector shall be so positioned to indicate, as nearly as practicable, the extreme left projection of the towed unit;

(c) If the towed unit or its load obscures either of the vehicle hazard warning lights on the tractor, the towed unit shall be equipped with vehicle hazard warning lights described in subsection (1) of this section.

(4) The two red lamps and the two red reflectors required in the foregoing subsections of this section on a self-propelled unit of farm equipment or implement of husbandry or combination of farm tractor and towed farm equipment shall be so positioned as to show from the rear as practicable the extreme width of the vehicle or combination carrying them: PROVIDED, That if all other requirements are met, reflective tape or paint may be used in lieu of reflectors required by subsection (3) of this section.

(5) After January 1, 1970, every farm tractor and every self-propelled unit of farm equipment or implement of husbandry designed for operation at speeds not in excess of twenty-five miles per hour shall at all times be equipped with a slow moving vehicle emblem mounted on the rear except as provided in subsection (6) of this section.

(6) After January 1, 1970, every combination of farm tractor and towed farm equipment or towed implement of husbandry normally operating at speeds not in excess of twenty-five miles per hour shall at all times be equipped with a slow moving vehicle emblem as follows:

(a) Where the towed unit is sufficiently large to obscure the slow moving vehicle emblem on the farm tractor, the towed unit shall be equipped with a slow moving vehicle emblem. In such cases, the towing vehicle need not display the emblem;

(b) Where the slow moving vehicle emblem on the farm tractor unit is not obscured by the towed unit, then either or both may be equipped with the required emblem but it shall be sufficient if either has it.

(7) The emblem required by subsections (5) and (6) of this section shall comply with current standards and specifications as promulgated by the Washington state patrol. [1987 c 330 § 708; 1977 ex.s. c 355 § 14; 1969 ex.s. c 281 § 22; 1963 c 154 § 11; 1961 c 12 § 46.37.160. Prior: 1955 c 269 § 16.]

Additional notes found at www.leg.wa.gov

46.37.170 Lamps and reflectors on other vehicles and equipment—Slow-moving vehicle emblem on animal-drawn vehicles. (1) Every vehicle, including animal-drawn vehicles and vehicles referred to in *RCW 46.37.010(3), not specifically required by the provisions of RCW 46.37.020 through 46.37.330 to be equipped with lamps, or other lighting devices, shall at all times specified in RCW 46.37.020 be equipped with at least one lamp displaying a white light visible from a distance of not less than one thousand feet to the front of said vehicle, and shall also be equipped with two lamps displaying red light visible from a distance of not less than one thousand feet to the rear of said vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than one thousand feet to the rear and two red reflectors visible from all distances of six hundred to one

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hundred feet to the rear when illuminated by the lawful lower beams of head lamps.

(2) After June 1, 1978, every animal-drawn vehicle shall at all times be equipped with a slow-moving vehicle emblem complying with RCW 46.37.160(7). [1977 ex.s. c 355 § 15; 1963 c 154 § 12; 1961 c 12 § 46.37.170. Prior: 1955 c 269 § 17; prior: 1937 c 189 § 21; RRS § 6360-21; RCW 46.40.080; 1927 c 309 § 34; 1921 c 96 § 22, part; 1917 c 40 § 1; RRS § 6362-34.]

*Reviser's note: RCW 46.37.010 was amended by 2006 c 306 § 1, changing subsection (3) to subsection (4).

Additional notes found at www.leg.wa.gov

46.37.180 Spot lamps and auxiliary lamps. (1) Spot lamps. Any motor vehicle may be equipped with not to exceed two spot lamps and every lighted spot lamp shall be so aimed and used that no part of the high intensity portion of the beam will strike the windshield, or any windows, mirror, or occupant of another vehicle in use.

(2) Fog lamps. Any motor vehicle may be equipped with not to exceed two fog lamps mounted on the front at a height of not less than twelve inches nor more than thirty inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high intensity portion of the light to the left of the center of the vehicle shall at a distance of twenty-five feet ahead project higher than a level of four inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting the above requirements may be used with lower head lamp beams as specified in RCW 46.37.220.

(3) Auxiliary passing lamps. Any motor vehicle may be equipped with not to exceed two auxiliary passing lamps mounted on the front at a height not less than twenty-four inches nor more than forty-two inches above the level surface upon which the vehicle stands. The provisions of RCW 46.37.220 shall apply to any combinations of head lamps and auxiliary passing lamps.

(4) Auxiliary driving lamps. Any motor vehicle may be equipped with not to exceed two auxiliary driving lamps mounted on the front at a height not less than sixteen inches nor more than forty-two inches above the level surface upon which the vehicle stands. The provisions of RCW 46.37.220 shall apply to any combination of head lamps and auxiliary driving lamps. [1963 c 154 § 13; 1961 c 12 § 46.37.180. Prior: 1955 c 269 § 18; prior: 1949 c 157 § 1; Rem. Supp. 1949 § 6360-22a; RCW 46.40.110, 46.40.120.]

Additional notes found at www.leg.wa.gov

46.37.184 Red flashing lights on fire department vehicles. All fire department vehicles in service shall be identified by red lights of an intermittent flashing type, visible from both front and rear for a distance of five hundred feet under normal atmospheric conditions. Such red flashing lights shall be well separated from the headlights so that they will not black out when headlights are on. Such red flashing lights shall be in operation at all times when such vehicle is on emergency status. [1961 c 12 § 46.37.184. Prior: 1953 c 161 § 1. Formerly RCW 46.40.220.]

46.37.185 Green light on firefighters' private cars. Firefighters, when approved by the chief of their respective service, shall be authorized to use a green light on the front of their private cars when on emergency duty only. Such green light shall be visible for a distance of two hundred feet under normal atmospheric conditions and shall be of a type and mounting approved by the Washington state patrol. The use of the green light shall only be for the purpose of identification and the operator of a vehicle so equipped shall not be entitled to any of the privileges provided in RCW 46.61.035 for the operators of authorized emergency vehicles. [2007 c 218 § 73; 1987 c 330 § 709; 1971 ex.s. c 92 § 3; 1961 c 12 § 46.37.185. Prior: 1953 c 161 § 2. Formerly RCW 46.40.230.]

Intent—Finding—2007 c 218: See note following RCW 1.08.130.

Additional notes found at www.leg.wa.gov

46.37.186 Fire department sign or plate on private car. (1) No private vehicle, bearing a sign or plate indicating a fire department connection, shall be driven or operated on any public highway, except when the owner thereof is a bona fide member of a fire department.

(2) Any sign or plate indicating fire department connection on a private car of any member of a fire department shall include the name of the municipality or fire department organization to which the owner belongs. [1961 c 12 § 46.37.186. Prior: 1953 c 161 § 3. Formerly RCW 46.40.240.]

46.37.187 Green light, sign or plate—Identification card required. Any individual displaying a green light as authorized in RCW 46.37.185, or a sign or plate as authorized in RCW 46.37.186, shall also carry attached to a convenient location on the private vehicle to which the green light or sign or plate is attached, an identification card showing the name of the owner of said vehicle, the organization to which he or she belongs and bearing the signature of the chief of the service involved. [1971 ex.s. c 92 § 2; 1961 c 12 § 46.37.187. Prior: 1953 c 161 § 4. Formerly RCW 46.40.250.]

46.37.188 Penalty for violation of RCW 46.37.184 through 46.37.188. Every violation of RCW 46.37.184, 46.37.185, 46.37.186, or 46.37.187 is a traffic infraction. [1979 ex.s. c 136 § 70; 1961 c 12 § 46.37.188. Prior: 1953 c 161 § 5. Formerly RCW 46.40.260.]

Additional notes found at www.leg.wa.gov

46.37.190 Warning devices on vehicles—Other drivers yield and stop. (1) Every authorized emergency vehicle shall, in addition to any other equipment and distinctive marking required by this chapter, be equipped with at least one lamp capable of displaying a red light visible from at least five hundred feet in normal sunlight and a siren capable of giving an audible signal.

(2) Every school bus and private carrier bus shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with a "stop" signal upon a background not less than fourteen by eighteen inches displaying the word "stop" in letters of distinctly contrasting colors not less than eight inches high, and shall further be equipped with signal lamps mounted as high and as widely

spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level and these lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight.

(3) Vehicles operated by public agencies whose law enforcement duties include the authority to stop and detain motor vehicles on the public highways of the state may be equipped with a siren and lights of a color and type designated by the state patrol for that purpose. The state patrol may prohibit the use of these sirens and lights on vehicles other than the vehicles described in this subsection.

(4) The lights described in this section shall not be mounted nor used on any vehicle other than a school bus, a private carrier bus, or an authorized emergency or law enforcement vehicle.

(5) The use of the signal equipment described in this section and RCW 46.37.670, except the signal preemption devices used by public transit vehicles and department of transportation, city, or county maintenance vehicles that are not used in conjunction with emergency equipment, shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in RCW 46.61.210, 46.61.370, and 46.61.350. [2005 c 183 § 8; 1993 c 401 § 2; 1987 c 330 § 710; 1985 c 331 § 1; 1982 c 101 § 1; 1971 ex.s. c 92 § 1; 1970 ex.s. c 100 § 5; 1965 ex.s. c 155 § 53; 1963 c 154 § 14; 1961 c 12 § 46.37.190. Prior: 1957 c 66 § 1; 1955 c 269 § 19.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.37.191 Implementing rules. The state patrol shall adopt rules to implement RCW 46.37.190. [1993 c 401 § 3.]

46.37.193 Signs on buses. Every school bus and private carrier bus, in addition to any other equipment or distinctive markings required by this chapter, shall bear upon the front and rear thereof, above the windows thereof, plainly visible signs containing only the words "school bus" on a school bus and only the words "private carrier bus" on a private carrier bus in letters not less than eight inches in height, and in addition shall be equipped with visual signals meeting the requirements of RCW 46.37.190. School districts may affix signs designed according to RCW 46.61.380 informing motorists of the monetary penalty for failure to stop for a school bus when the visual signals are activated.

However, a private carrier bus that regularly transports children to and from a private school or in connection with school activities may display the words "school bus" in a manner provided in this section and need not comply with the requirements set forth in the most recent edition of "Specifications for School Buses" published by the superintendent of public instruction. [1997 c 80 § 3; 1995 c 141 § 2; 1990 c 241 § 10.]

School bus markings: RCW 46.61.380.

46.37.194 Authorized emergency vehicles—State patrol authority, maintenance, and applicant and driver screening. The state patrol may make rules and regulations

relating to authorized emergency vehicles and shall test and approve sirens and emergency vehicle lamps to be used on such vehicles. The equipment and standards review unit shall require a record check of all applicants and drivers for an authorized emergency vehicle permit through the Washington state patrol criminal identification section pursuant to RCW 10.97.050 and through the federal bureau of investigation before issuing an authorized emergency vehicle permit. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. When necessary, applicants and drivers may be employed on a conditional basis pending completion of the investigation. Pursuant to RCW 43.43.742, the applicant, driver, or employer shall pay costs associated with the record check. [2006 c 27 § 1; 1987 c 330 § 711; 1961 c 12 § 46.37.194. Prior: 1957 c 66 § 3.]

Additional notes found at www.leg.wa.gov

46.37.195 Sale of emergency vehicle lighting equipment restricted—Removal of emergency vehicle equipment, when required—Exception. (1) Except as provided in subsection (2) of this section, a public agency, business, entity, or person shall not sell or give emergency vehicle lighting equipment or other equipment to a person who may not lawfully operate the lighting equipment or other equipment on the public streets and highways. Prior to selling or giving an emergency vehicle to a person or entity that is not a public law enforcement or emergency agency within or outside the state, public law enforcement or emergency agency in another country, or private ambulance business within or outside the state, the seller or donor must remove all emergency lighting as defined in rules by the Washington state patrol, radios, and any other emergency equipment from the vehicle, except for reflective stripes and paint on fire trucks, that was not originally installed by the original vehicle manufacturer and that visibly identifies the vehicle as an emergency vehicle from the exterior, including spotlights and confinement or rear seat safety cages. If the equipment is not retained or transferred to another public law enforcement or emergency agency within or outside the state, public law enforcement or emergency agency in another country, or private ambulance business within or outside the state, the equipment must be dismantled with the individual parts being recycled or destroyed prior to being disposed of. The agency must also remove all decals, state and local designated law enforcement colors, and stripes that were not installed by the original vehicle manufacturer.

(2) The sale or donation to a broker specializing in the resale of emergency vehicles, or a charitable organization, intending to deliver the vehicle or equipment to a public law enforcement or emergency agency within or outside the state, public law enforcement or emergency agency in another country, or private ambulance business within or outside the state, is allowed with the emergency equipment still installed and intact. If the broker or charitable organization sells or donates the emergency vehicle to a person or entity that is not a public law enforcement or emergency agency, or private ambulance business, the broker or charitable organization must remove the equipment and designations and is accountable and responsible for the removal of the equipment and

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designations not installed on the vehicle by the original vehicle manufacturer. Equipment not sold or donated to a public law enforcement or emergency agency, or a private ambulance business, must be removed and transferred, destroyed, or recycled in accordance with subsection (1) of this section. [2010 c 117 § 2; 1990 c 94 § 2.]

Intent—2010 c 117: "It is the intent of the legislature to protect the public to ensure that only federal, state, and local law enforcement and emergency personnel, public or private, or other entities authorized by law to use emergency equipment have access to emergency equipment and vehicles." [2010 c 117 § 1.]

Legislative finding—1990 c 94: "The legislature declares that public agencies should not engage in activity that leads or abets a person to engage in conduct that is not lawful. The legislature finds that some public agencies sell emergency vehicle lighting equipment at public auctions to persons who may not lawfully use the equipment. The legislature further finds that this practice misleads well-intentioned citizens and also benefits malevolent individuals." [1990 c 94 § 1.]

46.37.196 Red lights on emergency tow trucks. All emergency tow trucks shall be identified by an intermittent or revolving red light capable of 360° visibility at a distance of five hundred feet under normal atmospheric conditions. This intermittent or revolving red light shall be used only at the scene of an emergency or accident, and it will be unlawful to use such light while traveling to or from an emergency or accident, or for any other purposes. [1977 ex.s. c 355 § 16.]

Additional notes found at www.leg.wa.gov

46.37.200 Stop lamps and electric turn signals displayed. (1) Any vehicle may be equipped and when required under this chapter shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred feet and on any vehicle manufactured or assembled after January 1, 1964, three hundred feet to the rear in normal sunlight, and which shall be actuated upon application of a service brake, and which may but need not be incorporated with one or more other rear lamps.

(2) Any vehicle may be equipped and when required under RCW 46.37.070(2) shall be equipped with electric turn signals which shall indicate an intention to turn by flashing lights showing to the front and rear of a vehicle or on a combination of vehicles on the side of the vehicle or combination toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit amber light: PROVIDED, That on any vehicle manufactured prior to January 1, 1969, the lamps showing to the front may emit white or amber light, or any shade of light between white and amber. The lamp showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and, when signaling, shall emit a red or amber light, or any shade of color between red and amber. Turn signal lamps shall be visible from a distance of not less than five hundred feet to the front and rear in normal sunlight. Turn signal lamps may, but need not be, incorporated in other lamps on the vehicle.

(3) Any vehicle may be equipped and when required under this chapter shall be equipped with a center high-mounted stop lamp mounted on the center line of the rear of

the vehicle. These stop lamps shall display a red light visible from a distance of not less than three hundred feet to the rear in normal sunlight, and shall be actuated upon application of a service brake, and may not be incorporated with any other rear lamps. [2006 c 306 § 3; 1977 ex.s. c 355 § 17; 1963 c 154 § 15; 1961 c 12 § 46.37.200. Prior: 1955 c 269 § 20; prior: 1953 c 248 § 2, part; 1947 c 267 § 4, part; 1937 c 189 § 23, part; Rem. Supp. 1947 § 6360-23, part; RCW 46.40.090, part; 1929 c 178 § 1, part; 1927 c 309 § 15, part; RRS § 6362-15.]

Additional notes found at www.leg.wa.gov

46.37.210 Additional lighting equipment. (1) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(2) Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(3) Any motor vehicle may be equipped with one or more back-up lamps either separately or in combination with other lamps, but any such back-up lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

(4) Any vehicle may be equipped with one or more side marker lamps, and any such lamp may be flashed in conjunction with turn or vehicular hazard warning signals. Side marker lamps located toward the front of a vehicle shall be amber, and side marker lamps located toward the rear shall be red.

(5) Any vehicle eighty inches or more in over-all width, if not otherwise required by RCW 46.37.090, may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in RCW 46.37.090(7).

(6)(a) Every motor vehicle, trailer, semitrailer, truck tractor, and pole trailer used in the state of Washington may be equipped with an auxiliary lighting system consisting of:

(i) One green light to be activated when the accelerator of the motor vehicle is depressed;

(ii) Not more than two amber lights to be activated when the motor vehicle is moving forward, or standing and idling, but is not under the power of the engine.

(b) Such auxiliary system shall not interfere with the operation of vehicle stop lamps or turn signals, as required by RCW 46.37.070. Such system, however, may operate in conjunction with such stop lamps or turn signals.

(c) Only one color of the system may be illuminated at any one time, and at all times either the green light, or amber light or lights shall be illuminated when the stop lamps of the vehicle are not illuminated.

(d) The green light, and the amber light or lights, when illuminated shall be plainly visible at a distance of one thousand feet to the rear.

(e) Only one such system may be mounted on a motor vehicle, trailer, semitrailer, truck tractor, or pole trailer; and such system shall be rear mounted in a horizontal fashion, at a height of not more than seventy-two inches, nor less than twenty inches, as provided by RCW 46.37.050.

(f) On a combination of vehicles, only the lights of the rearmost vehicle need actually be seen and distinguished as provided in subparagraph (d) of this subsection.

(g) Each manufacturer's model of such a system as described in this subsection shall be approved by the state patrol as provided for in RCW 46.37.005 and 46.37.320, before it may be sold or offered for sale in the state of Washington. [1987 c 330 § 712; 1977 ex.s. c 355 § 18; 1975 1st ex.s. c 242 § 1; 1963 c 154 § 16; 1961 c 12 § 46.37.210. Prior: 1955 c 269 § 21; prior: 1937 c 189 § 24; RRS § 6360-24; RCW 46.40.100.]

Additional notes found at www.leg.wa.gov

46.37.215 Hazard warning lamps. (1) Any vehicle may be equipped with lamps for the purpose of warning other operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking, or passing.

(2) After June 1, 1978, every motor home, bus, truck, truck tractor, trailer, semitrailer, or pole trailer eighty inches or more in overall width or thirty feet or more in overall length shall be equipped with lamps meeting the requirements of this section.

(3) Vehicular hazard warning signal lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing amber light: PROVIDED, That on any vehicle manufactured prior to January 1, 1969, the lamps showing to the front may display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than five hundred feet in normal sunlight. [1977 ex.s. c 355 § 19.]

Additional notes found at www.leg.wa.gov

46.37.220 Multiple-beam road-lighting equipment. Except as hereinafter provided, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp or combination thereof on motor vehicles shall be so arranged that the driver may select at will between distributions of light projected to different elevations, and such lamps may be so arranged that such selection can be made automatically subject to the following limitations:

(1) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of four hundred fifty feet ahead for all conditions of loading;

(2) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of one hundred fifty feet ahead; and on a straight level road under any conditions of loading none of the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver;

(3) Every new motor vehicle registered in this state after January 1, 1948, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which

shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped. [1977 ex.s. c 355 § 20; 1961 c 12 § 46.37.220. Prior: 1955 c 269 § 22; prior: 1947 c 267 § 5, part; Rem. Supp. 1947 § 6360-25a, part; RCW 46.40.140, part; 1933 c 156 § 3, part; 1929 c 178 § 5, part; 1927 c 309 § 22, part; RRS § 6362-22, part.]

Additional notes found at www.leg.wa.gov

46.37.230 Use of multiple-beam road-lighting equipment. (1) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in RCW 46.37.020, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(2) Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in RCW 46.37.220(2) shall be deemed to avoid glare at all times, regardless of road contour and loading.

(3) Whenever the driver of a vehicle approaches another vehicle from the rear within three hundred feet such driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in RCW 46.37.220(1). [1963 c 154 § 17; 1961 c 12 § 46.37.230. Prior: 1955 c 269 § 23; prior: 1947 c 267 § 5, part; Rem. Supp. 1947 § 6360-25a, part; RCW 46.40.140, part; 1933 c 156 § 3, part; 1929 c 178 § 5, part; 1927 c 309 § 22, part; RRS § 6362-22, part.]

Additional notes found at www.leg.wa.gov

46.37.240 Single-beam road-lighting equipment. Head lamp systems which provide only a single distribution of light shall be permitted on all farm tractors regardless of date of manufacture, and on all other motor vehicles manufactured and sold prior to one year after March 18, 1955, in lieu of multiple-beam road-lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

(1) The head lamps shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light shall at a distance of twenty-five feet ahead project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two inches above the level on which the vehicle stands at a distance of seventy-five feet ahead;

(2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred feet. [1977 ex.s. c 355 § 21; 1963 c 154 § 18; 1961 c 12 § 46.37.240. Prior: 1955 c 269 § 24; prior: 1947 c 267 § 5, part; Rem. Supp. 1947 § 6360-25a, part; RCW 46.40.140, part; 1933 c 156 § 3, part; 1929 c 178 § 5, part; 1927 c 309 § 22, part; RRS § 6362-22, part.]

(2010 Ed.)

Additional notes found at www.leg.wa.gov

46.37.260 Alternate road lighting equipment. Any motor vehicle may be operated under the conditions specified in RCW 46.37.020 when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects one hundred feet ahead in lieu of lamps required in RCW 46.37.220 or 46.37.240: PROVIDED, HOWEVER, That at no time shall it be operated at a speed in excess of twenty miles per hour. [1977 ex.s. c 355 § 22; 1961 c 12 § 46.37.260. Prior: 1955 c 269 § 26; prior: 1937 c 189 § 27; RRS § 6360-27; RCW 46.40.150.]

Additional notes found at www.leg.wa.gov

46.37.270 Number of lamps required—Number of additional lamps permitted. (1) At all times specified in RCW 46.37.020, at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

(2) Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than three hundred candlepower, not more than a total of two of any such additional lamps on the front of a vehicle shall be lighted at any one time when upon a highway. [1977 ex.s. c 355 § 23; 1961 c 12 § 46.37.270. Prior: 1955 c 269 § 27; prior: 1937 c 189 § 28; RRS § 6360-28; RCW 46.40.160; 1929 c 178 § 2; 1927 c 309 § 19; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part; 1915 c 142 § 21, part; RRS § 6362-19.]

Additional notes found at www.leg.wa.gov

46.37.280 Special restrictions on lamps. (1) During the times specified in RCW 46.37.020, any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps, warning lamps authorized by the state patrol and school bus warning lamps, which projects a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(2) Except as required in RCW 46.37.190 no person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof.

(3) Flashing lights are prohibited except as required in RCW 46.37.190, 46.37.200, 46.37.210, 46.37.215, and 46.37.300, warning lamps authorized by the state patrol, and light-emitting diode flashing taillights on bicycles. [1998 c 165 § 16; 1987 c 330 § 713; 1977 ex.s. c 355 § 24; 1963 c 154 § 19; 1961 c 12 § 46.37.280. Prior: 1955 c 269 § 28; prior: 1949 c 157 § 2; 1947 c 267 § 6; 1947 c 200 § 2; 1937 c 189 § 29; Rem. Supp. 1949 § 6360-29; RCW 46.40.170; 1927 c 309 § 33; RRS § 6362-33.]

Additional notes found at www.leg.wa.gov

46.37.290 Special lighting equipment on school buses and private carrier buses. The chief of the Washington state patrol is authorized to adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses and private carrier buses consistent with the provisions of this chapter, but supplemental thereto. Such standards and specifications shall correlate with and, so far as possible, conform to the specifications then current as approved by the society of automotive engineers. [1987 c 330 § 714; 1977 c 45 § 1; 1970 ex.s. c 100 § 6; 1961 c 12 § 46.37.290. Prior: 1955 c 269 § 29; prior: 1937 c 189 § 25, part; RRS § 6360-25, part; RCW 46.40.130, part; 1929 c 178 § 3, part; 1927 c 309 § 20, part; RRS § 6362-20, part.]

School buses—Crossing arms: RCW 46.37.620.

Additional notes found at www.leg.wa.gov

46.37.300 Standards for lights on snow-removal or highway maintenance and service equipment. (1) The state patrol shall adopt standards and specifications applicable to head lamps, clearance lamps, identification and other lamps on snow-removal and other highway maintenance and service equipment when operated on the highways of this state in lieu of the lamps otherwise required on motor vehicles by this chapter. Such standards and specifications may permit the use of flashing lights for purposes of identification on snow-removal and other highway maintenance and service equipment when in service upon the highways. The standards and specifications for lamps referred to in this section shall correlate with and, so far as possible, conform with those approved by the American association of state highway officials.

(2) It shall be unlawful to operate any snow-removal and other highway maintenance and service equipment on any highway unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted as provided in this section. [1987 c 330 § 715; 1963 c 154 § 20; 1961 c 12 § 46.37.300. Prior: 1955 c 269 § 30.]

Additional notes found at www.leg.wa.gov

46.37.310 Selling or using lamps or equipment. (1) No person may have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer, or use upon any such vehicle any head lamp, auxiliary or fog lamp, rear lamp, signal lamp, or reflector, which reflector is required under this chapter, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the state patrol and conforming to rules adopted by it.

(2) No person may have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer any lamp or device mentioned in this section conforming to rules adopted by the state patrol unless such lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.

(3) No person may use upon any motor vehicle, trailer, or semitrailer any lamps mentioned in this section unless the lamps are mounted, adjusted, and aimed in accordance with instructions of the state patrol. [1987 c 330 § 716; 1986 c 113

§ 1; 1961 c 12 § 46.37.310. Prior: 1955 c 269 § 31; prior: 1937 c 189 § 30; RRS § 6360-30; RCW 46.40.180; 1929 c 178 § 12; 1927 c 309 § 35; RRS § 6362-35.]

Additional notes found at www.leg.wa.gov

46.37.320 Authority of state patrol regarding lighting devices or other safety equipment. (1) The chief of the state patrol is hereby authorized to adopt and enforce rules establishing standards and specifications governing the performance of lighting devices and their installation, adjustment, and aiming, when in use on motor vehicles, and other safety equipment, components, or assemblies of a type for which regulation is required in this chapter or in rules adopted by the state patrol. Such rules shall correlate with and, so far as practicable, conform to federal motor vehicle safety standards adopted pursuant to the national traffic and motor vehicle safety act of 1966 (15 U.S.C. Sec. 1381 et seq.) covering the same aspect of performance, or in the absence of such federal standards, to the then current standards and specifications of the society of automotive engineers applicable to such equipment: PROVIDED, That the sale, installation, and use of any headlamp meeting the standards of either the society of automotive engineers or the United Nations agreement concerning motor vehicle equipment and parts done at Geneva on March 20, 1958, or as amended and adopted by the Canadian standards association (CSA standard D106.2), as amended, shall be lawful in this state.

(2) Every manufacturer who sells or offers for sale lighting devices or other safety equipment subject to requirements established by the state patrol shall, if the lighting device or safety equipment is not in conformance with applicable federal motor vehicle safety standards, provide for submission of such lighting device or safety equipment to any recognized organization or agency such as, but not limited to, the American national standards institute, the society of automotive engineers, or the American association of motor vehicle administrators, as the agent of the state patrol. Issuance of a certificate of compliance for any lighting device or item of safety equipment by that agent is deemed to comply with the standards set forth by the state patrol. Such certificate shall be issued by the agent of the state before sale of the product within the state.

(3) The state patrol may at any time request from the manufacturer a copy of the test data showing proof of compliance of any device with the requirements established by the state patrol and additional evidence that due care was exercised in maintaining compliance during production. If the manufacturer fails to provide such proof of compliance within sixty days of notice from the state patrol, the state patrol may prohibit the sale of the device in this state until acceptable proof of compliance is received by the state patrol.

(4) The state patrol or its agent may purchase any lighting device or other safety equipment, component, or assembly subject to this chapter or rules adopted by the state patrol under this chapter, for purposes of testing or retesting the equipment as to its compliance with applicable standards or specifications. [1987 c 330 § 717; 1986 c 113 § 2. Prior: 1977 ex.s. c 355 § 25; 1977 ex.s. c 20 § 1; 1961 c 12 § 46.37.320; prior: 1955 c 269 § 32; prior: 1937 c 189 § 31;

RRS § 6360-31; RCW 46.40.190; 1933 c 156 § 4, part; 1929 c 178 § 6, part; 1927 c 309 § 23, part; RRS § 6362-23, part.]

Additional notes found at www.leg.wa.gov

46.37.330 Revocation of certificate of approval on devices—Reapproval, conditions. (1) When the state patrol has reason to believe that an approved device does not comply with the requirements of this chapter or regulations issued by the state patrol, it may, after giving thirty days' previous notice to the person holding the certificate of approval for such device in this state, conduct a hearing upon the question of compliance of said approved device. After said hearing the state patrol shall determine whether said approved device meets the requirements of this chapter and regulations issued by the state patrol. If said device does not meet the requirements of this chapter or the state patrol's regulations it shall give notice to the one to whom the certificate of approval has been issued of the state patrol's intention to suspend or revoke the certificate of approval for such device in this state.

(2) If at the expiration of ninety days after such notice the person holding the certificate of approval for such device has thereafter to be sold or offered for sale meets the requirements of this chapter or the state patrol's regulations, the state patrol shall suspend or revoke the approval issued therefor and shall require the withdrawal of all such devices from the market and may require that all said devices sold since the notification be replaced with devices that do comply.

(3) When a certificate of approval has been suspended or revoked pursuant to this chapter or regulations by the state patrol, the device shall not be again approved unless and until it has been submitted for reapproval and it has been demonstrated, in the same manner as in an application for an original approval, that the device fully meets the requirements of this chapter or regulations issued by the state patrol. The state patrol may require that all previously approved items are being effectively recalled and removed from the market as a condition of reapproval. [1987 c 330 § 718; 1977 ex.s. c 355 § 26; 1961 c 12 § 46.37.330. Prior: 1955 c 269 § 33; prior: 1937 c 189 § 32; RRS § 6360-32; RCW 46.40.200; 1933 c 156 § 4, part; 1929 c 178 § 6, part; 1927 c 309 § 23, part; RRS § 6362-23, part.]

Additional notes found at www.leg.wa.gov

46.37.340 Braking equipment required. Every motor vehicle, trailer, semitrailer, and pole trailer, and any combination of such vehicle operating upon a highway within this state shall be equipped with brakes in compliance with the requirements of this chapter.

(1) Service brakes—adequacy. Every such vehicle and combination of vehicles, except special mobile equipment as defined in RCW 46.04.552, shall be equipped with service brakes complying with the performance requirements of RCW 46.37.351 and adequate to control the movement of and to stop and hold such vehicle under all conditions of loading, and on any grade incident to its operation.

(2) Parking brakes—adequacy. Every such vehicle and combination of vehicles shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free

from snow, ice, or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(3) Brakes on all wheels. Every vehicle shall be equipped with brakes acting on all wheels except:

(a) Trailers, semitrailers, or pole trailers of a gross weight not exceeding three thousand pounds, provided that:

(i) The total weight on and including the wheels of the trailer or trailers shall not exceed forty percent of the gross weight of the towing vehicle when connected to the trailer or trailers; and

(ii) The combination of vehicles consisting of the towing vehicle and its total towed load, is capable of complying with the performance requirements of RCW 46.37.351;

(b) Trailers, semitrailers, or pole trailers manufactured and assembled prior to July 1, 1965, shall not be required to be equipped with brakes when the total weight on and including the wheels of the trailer or trailers does not exceed two thousand pounds;

(c) Any vehicle being towed in driveaway or towaway operations, provided the combination of vehicles is capable of complying with the performance requirements of RCW 46.37.351;

(d) Trucks and truck tractors manufactured before July 25, 1980, and having three or more axles need not have brakes on the front wheels, except that when such vehicles are equipped with at least two steerable axles, the wheels of one steerable axle need not have brakes. Trucks and truck tractors manufactured on or after July 25, 1980, and having three or more axles are required to have brakes on the front wheels, except that when such vehicles are equipped with at least two steerable axles, the wheels of one steerable axle need not have brakes. Such trucks and truck tractors may be equipped with an automatic device to reduce the front-wheel braking effort by up to fifty percent of the normal braking force, regardless of whether or not antilock system failure has occurred on any axle, and:

(i) Must not be operable by the driver except upon application of the control that activates the braking system; and

(ii) Must not be operable when the pressure that transmits brake control application force exceeds eighty-five pounds per square inch (psi) on air-mechanical braking systems, or eighty-five percent of the maximum system pressure in vehicles utilizing other than compressed air.

All trucks and truck tractors having three or more axles must be capable of complying with the performance requirements of RCW 46.37.351;

(e) Special mobile equipment as defined in RCW 46.04.552 and all vehicles designed primarily for off-highway use with braking systems which work within the power train rather than directly at each wheel;

(f) Vehicles manufactured prior to January 1, 1930, may have brakes operating on only two wheels.

(g) For a forklift manufactured after January 1, 1970, and being towed, wheels need not have brakes except for those on the rearmost axle so long as such brakes, together with the brakes on the towing vehicle, shall be adequate to stop the combination within the stopping distance requirements of RCW 46.37.351.

(4) Automatic trailer brake application upon breakaway. Every trailer, semitrailer, and pole trailer equipped with air or vacuum actuated brakes and every trailer, semitrailer, and pole trailer with a gross weight in excess of three thousand pounds, manufactured or assembled after January 1, 1964, shall be equipped with brakes acting on all wheels and of such character as to be applied automatically and promptly, and remain applied for at least fifteen minutes, upon breakaway from the towing vehicle.

(5) Tractor brakes protected. Every motor vehicle manufactured or assembled after January 1, 1964, and used to tow a trailer, semitrailer, or pole trailer equipped with brakes, shall be equipped with means for providing that in case of breakaway of the towed vehicle, the towing vehicle will be capable of being stopped by the use of its service brakes.

(6) Trailer air reservoirs safeguarded. Air brake systems installed on trailers manufactured or assembled after January 1, 1964, shall be so designed that the supply reservoir used to provide air for the brakes shall be safeguarded against backflow of air from the reservoir through the supply line.

(7) Two means of emergency brake operation.

(a) Air brakes. After January 1, 1964, every towing vehicle equipped with air controlled brakes, in other than driveaway or towaway operations, and all other vehicles equipped with air controlled brakes, shall be equipped with two means for emergency application of the brakes. One of these means shall apply the brakes automatically in the event of a reduction of the vehicle's air supply to a fixed pressure which shall be not lower than twenty pounds per square inch nor higher than forty-five pounds per square inch. The other means shall be a manually controlled device for applying and releasing the brakes, readily operable by a person seated in the driving seat, and its emergency position or method of operation shall be clearly indicated. In no instance may the manual means be so arranged as to permit its use to prevent operation of the automatic means. The automatic and the manual means required by this section may be, but are not required to be, separate.

(b) Vacuum brakes. After January 1, 1964, every towing vehicle used to tow other vehicles equipped with vacuum brakes, in operations other than driveaway or towaway operations, shall have, in addition to the single control device required by subsection (8) of this section, a second control device which can be used to operate the brakes on towed vehicles in emergencies. The second control shall be independent of brake air, hydraulic, and other pressure, and inde-

pendent of other controls, unless the braking system be so arranged that failure of the pressure upon which the second control depends will cause the towed vehicle brakes to be applied automatically. The second control is not required to provide modulated braking.

(8) Single control to operate all brakes. After January 1, 1964, every motor vehicle, trailer, semitrailer, and pole trailer, and every combination of such vehicles, equipped with brakes shall have the braking system so arranged that one control device can be used to operate all service brakes. This requirement does not prohibit vehicles from being equipped with an additional control device to be used to operate brakes on the towed vehicles. This regulation does not apply to driveaway or towaway operations unless the brakes on the individual vehicles are designed to be operated by a single control in the towing vehicle.

(9) Reservoir capacity and check valve.

(a) Air brakes. Every bus, truck, or truck tractor with air operated brakes shall be equipped with at least one reservoir sufficient to insure that, when fully charged to the maximum pressure as regulated by the air compressor governor cut-out setting, a full service brake application may be made without lowering such reservoir pressure by more than twenty percent. Each reservoir shall be provided with means for readily draining accumulated oil or water.

(b) Vacuum brakes. After January 1, 1964, every truck with three or more axles equipped with vacuum assistor type brakes and every truck tractor and truck used for towing a vehicle equipped with vacuum brakes shall be equipped with a reserve capacity or a vacuum reservoir sufficient to insure that, with the reserve capacity or reservoir fully charged and with the engine stopped, a full service brake application may be made without depleting the vacuum supply by more than forty percent.

(c) Reservoir safeguarded. All motor vehicles, trailers, semitrailers, and pole trailers, when equipped with air or vacuum reservoirs or reserve capacity as required by this section, shall have such reservoirs or reserve capacity so safeguarded by a check valve or equivalent device that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored air or vacuum shall not be depleted by the leak or failure.

(10) Warning devices.

(a) Air brakes. Every bus, truck, or truck tractor using compressed air for the operation of its own brakes or the brakes on any towed vehicle, shall be provided with a warning signal, other than a pressure gauge, readily audible or visible to the driver, which will operate at any time the primary supply air reservoir pressure of the vehicle is below fifty percent of the air compressor governor cut-out pressure. In addition, each such vehicle shall be equipped with a pressure gauge visible to the driver, which indicates in pounds per square inch the pressure available for braking.

(b) Vacuum brakes. After January 1, 1964, every truck tractor and truck used for towing a vehicle equipped with vacuum operated brakes and every truck with three or more axles using vacuum in the operation of its brakes, except those in driveaway or towaway operations, shall be equipped with a warning signal, other than a gauge indicating vacuum, readily audible or visible to the driver, which will operate at

any time the vacuum in the vehicle's supply reservoir or reserve capacity is less than eight inches of mercury.

(c) Combination of warning devices. When a vehicle required to be equipped with a warning device is equipped with both air and vacuum power for the operation of its own brakes or the brakes on a towed vehicle, the warning devices may be, but are not required to be, combined into a single device which will serve both purposes. A gauge or gauges indicating pressure or vacuum shall not be deemed to be an adequate means of satisfying this requirement. [1989 c 221 § 1; 1979 c 11 § 1. Prior: 1977 ex.s. c 355 § 27; 1977 ex.s. c 148 § 2; 1965 ex.s. c 170 § 49; 1963 c 154 § 21; 1961 c 12 § 46.37.340; prior: 1955 c 269 § 34; prior: 1937 c 189 § 34, part; RRS § 6360-34, part; RCW 46.36.020, 46.36.030, part; 1929 c 180 § 6; 1927 c 309 § 16; 1923 c 181 § 5; 1921 c 96 § 23; 1915 c 142 § 22; RRS § 6362-16.]

Additional notes found at www.leg.wa.gov

46.37.351 Performance ability of brakes. Every motor vehicle and combination of vehicles, at all times and under all conditions of loading, upon application of the service brakes, shall be capable of:

(1) Developing a braking force that is not less than the percentage of its gross weight tabulated herein for its classification,

(2) Decelerating to a stop from not more than twenty miles per hour at not less than the feet per second per second tabulated herein for its classification, and

(3) Stopping from a speed of twenty miles per hour in not more than the distance tabulated herein for its classification, such distance to be measured from the point at which movement of the service brake pedal or control begins.

Tests for deceleration and stopping distance shall be made on a substantially level (not to exceed plus or minus one percent grade), dry, smooth, hard surface that is free from loose material.

Classification of vehicles	Braking force as a percentage of gross vehicle or combination weight	Deceleration in feet per second per second	Brake system application
			and braking distance in feet from an initial speed of 20 m.p.h.
A Passenger vehicles with a seating capacity of 10 people or less including driver, not having a manufacturer's gross vehicle weight rating	52.8%	17	25
B-1 All motorcycles and motor-driven cycles . .	43.5%	14	30

B-2 Single unit vehicles with a manufacturer's gross vehicle weight rating of 10,000 pounds or less	43.5%	14	30
C-1 Single unit vehicles with a manufacturer's gross weight rating of more than 10,000 pounds	43.5%	14	40
C-2 Combinations of a two-axle towing vehicle and a trailer with a gross trailer weight of 3,000 pounds or less . .	43.5%	14	40
C-3 Buses, regardless of the number of axles, not having a manufacturer's gross weight rating . . .	43.5%	14	40
C-4 All combinations of vehicles in driveaway-towaway operations . .	43.5%	14	40
D All other vehicles and combinations of vehicles	43.5%	14	50

[1963 c 154 § 22.]

Additional notes found at www.leg.wa.gov

46.37.360 Maintenance of brakes—Brake system failure indicator. (1) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the front and back wheels and to wheels on opposite sides of the vehicle.

(2) All passenger cars manufactured on or after January 1, 1968, and other types of vehicles manufactured on or after September 1, 1975, shall be equipped with brake system failure indicator lamps which shall be maintained in good working order and integrity by the application of a force of one hundred twenty-five pounds to the brake pedal for ten seconds without the occurrence of any of the following:

(i) Illumination of the brake system failure indicator lamp;

(ii) A decrease of more than eighty percent of service brake pedal height as measured from its free position to the floorboard or any other object which restricts service brake pedal travel;

(iii) Failure of any hydraulic line or other part.

(3) Brake hoses shall not be mounted so as to contact the vehicle body or chassis. In addition, brake hoses shall not be cracked, chafed, flattened, abraded, or visibly leaking. Protection devices such as "rub rings" shall not be considered part of the hose or tubing.

(4) Disc and drum condition. If the drum is embossed with a maximum safe diameter dimension or the rotor is embossed with a minimum safety thickness dimension, the drum or disc shall be within the appropriate specifications. These dimensions will be found on motor vehicles manufactured since January 1, 1971, and may be found on vehicles manufactured for several years prior to that time. If the drums

and discs are not embossed, the drums and discs shall be within the manufacturer's specifications.

(5) Friction materials. On each brake the thickness of the lining or pad shall not be less than one thirty-second of an inch over the rivet heads, or the brake shoe on bonded linings or pads. Brake linings and pads shall not have cracks or breaks that extend to rivet holes except minor cracks that do not impair attachment. Drum brake linings shall be securely attached to brake shoes. Disc brake pads shall be securely attached to shoe plates.

(6) Backing plates and caliper assemblies shall not be deformed or cracked. System parts shall not be broken, misaligned, missing, binding, or show evidence of severe wear. Automatic adjusters and other parts shall be assembled and installed correctly. [1977 ex.s. c 355 § 28; 1961 c 12 § 46.37.360. Prior: 1955 c 269 § 36; prior: 1951 c 56 § 2, part; 1937 c 189 § 34, part; RRS § 6360-34, part; RCW 46.36.020, 46.36.030, part; 1929 c 180 § 6; 1927 c 309 § 16; 1923 c 181 § 5; 1921 c 96 § 23; 1915 c 142 § 22; RRS § 6362-16.]

Additional notes found at www.leg.wa.gov

46.37.365 Hydraulic brake fluid—Defined—Standards and specifications. (1) The term "hydraulic brake fluid" as used in this section shall mean the liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle.

(2) Hydraulic brake fluid shall be distributed and serviced with due regard for the safety of the occupants of the vehicle and the public.

(3) The chief of the Washington state patrol shall, in compliance with the provisions of chapter 34.05 RCW, the administrative procedure act, which govern the adoption of rules, adopt and enforce regulations for the administration of this section and shall adopt and publish standards and specifications for hydraulic brake fluid which shall correlate with, and so far as practicable conform to, the then current standards and specifications of the society of automotive engineers applicable to such fluid.

(4) No person shall distribute, have for sale, offer for sale, or sell any hydraulic brake fluid unless it complies with the requirements of this section and the standard specifications adopted by the state patrol. No person shall service any vehicle with brake fluid unless it complies with the requirements of this section and the standards and specifications adopted by the state patrol.

(5) Subsections (3) and (4) of this section shall not apply to petroleum base fluids in vehicles with brake systems designed to use them. [1987 c 330 § 719; 1977 ex.s. c 355 § 29; 1963 c 154 § 24.]

Additional notes found at www.leg.wa.gov

46.37.369 Wheels and front suspension. (1) No vehicle shall be equipped with wheel nuts, hub caps, or wheel discs extending outside the body of the vehicle when viewed from directly above which:

- (a) Incorporate winged projections; or
- (b) Constitute a hazard to pedestrians and cyclists.

For the purposes of this section, a wheel nut is defined as an exposed nut which is mounted at the center or hub of a wheel, and is not one of the ordinary hexagonal nuts which secure a

wheel to an axle and are normally covered by a hub cap or wheel disc.

(2) Tire rims and wheel discs shall have no visible cracks, elongated bolt holes, or indications of repair by welding. In addition, the lateral and radial runout of each rim bead area shall not exceed one-eighth of an inch of total indicated runout.

(3) King pins or ball joints shall not be worn to the extent that front wheels tip in or out more than one-quarter of an inch at the lower edge of the tire. [1977 ex.s. c 355 § 30.]

Lowering vehicle below legal clearance: RCW 46.61.680.

Additional notes found at www.leg.wa.gov

46.37.375 Steering and suspension systems. (1) Construction of steering control system. The steering control system shall be constructed and maintained so that no components or attachments, including horn activating mechanism and trim hardware, can catch the driver's clothing or jewelry during normal driving maneuvers.

(2) Maintenance of steering control system. System play, lash, or free play in the steering system shall not exceed the values tabulated herein.

Steering wheel diameter (inches)	Lash (inches)
16 or less	2
18	2-1/4
20	2-1/2
22	2-3/4

(3) Linkage play. Free play in the steering linkage shall not exceed one-quarter of an inch.

(4) Other components of the steering system such as the power steering belt, tie rods, or idler arms or Pitman arms shall not be broken, worn out, or show signs of breakage.

(5) Suspension condition. Ball joint seals shall not be cut or cracked. Structural parts shall not be bent or damaged. Stabilizer bars shall be connected. Springs shall not be broken, or extended by spacers. Shock absorber mountings, shackles, and U-bolts shall be securely attached. Rubber bushings shall not be cracked, or extruded out or missing from suspension joints. Radius rods shall not be missing or damaged.

(6) Shock absorber system. Shock absorbers shall not be loose from mountings, leak, or be inoperative.

(7) Alignment. Toe-in and toe-out measurements shall not be greater than one and one-half times the value listed in the vehicle manufacturer's service specification for alignment setting. [1977 ex.s. c 355 § 31.]

Lowering vehicle below legal clearance: RCW 46.61.680.

Additional notes found at www.leg.wa.gov

46.37.380 Horns, warning devices, and theft alarms.

(1) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device may emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible

warning with his or her horn but shall not otherwise use such horn when upon a highway.

(2) No vehicle may be equipped with nor may any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section.

(3) It is permissible for any vehicle to be equipped with a theft alarm signal device so long as it is so arranged that it cannot be used by the driver as an ordinary warning signal. Such a theft alarm signal device may use a whistle, bell, horn, or other audible signal but shall not use a siren.

(4) Any authorized emergency vehicle may be equipped with a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type conforming to rules adopted by the state patrol, but the siren shall not be used except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which latter events the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of its approach. [2010 c 8 § 9052; 1987 c 330 § 720; 1986 c 113 § 3; 1977 ex.s. c 355 § 32; 1961 c 12 § 46.37.380. Prior: 1955 c 269 § 38; prior: 1937 c 189 § 35; RRS § 6360-35; RCW 46.36.040.]

Motorcycles and motor-driven cycles—Additional requirements and limitations: RCW 46.37.539.

Additional notes found at www.leg.wa.gov

46.37.390 Mufflers required—Smoke and air contaminant standards—Definitions—Penalty, exception.

(1) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway.

(2)(a) No motor vehicle first sold and registered as a new motor vehicle on or after January 1, 1971, shall discharge into the atmosphere at elevations of less than three thousand feet any air contaminant for a period of more than ten seconds which is:

(i) As dark as or darker than the shade designated as No. 1 on the Ringelmann chart, as published by the United States bureau of mines; or

(ii) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (a)(i) above.

(b) No motor vehicle first sold and registered prior to January 1, 1971, shall discharge into the atmosphere at elevations of less than three thousand feet any air contaminant for a period of more than ten seconds which is:

(i) As dark as or darker than the shade designated as No. 2 on the Ringelmann chart, as published by the United States bureau of mines; or

(ii) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (b)(i) above.

(c) For the purposes of this subsection the following definitions shall apply:

(i) "Opacity" means the degree to which an emission reduces the transmission of light and obscures the view of an object in the background;

(2010 Ed.)

(ii) "Ringelmann chart" means the Ringelmann smoke chart with instructions for use as published by the United States bureau of mines in May 1967 and as thereafter amended, information circular 7718.

(3) No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the engine of such vehicle above that emitted by the muffler originally installed on the vehicle, and it shall be unlawful for any person to operate a motor vehicle not equipped as required by this subsection, or which has been amplified as prohibited by this subsection. A court may dismiss an infraction notice for a violation of this subsection if there is reasonable grounds to believe that the vehicle was not operated in violation of this subsection.

This subsection (3) does not apply to vehicles twenty-five or more years old or to passenger vehicles being operated off the highways in an organized racing or competitive event conducted by a recognized sanctioning body. [2006 c 306 § 4; 2001 c 293 § 1; 1977 ex.s. c 355 § 33; 1972 ex.s. c 135 § 1; 1967 c 232 § 3; 1961 c 12 § 46.37.390. Prior: 1955 c 269 § 39; prior: 1937 c 189 § 36; RRS § 6360-36; RCW 46.36.050; 1927 c 309 § 17; 1921 c 96 § 21; 1915 c 142 § 20; RRS § 6362-17.]

Rules of court: Monetary penalty schedule—IRLJ 6.2.

Motorcycles and motor-driven cycles—Additional requirements and limitations: RCW 46.37.539.

Additional notes found at www.leg.wa.gov

46.37.395 Compression brakes (Jake brakes). (1)

This section applies to all motor vehicles with a gross vehicle weight rating of 4,536 kilograms or more (10,001 pounds or more), registered and domiciled in Washington state, operated on public roads and equipped with engine compression brake devices. An engine compression brake device is any device that uses the engine and transmission to impede the forward motion of the motor vehicle by compression of the engine.

(2) The driver of a motor vehicle equipped with a device that uses the compression of the motor vehicle engine shall not use the device unless: The motor vehicle is equipped with an operational muffler and exhaust system to prevent excess noise. A muffler is part of an engine exhaust system which acts as a noise dissipative device. A turbocharger is not permitted to be used as a muffler or a noise dissipative device.

(3) The monetary penalty for violating subsection (2) of this section is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

(4) All medium and heavy trucks must comply with federal code 205 - transportation equipment noise emission controls, subpart B.

(5) Nothing in this section prohibits a local jurisdiction from implementing an ordinance that is more restrictive than the state law and Washington state patrol rules regarding the use of compression brakes. [2006 c 50 § 3; 2005 c 320 § 1.]

46.37.400 Mirrors, backup devices. (1) Every motor vehicle shall be equipped with a mirror mounted on the left side of the vehicle and so located to reflect to the driver a

view of the highway for a distance of at least two hundred feet to the rear of such vehicle.

(2) Every motor vehicle shall be equipped with an additional mirror mounted either inside the vehicle approximately in the center or outside the vehicle on the right side and so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle.

(3) Every truck registered or based in Washington that is equipped with a cube-style, walk-in cargo box up to eighteen feet long used in the commercial delivery of goods and services must be equipped with a rear crossview mirror or backup device to alert the driver that a person or object is behind the truck.

(4) All mirrors and backup devices required by this section shall be maintained in good condition. Rear crossview mirrors and backup devices will be of a type approved by the Washington state patrol. [1998 c 2 § 1; 1977 ex.s. c 355 § 34; 1963 c 154 § 25; 1961 c 12 § 46.37.400. Prior: 1955 c 269 § 40; prior: 1937 c 189 § 37; RRS § 6360-37; RCW 46.36.060.]

Motorcycles and motor-driven cycles—Additional requirements and limitations: RCW 46.37.539.

Additional notes found at www.leg.wa.gov

46.37.410 Windshields required, exception—Must be unobstructed and equipped with wipers. (1) All motor vehicles operated on the public highways of this state shall be equipped with a front windshield manufactured of safety glazing materials for use in motor vehicles in accordance with RCW 46.37.430, except, however, on such vehicles not so equipped or where windshields are not in use, the operators of such vehicles shall wear glasses, goggles, or face shields pursuant to RCW 46.37.530(1)(b).

(2) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of such vehicle which obstructs the driver's clear view of the highway or any intersecting highway.

(3) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle. After January 1, 1938, it shall be unlawful for any person to operate a new motor vehicle first sold or delivered after that date which is not equipped with such device or devices in good working order capable of cleaning the windshield thereof over two separate arcs, one each on the left and right side of the windshield, each capable of cleaning a surface of not less than one hundred twenty square inches, or other device or devices capable of accomplishing substantially the same result.

(4) Every windshield wiper upon a motor vehicle shall be maintained in good working order. [1977 ex.s. c 355 § 35; 1961 c 12 § 46.37.410. Prior: 1955 c 269 § 41; prior: (i) 1937 c 189 § 38; RRS § 6360-38; RCW 46.36.070. (ii) 1937 c 189 § 39; RRS § 6360-39; RCW 46.36.080.]

Additional notes found at www.leg.wa.gov

46.37.420 Tires—Restrictions. (1) It is unlawful to operate a vehicle upon the public highways of this state unless it is completely equipped with pneumatic rubber tires except vehicles equipped with temporary-use spare tires that meet federal standards that are installed and used in accordance with the manufacturer's instructions.

(2) No tire on a vehicle moved on a highway may have on its periphery any block, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it is permissible to use farm machinery equipped with pneumatic tires or solid rubber tracks having protuberances that will not injure the highway, and except also that it is permissible to use tire chains or metal studs imbedded within the tire of reasonable proportions and of a type conforming to rules adopted by the state patrol, upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid. It is unlawful to use metal studs imbedded within the tire between April 1st and November 1st, except that a vehicle may be equipped year-round with tires that have retractable studs if: (a) The studs retract pneumatically or mechanically to below the wear bar of the tire when not in use; and (b) the retractable studs are engaged only between November 1st and April 1st. Retractable studs may be made of metal or other material and are not subject to the lightweight stud weight requirements under RCW 46.04.272. The state department of transportation may, from time to time, determine additional periods in which the use of tires with metal studs imbedded therein is lawful.

(3) The state department of transportation and local authorities in their respective jurisdictions may issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this section.

(4) Tires with metal studs imbedded therein may be used between November 1st and April 1st upon school buses and fire department vehicles, any law or regulation to the contrary notwithstanding. [2007 c 140 § 2; 1999 c 208 § 1; 1990 c 105 § 1; 1987 c 330 § 721; 1986 c 113 § 4; 1984 c 7 § 50; 1971 ex.s. c 32 § 1; 1969 ex.s. c 7 § 1; 1961 c 12 § 46.37.420. Prior: 1955 c 269 § 42; prior: (i) 1937 c 189 § 41; RRS § 6360-41; RCW 46.36.100. (ii) 1937 c 189 § 42; RRS § 6360-42; RCW 46.36.120; 1929 c 180 § 7; 1927 c 309 § 46; RRS § 6362-46.]

Dangerous road conditions requiring special tires, chains, metal studs: RCW 47.36.250.

Motorcycles and motor-driven cycles—Additional requirements and limitations: RCW 46.37.539.

Additional notes found at www.leg.wa.gov

46.37.4215 Lightweight and retractable studs—Certification by sellers. Beginning January 1, 2000, a person offering to sell to a tire dealer conducting business in the state of Washington, a metal flange or cleat intended for installation as a stud in a vehicle tire shall certify that the studs are: (1) Lightweight studs as defined in RCW 46.04.272; or (2) retractable studs that are exempt from the requirements of

RCW 46.04.272. Certification must be accomplished by clearly marking the boxes or containers used to ship and store studs with the designation "lightweight." This section does not apply to tires or studs in a wholesaler's existing inventory as of January 1, 2000. [2007 c 140 § 3; 1999 c 219 § 2.]

46.37.4216 Lightweight and retractable studs—Sale of tires containing. Beginning July 1, 2001, a person may not sell a studded tire or sell a stud for installation in a tire unless the stud qualifies as a: (1) Lightweight stud under RCW 46.04.272; or (2) retractable stud that is exempt from the requirements of RCW 46.04.272. [2007 c 140 § 4; 1999 c 219 § 3.]

46.37.423 Pneumatic passenger car tires—Standards—Exception for off-highway use—Penalty. No person, firm, or corporation shall sell or offer for sale for use on the public highways of this state any new pneumatic passenger car tire which does not meet the standards established by federal motor vehicle safety standard No. 109, as promulgated by the United States department of transportation under authority of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 719, 728; 15 U.S.C. 1392, 1407).

The applicable standard shall be the version of standard No. 109 in effect at the time of manufacture of the tire.

It is a traffic infraction for any person, firm, or corporation to sell or offer for sale any new pneumatic passenger car tire which does not meet the standards prescribed in this section unless such tires are sold for off-highway use, as evidenced by a statement signed by the purchaser at the time of sale certifying that he or she is not purchasing such tires for use on the public highways of this state. [2010 c 8 § 9053; 1979 ex.s. c 136 § 71; 1971 c 77 § 1.]

Additional notes found at www.leg.wa.gov

46.37.424 Regrooved tires—Standards—Exception for off-highway use—Penalty. No person, firm, or corporation shall sell or offer for sale any regrooved tire or shall regroove any tire for use on the public highways of this state which does not meet the standard established by federal motor vehicle standard part 569—regrooved tires, as promulgated by the United States department of transportation under authority of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 719, 728; 15 U.S.C. 1392, 1407).

The applicable standard shall be the version of the federal regrooved tire standard in effect at the time of regrooving.

It is a traffic infraction for any person, firm, or corporation to sell or offer for sale any regrooved tire or shall regroove any tire which does not meet the standards prescribed in this section unless such tires are sold or regrooved for off-highway use, as evidenced by a statement signed by the purchaser or regroover at the time of sale or regrooving certifying that he or she is not purchasing or regrooving such tires for use on the public highways of this state. [2010 c 8 § 9054; 1979 ex.s. c 136 § 72; 1977 ex.s. c 355 § 36; 1971 c 77 § 2.]

Additional notes found at www.leg.wa.gov

(2010 Ed.)

46.37.425 Tires—Unsafe—State patrol's authority—Penalty. No person shall drive or move or cause to be driven or moved any vehicle, the tires of which have contact with the driving surface of the road, subject to registration in this state, upon the public highways of this state unless such vehicle is equipped with tires in safe operating condition in accordance with requirements established by this section or by the state patrol.

The state patrol shall promulgate rules and regulations setting forth requirements of safe operating condition of tires capable of being employed by a law enforcement officer by visual inspection of tires mounted on vehicles including visual comparison with simple measuring gauges. These rules shall include effects of tread wear and depth of tread.

A tire shall be considered unsafe if it has:

(1) Any ply or cord exposed either to the naked eye or when cuts or abrasions on the tire are probed; or

(2) Any bump, bulge, or knot, affecting the tire structure; or

(3) Any break repaired with a boot; or

(4) A tread depth of less than 2/32 of an inch measured in any two major tread grooves at three locations equally spaced around the circumference of the tire, or for those tires with tread wear indicators, a tire shall be considered unsafe if it is worn to the point that the tread wear indicators contact the road in any two major tread grooves at three locations equally spaced around the circumference of the tire; or

(5) A legend which indicates the tire is not intended for use on public highways such as, "not for highway use" or "for racing purposes only"; or

(6) Such condition as may be reasonably demonstrated to render it unsafe; or

(7) If not matched in tire size designation, construction, and profile to the other tire and/or tires on the same axle, except for temporary-use spare tires that meet federal standards that are installed and used in accordance with the manufacturer's instructions.

No person, firm, or corporation shall sell any vehicle for use on the public highways of this state unless the vehicle is equipped with tires that are in compliance with the provisions of this section. If the tires are found to be in violation of the provisions of this section, the person, firm, or corporation selling the vehicle shall cause such tires to be removed from the vehicle and shall equip the vehicle with tires that are in compliance with the provisions of this section.

It is a traffic infraction for any person to operate a vehicle on the public highways of this state, or to sell a vehicle for use on the public highways of this state, which is equipped with a tire or tires in violation of the provisions of this section or the rules and regulations promulgated by the state patrol hereunder: PROVIDED, HOWEVER, That if the violation relates to items (1) to (7) inclusive of this section then the condition or defect must be such that it can be detected by a visual inspection of tires mounted on vehicles, including visual comparison with simple measuring gauges. [1990 c 105 § 2; 1987 c 330 § 722; 1979 ex.s. c 136 § 73; 1977 ex.s. c 355 § 37; 1971 c 77 § 3.]

Additional notes found at www.leg.wa.gov

46.37.430 Safety glazing—Sunscreening or coloring. (1)(a) No person may sell any motor vehicle as specified in

this title, nor may any motor vehicle as specified in this title be registered unless such vehicle is equipped with safety glazing material of a type that meets or exceeds federal standards under 49 C.F.R. Sec. 571.205.

(b) The foregoing provisions apply to all passenger-type motor vehicles, including passenger buses and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing material apply to all glazing material used in doors, windows, and windshields in the drivers' compartments of such vehicles except as provided by subsection (4) of this section.

(c) The safety glazing material that is manufactured and installed in accordance with federal standards shall not be etched or otherwise permanently altered if the safety glazing material is installed in the windshield or any other window located in the motor vehicle passenger compartment, except for the etching of the vehicle identification number if:

(i) The maximum height of the letters or numbers do not exceed one-half inch; and

(ii) The etched vehicle identification number is not located in a position that interferes with the vision of any occupant of the motor vehicle.

(2) For the purposes of this section:

(a) "Light transmission" means the ratio of the amount of total visible light, expressed in percentages, that is allowed to pass through the sunscreening or coloring material to the amount of total visible light falling on the motor vehicle window.

(b) "Net film screening" means the total sunscreening or coloring material applied to the window that includes both the material applied by the manufacturer during the safety glazing and any film sunscreening or coloring material applied after the vehicle is manufactured.

(c) "Reflectance" means the ratio of the amount of total light, expressed in percentages, that is reflected outward by the sunscreening or coloring material to the amount of total light falling on the motor vehicle window.

(d) "Safety glazing materials" means glazing materials so constructed, treated, or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

(3) The director of licensing shall not register any motor vehicle which is subject to the provisions of this section unless it is equipped with an approved type of safety glazing material, and he or she shall suspend the registration of any motor vehicle so subject to this section which the director finds is not so equipped until it is made to conform to the requirements of this section.

(4) No person may sell or offer for sale, nor may any person operate a motor vehicle registered in this state which is equipped with, any camper manufactured after May 23, 1969, unless such camper is equipped with safety glazing material of a type conforming to rules adopted under 49 C.F.R. Sec. 571.205 wherever glazing materials are used in outside windows and doors.

(5) No film sunscreening or coloring material that reduces light transmittance to any degree may be applied to the surface of the safety glazing material in a motor vehicle unless it meets the following standards for such material:

(a) The maximum level of net film sunscreening to be applied to any window, except the windshield, shall have a total reflectance of thirty-five percent or less, and a light transmission of twenty-four percent or more, where the vehicle is equipped with outside rearview mirrors on both the right and left. Installation of more than a single sheet of film sunscreening material to any window is prohibited.

(b) Hearses, collector vehicles, limousines and passenger buses used to transport persons for compensation, ambulances, rescue squad vehicles, any other emergency medical vehicle licensed under RCW 18.73.130 that is used to transport patients, and any vehicle identified by the manufacturer as a truck, motor home, or multipurpose passenger vehicle as defined in 49 C.F.R. Sec. 571.3, may have net film sunscreening applied on any window to the rear of the driver that has less than twenty-four percent light transmittance, if the light reflectance is thirty-five percent or less and the vehicle is equipped with outside rearview mirrors on both the right and left.

(c) A person or business tinting windows for profit who tints windows within restricted areas of the glazing system shall supply a sticker to be affixed to the driver's door post, in the area adjacent to the manufacturer's identification tag. Installation of this sticker certifies that the glazing application meets this chapter's standards for light transmission, reflectance, and placement requirements. Stickers must be no smaller than three-quarters of an inch by one and one-half inches, and no larger than two inches by two and one-half inches. The stickers must be of sufficient quality to endure exposure to harsh climate conditions. The business name and state tax identification number of the installer must be clearly visible on the sticker.

(d) A greater degree of light reduction is permitted on all windows and the top six inches of windshields of a vehicle operated by or carrying as a passenger a person who possesses a written verification from a licensed physician that the operator or passenger must be protected from exposure to sunlight for physical or medical reasons.

(e) A greater degree of light reduction is permitted along the top edge of the windshield as long as the product is transparent and does not extend into the AS-1 portion of the windshield or extend more than six inches from the top of the windshield. Clear film sunscreening material that reduces or eliminates ultraviolet light may be applied to windshields.

(f) When film sunscreening material is applied to any window except the windshield, outside mirrors on both the left and right sides shall be located so as to reflect to the driver a view of the roadway, through each mirror, a distance of at least two hundred feet to the rear of the vehicle.

(g) The following types of film sunscreening material are not permitted:

(i) Mirror finish products;

(ii) Red, gold, yellow, or black material; or

(iii) Film sunscreening material that is in liquid preapplication form and brushed or sprayed on.

(6) Subsection (5) of this section does not prohibit:

(a) The use of shaded or heat-absorbing safety glazing material in which the shading or heat-absorbing characteristics have been applied at the time of manufacture of the safety glazing material and which meet federal standards for such safety glazing materials.

(b) The use and placement of federal, state, or local certificates or decals on any window as required by applicable laws or regulations. However, any such certificate or decal must be of a size and placed on the motor vehicle so as not to impair the ability of the driver to safely operate the motor vehicle.

(c) Sunscreening devices to be applied to any window behind the driver provided that the devices reduce the driver's area of vision uniformly and by no more than fifty percent, as measured on a horizontal plane. If sunscreening devices are applied to the rear window, the vehicle must be equipped with outside rearview mirrors on both the left and right.

(d) Recreational products, such as toys, cartoon characters, stuffed animals, signs, and any other vision-reducing article or material to be applied to or placed in windows behind the driver provided that they do not interfere, in their size or position, with the driver's ability to see other vehicles, persons, or objects.

(7) It is a traffic infraction for any person to operate a vehicle for use on the public highways of this state, if the vehicle is equipped with film sunscreening or coloring material in violation of this section.

(8) Owners of vehicles with film sunscreening material applied to windows to the rear of the driver, prior to June 7, 1990, must comply with the requirements of this section and RCW 46.37.435 by July 1, 1993.

(9) The side and rear windows of law enforcement vehicles are exempt from the requirements of subsection (5) of this section. However, when law enforcement vehicles are sold to private individuals the film sunscreening or coloring material must comply with the requirements of subsection (5) of this section or documentation must be provided to the buyer stating that the vehicle windows must comply with the requirements of subsection (5) of this section before operation of the vehicle. [2009 c 142 § 1; 2007 c 168 § 1; 1993 c 384 § 1; 1990 c 95 § 1; 1989 c 210 § 1; 1987 c 330 § 723; 1986 c 113 § 5; 1985 c 304 § 1; 1979 c 158 § 157; 1969 ex.s. c 281 § 47; 1961 c 12 § 46.37.430. Prior: 1955 c 269 § 43; prior: 1947 c 220 § 1; 1937 c 189 § 40; Rem. Supp. 1947 § 6360-40; RCW 46.36.090.]

Additional notes found at www.leg.wa.gov

46.37.435 Sunscreening, unlawful installation, penalty. From June 7, 1990, a person who installs safety glazing or film sunscreening material in violation of RCW 46.37.430 is guilty of unlawful installation of safety glazing or film sunscreening materials. Unlawful installation is a misdemeanor. [1990 c 95 § 2.]

46.37.440 Flares or other warning devices required on certain vehicles. (1) No person may operate any motor truck, passenger bus, truck tractor, motor home, or travel trailer over eighty inches in overall width upon any highway outside the corporate limits of municipalities at any time unless there is carried in such vehicle the following equipment except as provided in subsection (2) of this section:

(a) At least three flares or three red electric lanterns or three portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of

not less than six hundred feet under normal atmospheric conditions at nighttime.

No flare, fusee, electric lantern, or cloth warning flag may be used for the purpose of compliance with this section unless such equipment is of a type which has been submitted to the state patrol and conforms to rules adopted by it. No portable reflector unit may be used for the purpose of compliance with the requirements of this section unless it is so designed and constructed as to be capable of reflecting red light clearly visible from all distances within six hundred feet to one hundred feet under normal atmospheric conditions at night when directly in front of lawful upper beams of head lamps, and unless it is of a type which has been submitted to the state patrol and conforms to rules adopted by it;

(b) At least three red-burning fusees unless red electric lanterns or red portable emergency reflectors are carried;

(c) At least two red-cloth flags, not less than twelve inches square, with standards to support such flags.

(2) No person may operate at the time and under conditions stated in subsection (1) of this section any motor vehicle used for the transportation of explosives, any cargo tank truck used for the transportation of flammable liquids or compressed gases or liquefied gases, or any motor vehicle using compressed gas as a fuel unless there is carried in such vehicle three red electric lanterns or three portable red emergency reflectors meeting the requirements of subsection (1) of this section, and there shall not be carried in any said vehicle any flares, fusees, or signal produced by flame. [1987 c 330 § 724; 1986 c 113 § 6; 1977 ex.s. c 355 § 38; 1971 ex.s. c 97 § 1; 1961 c 12 § 46.37.440. Prior: 1955 c 269 § 44; prior: 1947 c 267 § 7, part; Rem. Supp. 1947 § 6360-32a, part; RCW 46.40.210, part.]

Additional notes found at www.leg.wa.gov

46.37.450 Disabled vehicle—Display of warning devices. (1) Whenever any motor truck, passenger bus, truck tractor over eighty inches in overall width, trailer, semitrailer, or pole trailer is disabled upon the traveled portion of any highway or the shoulder thereof outside any municipality at any time when lighted lamps are required on vehicles, the driver of such vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway except as provided in subsection (2) of this section:

(a) A lighted fusee, a lighted red electric lantern, or a portable red emergency reflector shall be immediately placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.

(b) As soon thereafter as possible but in any event within the burning period of the fusee (fifteen minutes), the driver shall place three liquid-burning flares (pot torches), three lighted red electric lanterns, or three portable red emergency reflectors on the traveled portion of the highway in the following order:

(i) One, approximately one hundred feet from the disabled vehicle in the center of the lane occupied by such vehicle and toward traffic approaching in that lane.

(ii) One, approximately one hundred feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle.

(iii) One at the traffic side of the disabled vehicle not less than ten feet rearward or forward thereof in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with subdivision (a) of this subsection, it may be used for this purpose.

(2) Whenever any vehicle referred to in this section is disabled within five hundred feet of a curve, hillcrest, or other obstruction to view, the warning signal in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than five hundred feet from the disabled vehicle.

(3) Whenever any vehicle of a type referred to in this section is disabled upon any roadway of a divided highway during the time that lights are required, the appropriate warning devices prescribed in subsections (1) and (5) of this section shall be placed as follows:

One at a distance of approximately two hundred feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane; one at a distance of approximately one hundred feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; and one at the traffic side of the vehicle and approximately ten feet from the vehicle in the direction of the nearest approaching traffic.

(4) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder thereof outside any municipality at any time when the display of fusees, flares, red electric lanterns, or portable red emergency reflectors is not required, the driver of the vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, one at a distance of approximately one hundred feet in advance of the vehicle, and one at a distance of approximately one hundred feet to the rear of the vehicle.

(5) Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed flammable gas, or any motor vehicle using compressed gas as a fuel, is disabled upon a highway of this state at any time or place mentioned in subsection (1) of this section, the driver of such vehicle shall immediately display the following warning devices: One red electric lantern or portable red emergency reflector placed on the roadway at the traffic side of the vehicle, and two red electric lanterns or portable red reflectors, one placed approximately one hundred feet to the front and one placed approximately one hundred feet to the rear of this disabled vehicle in the center of the traffic lane occupied by such vehicle. Flares, fusees, or signals produced by flame shall not be used as warning devices for disabled vehicles of the type mentioned in this subsection.

(6) Whenever any vehicle, other than those described in subsection (1) of this section, is disabled upon the traveled portion of any highway or shoulder thereof outside any municipality, the state patrol or the county sheriff shall, upon discovery of the disabled vehicle, place a reflectorized warning device on the vehicle. The warning device and its placement shall be in accordance with rules adopted by the state patrol. Neither the standards for, placement or use of, nor the lack of placement or use of a warning device under this sub-

section gives rise to any civil liability on the part of the state of Washington, the state patrol, any county, or any law enforcement agency or officer.

(7) The flares, fusees, red electric lanterns, portable red emergency reflectors, and flags to be displayed as required in this section shall conform with the requirements of RCW 46.37.440 applicable thereto. [1987 c 330 § 725; 1987 c 226 § 1; 1984 c 119 § 1; 1961 c 12 § 46.37.450. Prior: 1955 c 269 § 45; prior: 1947 c 267 § 7, part; Rem. Supp. 1947 § 6360-32a, part; RCW 46.40.210, part.]

Reviser's note: This section was amended by 1987 c 226 § 1 and by 1987 c 330 § 725, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

46.37.465 Fuel system. (1) The fuel system shall be manufactured, installed, and maintained with due regard for the safety of the occupants of the vehicle and the public. Fuel tanks shall be equipped with approved caps.

(2) There shall be no signs of leakage from the carburetor or the fuel pump or the fuel hoses in the engine compartment or between the fuel tank and the engine compartment.

(3) No person shall operate any motor vehicle upon the public highways of this state unless the fuel tank is securely attached and so located that another vehicle would not be exposed to direct contact with the fuel tank in the event of a rear end collision. [1977 ex.s. c 355 § 39.]

Additional notes found at www.leg.wa.gov

46.37.467 Alternative fuel source—Placard required.

(1) Every automobile, truck, motorcycle, motor home, or off-road vehicle that is fueled by an alternative fuel source shall bear a reflective placard issued by the national fire protection association indicating that the vehicle is so fueled. Violation of this subsection is a traffic infraction.

(2) As used in this section "alternative fuel source" includes propane, compressed natural gas, liquid petroleum gas, or any chemically similar gas but does not include gasoline or diesel fuel.

(3) If a placard for a specific alternative fuel source has not been issued by the national fire protection association, a placard issued by the chief of the Washington state patrol, through the director of fire protection, shall be required. The chief of the Washington state patrol, through the director of fire protection, shall develop rules for the design, size, and placement of the placard which shall remain effective until a specific placard is issued by the national fire protection association. [1995 c 369 § 23; 1986 c 266 § 88; 1984 c 145 § 1; 1983 c 237 § 2.]

Legislative finding—1983 c 237: "The legislature finds that vehicles using alternative fuel sources such as propane, compressed natural gas, liquid petroleum gas, or other hydrocarbon gas fuels require firefighters to use a different technique if the vehicles catch fire. A reflective placard on such vehicles would warn firefighters of the danger so they could react properly." [1983 c 237 § 1.]

Additional notes found at www.leg.wa.gov

46.37.470 Air conditioning equipment. (1) "Air conditioning equipment," as used or referred to in this section, means mechanical vapor compression refrigeration equip-

ment which is used to cool the driver's or passenger compartment of any motor vehicle.

(2) Such equipment shall be manufactured, installed, and maintained with due regard for the safety of the occupants of the vehicle and the public and shall not contain any refrigerant which is toxic to persons or which is flammable, unless the refrigerant is included in the list published by the United States environmental protection agency, as it exists on July 26, 2009, as a safe alternative motor vehicle air conditioning substitute for chlorofluorocarbon-12 under 42 U.S.C. Sec. 7671k(c).

(3) The state patrol may adopt and enforce safety requirements, regulations, and specifications consistent with the requirements of this section applicable to such equipment which shall correlate with and, so far as possible, conform to the current recommended practice or standard applicable to such equipment approved by the society of automotive engineers.

(4) No person shall have for sale, offer for sale, sell, or equip any motor vehicle with any such equipment unless it complies with the requirements of this section.

(5) No person shall operate on any highway any motor vehicle equipped with any air conditioning equipment unless said equipment complies with the requirements of this section. [2009 c 256 § 1; 1987 c 330 § 726; 1961 c 12 § 46.37.470. Prior: 1955 c 269 § 47.]

Additional notes found at www.leg.wa.gov

46.37.480 Television viewers—Earphones. (1) No person shall drive any motor vehicle equipped with any television viewer, screen, or other means of visually receiving a television broadcast which is located in the motor vehicle at any point forward of the back of the driver's seat, or which is visible to the driver while operating the motor vehicle. This subsection does not apply to law enforcement vehicles communicating with mobile computer networks.

(2) No person shall operate any motor vehicle on a public highway while wearing any headset or earphones connected to any electronic device capable of receiving a radio broadcast or playing a sound recording for the purpose of transmitting a sound to the human auditory senses and which headset or earphones muffle or exclude other sounds. This subsection does not apply to students and instructors participating in a Washington state motorcycle safety program.

(3) This section does not apply to authorized emergency vehicles, motorcyclists wearing a helmet with built-in headsets or earphones as approved by the Washington state patrol, or motorists using hands-free, wireless communications systems, as approved by the equipment section of the Washington state patrol. [1996 c 34 § 1; 1991 c 95 § 1; 1988 c 227 § 6; 1987 c 176 § 1; 1977 ex.s. c 355 § 40; 1961 c 12 § 46.37.480. Prior: 1949 c 196 § 11; Rem. Supp. 1949 § 6360-98d. Formerly RCW 46.36.150.]

Additional notes found at www.leg.wa.gov

46.37.490 Safety load chains and devices required. It shall be unlawful to operate any vehicle upon the public highways of this state without having the load thereon securely fastened and protected by safety chains or other device. The chief of the Washington state patrol is hereby authorized to

adopt and enforce reasonable rules and regulations as to what shall constitute adequate and safe chains or other devices for the fastening and protection of loads upon vehicles. [1987 c 330 § 727; 1961 c 12 § 46.37.490. Prior: 1937 c 189 § 43; RRS § 6360-43; 1927 c 309 § 18; RRS § 6362-18. Formerly RCW 46.36.110.]

Additional notes found at www.leg.wa.gov

46.37.495 Safety chains for towing. (1) "Safety chains" means flexible tension members connected from the front portion of the towed vehicle to the rear portion of the towing vehicle for the purpose of retaining connection between towed and towing vehicle in the event of failure of the connection provided by the primary connecting system, as prescribed by rule of the Washington state patrol.

(2) The term "safety chains" includes chains, cables, or wire ropes, or an equivalent flexible member meeting the strength requirements prescribed by rule of the Washington state patrol.

(3) A tow truck towing a vehicle and a vehicle towing a trailer must use safety chains. Failure to comply with this section is a class 1 civil infraction punishable under RCW 7.80.120. [1995 c 360 § 1.]

Tow trucks: Chapter 46.55 RCW.

46.37.500 Fenders or splash aprons. (1) Except as authorized under subsection (2) of this section, no person may operate any motor vehicle, trailer, or semitrailer that is not equipped with fenders, covers, flaps, or splash aprons adequate for minimizing the spray or splash of water or mud from the roadway to the rear of the vehicle. All such devices shall be as wide as the tires behind which they are mounted and extend downward at least to the center of the axle.

(2) A motor vehicle that is not less than forty years old or a street rod vehicle that is owned and operated primarily as a collector's item need not be equipped with fenders when the vehicle is used and driven during fair weather on well-maintained, hard-surfaced roads. [1999 c 58 § 2; 1988 c 15 § 2; 1977 ex.s. c 355 § 41; 1961 c 12 § 46.37.500. Prior: 1947 c 200 § 3, part; 1937 c 189 § 44, part; Rem. Supp. 1947 § 6360-44, part. Formerly RCW 46.36.130 (second paragraph).]

Additional notes found at www.leg.wa.gov

46.37.505 Child passenger restraint systems. The state patrol shall adopt standards for the performance, design, and installation of passenger restraint systems for children less than five years old and shall approve those systems which meet its standards. [1987 c 330 § 728; 1983 c 215 § 1.]

Child passenger restraint required: RCW 46.61.687.

Additional notes found at www.leg.wa.gov

46.37.510 Seat belts and shoulder harnesses. (1) No person may sell any automobile manufactured or assembled after January 1, 1964, nor may any owner cause such vehicle to be registered thereafter under the provisions of chapter 46.12 RCW unless such motor car or automobile is equipped with automobile seat belts installed for use on the front seats thereof which are of a type and installed in a manner conforming to rules adopted by the state patrol. Where registration is for transfer from an out-of-state license, the applicant

shall be informed of this section by the issuing agent and has thirty days to comply. The state patrol shall adopt and enforce standards as to what constitutes adequate and safe seat belts and for the fastening and installation of them. Such standards shall not be below those specified as minimum requirements by the Society of Automotive Engineers on June 13, 1963.

(2) Every passenger car manufactured or assembled after January 1, 1965, shall be equipped with at least two lap-type safety belt assemblies for use in the front seating positions.

(3) Every passenger car manufactured or assembled after January 1, 1968, shall be equipped with a lap-type safety belt assembly for each permanent passenger seating position. This requirement shall not apply to police vehicles.

(4) Every passenger car manufactured or assembled after January 1, 1968, shall be equipped with at least two shoulder harness-type safety belt assemblies for use in the front seating positions.

(5) The state patrol shall excuse specified types of motor vehicles or seating positions within any motor vehicle from the requirements imposed by subsections (1), (2), and (3) of this section when compliance would be impractical.

(6) No person may distribute, have for sale, offer for sale, or sell any safety belt or shoulder harness for use in motor vehicles unless it meets current minimum standards and specifications conforming to rules adopted by the state patrol or the United States department of transportation. [1987 c 330 § 729; 1986 c 113 § 7; 1977 ex.s. c 355 § 42; 1963 c 117 § 1.]

Safety belts, use required: RCW 46.61.688.

Additional notes found at www.leg.wa.gov

46.37.513 Bumpers. When any motor vehicle was originally equipped with bumpers or any other collision energy absorption or attenuation system, that system shall be maintained in good operational condition, and no person shall remove or disconnect, and no owner shall cause or knowingly permit the removal or disconnection of, any part of that system except temporarily in order to make repairs, replacements, or adjustments. [1977 ex.s. c 355 § 43.]

Additional notes found at www.leg.wa.gov

46.37.517 Body and body hardware. (1) The body, fenders, and bumpers shall be maintained without protrusions which could be hazardous to pedestrians. In addition, the bumpers shall be so attached and maintained so as to not protrude beyond the original bumper line.

(2) The hood, hood latches, hood fastenings, doors, and door latches shall be maintained in a condition sufficient to ensure proper working equal to that at the time of original vehicle manufacture. [1977 ex.s. c 355 § 44.]

Lowering vehicle below legal clearance: RCW 46.61.680.

Additional notes found at www.leg.wa.gov

46.37.518 Street rods and kit vehicles. Notwithstanding the requirements of this chapter, hoods and bumpers are optional equipment on street rods and kit vehicles. Street rods and kit vehicles must comply with fender requirements under RCW 46.37.500(2) and the windshield requirement of RCW 46.37.410(1). [1996 c 225 § 12.]

Finding—1996 c 225: See note following RCW 46.04.125.

46.37.519 Kit vehicles. (1) For the purposes of this section:

(a) "Kit vehicle" means a passenger car or light truck assembled from a manufactured kit, and is either (i) a kit consisting of a prefabricated body and chassis used to construct a complete vehicle, or (ii) a kit consisting of a prefabricated body to be mounted on an existing vehicle chassis and drive train, commonly referred to as a donor vehicle. "Kit vehicle" does not include a vehicle that has been assembled by a manufacturer.

(b) "Major component part" includes at least each of the following vehicle parts: (i) Engines and short blocks; (ii) frame; (iii) transmission or transfer case; (iv) cab; (v) door; (vi) front or rear differential; (vii) front or rear clip; (viii) quarter panel; (ix) truck bed or box; (x) seat; (xi) hood; (xii) bumper; (xiii) fender; and (xiv) airbag.

(2) A kit vehicle must, prior to inspection, contain the following components:

(a) Brakes on all wheels. The service brakes, upon application, must be capable of stopping the vehicle within a twelve-foot lane and (i) developing an average tire to road retardation force of not less than 52.8 percent of the gross vehicle weight, (ii) decelerating the vehicle at a rate of not less than seventeen feet per second, or (iii) stopping the vehicle within a distance of twenty-five feet from a speed of twenty miles per hour. Tests must be made on a level, dry, concrete or asphalt surface free from loose material;

(b) Brake hoses that comply with 49 C.F.R. Sec. 571.106;

(c) Brake fluids that comply with 49 C.F.R. Sec. 571.119;

(d) A parking brake that must operate on at least two wheels on the same axle, and when applied, must be capable of holding the vehicle on any grade on which the vehicle is operated. The parking brake must be separately actuated so that failure of any part of the service brake actuation system will not diminish the vehicle's parking brake holding capability;

(e) Lighting equipment that complies with 49 C.F.R. Sec. 571.108;

(f) Pneumatic tires that comply with 49 C.F.R. Sec. 571.109;

(g) Glazing material that complies with 49 C.F.R. Sec. 571.205. The driver must be provided with a windshield and side windows or opening that allows an outward horizontal vision capability, ninety degrees each side of a vertical plane passing through the fore and aft centerline of the vehicle. This range of vision must not be interrupted by window framing not exceeding four inches in width at each side location;

(h) Seat belt assemblies that comply with 49 C.F.R. Sec. 571.209;

(i) Defroster and defogging devices capable of defogging and defrosting the windshield area, except vehicles or exact replicas of vehicles manufactured prior to January 1938 are exempt from this requirement;

(j) Door latches that firmly and automatically secure the door when pushed closed and that allow each door to be opened both from the inside and outside, if the vehicle is enclosed with side doors leading directly into a compartment that contains one or more seating accommodations;

(k) A floor plan that is capable of supporting the weight of the number of occupants that the vehicle is designed to carry;

(l) If an enclosed kit vehicle powered by an internal combustion engine, a passenger compartment that must be constructed to prevent the entry of exhaust fumes into the passenger compartment;

(m) Fenders that must be installed on all wheels and cover the entire tread width that comes in contact with the road surface. Coverage of the tire tread circumference must be from at least fifteen degrees in front and to at least seventy-five degrees to the rear of the vertical centerline at each wheel measured from the center of the wheel rotation. The tire must not come in contact with the body, fender, chassis, or suspension of the vehicle. Kit vehicles that are more than forty years old and are owned and operated primarily as collector's vehicles are exempt from this fender requirement if the vehicle is used and driven during fair weather on well-maintained, hard-surfaced roads;

(n) A speedometer that is calibrated to indicate miles per hour, and may also indicate kilometers per hour;

(o) Mirrors as outlined in RCW 46.37.400. Mirror mountings must provide for mirror adjustment by tilting both horizontally and vertically;

(p) An accelerator control system that, in accordance with 49 C.F.R. Sec. 571.124, contains a double spring that returns engine throttle to an idle position when the driver removes the actuating force from the accelerator control. The geometry of the throttle linkage must be designed so that the throttle will not lock in an open position. A vehicle equipped with cruise control is exempt when the cruise control is actuated;

(q) A fuel system that, in accordance with 49 C.F.R. Secs. 571.301 and 571.302, is securely fastened to the vehicle so as not to interfere with the vehicle's operation. The components, such as tank, tubing, hoses, and pump, must be of leak proof design and be securely attached with fasteners designed for that purpose. All fuel system vent lines must extend outside of the passenger compartment and be positioned as not to be in contact with the high temperature surfaces or moving components. If the vehicle is fueled using alternative measures, it must be installed in accordance with any applicable standards set by the United States department of transportation;

(r) A steering wheel as outlined in RCW 46.37.375 and WAC 204-10-034;

(s) A suspension as outlined in WAC 204-10-036;

(t) An exhaust system as outlined in WAC 204-10-038; and

(u) A horn that is capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet. The horn or another warning device must not emit an unreasonably loud or harsh sound or whistle. A bell or siren must not be used as a warning device. The device used to actuate the horn must be easily accessible to the driver when operating the vehicle.

(3) A kit vehicle may also be equipped with hoods and bumpers. If this equipment is present, it must meet the following requirements:

(a) Hood latches must be equipped with a primary and secondary latching system to hold the hood in a closed position if the hood is a front opening hood; and

(b) Bumpers must be 4.5 inches in vertical height, centered on the vehicle's centerline, and extend no less than the width of the respective wheel track distances. Bumpers must be horizontal load veering and attach to the frame to effectively transfer energy when impacted. The bumper must be installed in accordance with the bumper heights outlined in WAC 204-10-022. [2009 c 284 § 3.]

46.37.520 Beach vehicles with soft tires—"Dune buggies"—Inspection and approval required—Fee. It shall be unlawful for any person to lease for hire or permit the use of any vehicle with soft tires commonly used upon the beach and referred to as a dune buggy unless such vehicle has been inspected by and approved by the state patrol, which may charge a reasonable fee therefor to go into the motor vehicle fund. [1987 c 330 § 730; 1971 ex.s. c 91 § 4; 1965 ex.s. c 170 § 61.]

Additional notes found at www.leg.wa.gov

46.37.522 Motorcycles and motor-driven cycles—When head lamps and tail lamps to be lighted. Every motorcycle and motor-driven cycle shall have its head lamps and tail lamps lighted whenever such vehicle is in motion upon a highway. [1977 ex.s. c 355 § 45.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.37.523 Motorcycles and motor-driven cycles—Head lamps. (1) Every motorcycle and every motor-driven cycle shall be equipped with at least one lamp which shall comply with the requirements and limitations of this section.

(2) Every head lamp upon every motorcycle and motor-driven cycle shall be located at a height of not more than fifty-four inches nor less than twenty-four inches to be measured as set forth in RCW 46.37.030(2).

(3) Every motorcycle other than a motor-driven cycle shall be equipped with multiple-beam road-lighting equipment.

(4) Such equipment shall:

(a) Reveal persons and vehicles at a distance of at least three hundred feet ahead when the uppermost distribution of light is selected;

(b) Reveal persons and vehicles at a distance of at least one hundred fifty feet ahead when the lowermost distribution of light is selected, and on a straight, level road under any condition of loading none of the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver. [1977 ex.s. c 355 § 46.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.37.524 Motor-driven cycles—Head lamps. The head lamp or head lamps upon every motor-driven cycle may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows:

(1) Every such head lamp or head lamps on a motor-driven cycle shall be of a sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred feet when the motor-driven cycle is operated at any speed less than twenty-five miles per hour and at a distance of not less than two hundred feet when the motor-driven cycle is operated at a speed of twenty-five or more miles per hour, and at a distance of not less than three hundred feet when the motor-driven cycle is operated at a speed of thirty-five or more miles per hour;

(2) In the event the motor-driven cycle is equipped with a multiple-beam head lamp or head lamps the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in RCW 46.37.220(1), and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in RCW 46.37.220;

(3) In the event the motor-driven cycle is equipped with a single-beam lamp or lamps, such lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five feet ahead, shall project higher than the level of the center of the lamp from which it comes. [1977 ex.s. c 355 § 47.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.37.525 Motorcycles and motor-driven cycles—Tail lamps, reflectors, and stop lamps. (1) Every motorcycle and motor-driven cycle shall have at least one tail lamp which shall be located at a height of not more than seventy-two nor less than fifteen inches.

(2) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp or lamps for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

(3) Every motorcycle and motor-driven cycle shall carry on the rear, either as part of the tail lamp or separately, at least one red reflector meeting the requirements of RCW 46.37.060.

(4) Every motorcycle and motor-driven cycle shall be equipped with at least one stop lamp meeting the requirements of RCW 46.37.070. [1977 ex.s. c 355 § 48.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.37.527 Motorcycles and motor-driven cycles—Brake requirements. Every motorcycle and motor-driven cycle must comply with the provisions of RCW 46.37.351, except that:

(1) Motorcycles and motor-driven cycles need not be equipped with parking brakes;

(2) The wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, and the front wheel of a motor-driven cycle need not be equipped with brakes, if such motorcycle or motor-driven cycle is otherwise capable of complying with the braking performance requirements of RCW 46.37.528 and 46.37.529;

(3) Motorcycles shall be equipped with brakes operating on both the front and rear wheels unless the vehicle was originally manufactured without both front and rear brakes: PROVIDED, That a front brake shall not be required on any motorcycle over twenty-five years old which was originally manufactured without a front brake and which has been restored to its original condition and is being ridden to or from or otherwise in conjunction with an antique or classic motorcycle contest, show or other such assemblage: PROVIDED FURTHER, That no front brake shall be required on any motorcycle manufactured prior to January 1, 1931. [1982 c 77 § 6; 1977 ex.s. c 355 § 49.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.37.528 Motorcycles and motor-driven cycles—Performance ability of brakes. Every motorcycle and motor-driven cycle, at all times and under all conditions of loading, upon application of the service brake, shall be capable of:

(1) Developing a braking force that is not less than forty-three and one-half percent of its gross weight;

(2) Decelerating to a stop from not more than twenty miles per hour at not less than fourteen feet per second per second; and

(3) Stopping from a speed of twenty miles per hour in not more than thirty feet, such distance to be measured from the point at which movement of the service brake pedal or control begins.

Tests for deceleration and stopping distance shall be made on a substantially level (not to exceed plus or minus one percent grade), dry, smooth, hard surface that is free from loose material. [1977 ex.s. c 355 § 50.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.37.529 Motor-driven cycles—Braking system inspection. (1) The state patrol is authorized to require an inspection of the braking system on any motor-driven cycle and to disapprove any such braking system on a vehicle which it finds will not comply with the performance ability standard set forth in RCW 46.37.351, or which in its opinion is equipped with a braking system that is not so designed or constructed as to ensure reasonable and reliable performance in actual use.

(2) The director of licensing may refuse to register or may suspend or revoke the registration of any vehicle referred to in this section when the state patrol determines that the braking system thereon does not comply with the provisions of this section.

(3) No person shall operate on any highway any vehicle referred to in this section in the event the state patrol has disapproved the braking system upon such vehicle. [1987 c 330 § 731; 1979 c 158 § 158; 1977 ex.s. c 355 § 51.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.37.530 Motorcycles, motor-driven cycles, mopeds, electric-assisted bicycles—Helmets, other equipment—Children—Rules. (1) It is unlawful:

(a) For any person to operate a motorcycle, moped, or motor-driven cycle not equipped with mirrors on the left and right sides which shall be so located as to give the driver a complete view of the highway for a distance of at least two hundred feet to the rear of the motorcycle, moped, or motor-driven cycle: PROVIDED, That mirrors shall not be required on any motorcycle or motor-driven cycle over twenty-five years old originally manufactured without mirrors and which has been restored to its original condition and which is being ridden to or from or otherwise in conjunction with an antique or classic motorcycle contest, show, or other such assemblage: PROVIDED FURTHER, That no mirror is required on any motorcycle manufactured prior to January 1, 1931;

(b) For any person to operate a motorcycle, moped, or motor-driven cycle which does not have a windshield unless wearing glasses, goggles, or a face shield of a type conforming to rules adopted by the state patrol;

(c) For any person to operate or ride upon a motorcycle, motor-driven cycle, or moped on a state highway, county road, or city street unless wearing upon his or her head a motorcycle helmet except when the vehicle is an antique motor-driven cycle or when the vehicle is equipped with all of the following:

- (i) Steering wheel;
- (ii) Seat belts that conform to standards prescribed under 49 C.F.R. Part 571; and
- (iii) Partially or completely enclosed seating area for the driver and passenger that is certified by the manufacturer as meeting the standards prescribed under 49 C.F.R. Sec. 571.216.

The motorcycle helmet neck or chin strap must be fastened securely while the motorcycle, moped, or motor-driven cycle is in motion. Persons operating electric-assisted bicycles and motorized foot scooters shall comply with all laws and regulations related to the use of bicycle helmets;

(d) For any person to transport a child under the age of five on a motorcycle or motor-driven cycle;

(e) For any person to sell or offer for sale a motorcycle helmet that does not meet the requirements established by this section.

(2) The state patrol may adopt and amend rules concerning standards for glasses, goggles, and face shields.

(3) For purposes of this section, "motorcycle helmet" means a protective covering for the head consisting of a hard outer shell, padding adjacent to and inside the outer shell, and a neck or chin strap type retention system, with the manufacturer's certification applied in accordance with 49 C.F.R. Sec. 571.218 indicating that the motorcycle helmet meets standards established by the United States department of transportation. [2009 c 275 § 5; 2003 c 197 § 1; 1997 c 328 § 4; 1990 c 270 § 7. Prior: 1987 c 454 § 1; 1987 c 330 § 732; 1986 c 113 § 8; 1982 c 77 § 7; 1977 ex.s. c 355 § 55; 1971 ex.s. c 150 § 1; 1969 c 42 § 1; 1967 c 232 § 4.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Maximum height for handlebars: RCW 46.61.611.

Riding on motorcycles: RCW 46.61.610.

Additional notes found at www.leg.wa.gov

46.37.535 Motorcycles, motor-driven cycles, or mopeds—Helmet requirements when rented. It is unlaw-

(2010 Ed.)

ful for any person to rent out motorcycles, motor-driven cycles, or mopeds unless the person also has on hand for rent helmets of a type conforming to rules adopted by the state patrol.

It shall be unlawful for any person to rent a motorcycle, motor-driven cycle, or moped unless the person has in his or her possession a helmet of a type approved by the state patrol, regardless of from whom the helmet is obtained. [1990 c 270 § 8; 1987 c 330 § 733; 1986 c 113 § 9; 1977 ex.s. c 355 § 56; 1967 c 232 § 10.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

License requirement for person renting motorcycle: RCW 46.20.220.

Additional notes found at www.leg.wa.gov

46.37.537 Motorcycles—Exhaust system. No person shall modify the exhaust system of a motorcycle in a manner which will amplify or increase the noise emitted by the engine of such vehicle above that emitted by the muffler originally installed on the vehicle, and it shall be unlawful for any person to operate a motorcycle not equipped as required by this section, or which has been amplified as prohibited by this section. [1977 ex.s. c 355 § 52.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.37.539 Motorcycles and motor-driven cycles—Additional requirements and limitations. Every motorcycle and every motor-driven cycle shall also comply with the requirements and limitations of:

- RCW 46.37.380 on horns and warning devices;
- RCW 46.37.390 on mufflers and prevention of noise;
- RCW 46.37.400 on mirrors; and
- RCW 46.37.420 on tires. [1977 ex.s. c 355 § 53.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.37.540 Odometers—Disconnecting, resetting, or turning back prohibited. (1) The legislature intends to make it illegal for persons to turn forward the odometer on a new car to avoid compliance with the emissions standards required by chapter 295, Laws of 2005.

(2) It shall be unlawful for any person to disconnect, turn back, turn forward, or reset the odometer of any motor vehicle with the intent to change the number of miles indicated on the odometer gauge. A violation of this subsection is a gross misdemeanor. [2005 c 295 § 8; 1983 c 3 § 119; 1969 c 112 § 2.]

Findings—2005 c 295: See note following RCW 70.120A.010.

Motor vehicle dealers, unlawful acts and practices: RCW 46.70.180.

46.37.550 Odometers—Selling motor vehicle knowing odometer turned back unlawful. It shall be unlawful for any person to sell a motor vehicle in this state if such person has knowledge that the odometer on such motor vehicle has been turned back and if such person fails to notify the buyer, prior to the time of sale, that the odometer has been turned back or that he or she had reason to believe that the odometer has been turned back. [2010 c 8 § 9055; 1969 c 112 § 3.]

46.37.560 Odometers—Selling motor vehicle knowing odometer replaced unlawful. It shall be unlawful for any person to sell a motor vehicle in this state if such person has knowledge that the odometer on such motor vehicle has been replaced with another odometer and if such person fails to notify the buyer, prior to the time of sale, that the odometer has been replaced or that he or she believes the odometer to have been replaced. [2010 c 8 § 9056; 1969 c 112 § 4.]

46.37.570 Odometers—Selling, advertising, using, or installing device registering false mileage. It shall be unlawful for any person to advertise for sale, to sell, to use, or to install on any part of a motor vehicle or on an odometer in a motor vehicle any device which causes the odometer to register any mileage other than the true mileage driven. For the purposes of this section the true mileage driven is that driven by the car as registered by the odometer within the manufacturer's designed tolerance. [1969 c 112 § 5.]

46.37.590 Odometers—Purchaser plaintiff to recover costs and attorney's fee, when. In any suit brought by the purchaser of a motor vehicle against the seller of such vehicle, the purchaser shall be entitled to recover his or her court costs and a reasonable attorney's fee fixed by the court, if: (1) The suit or claim is based substantially upon the purchaser's allegation that the odometer on such vehicle has been tampered with contrary to RCW 46.37.540 and 46.37.550 or replaced contrary to RCW 46.37.560; and (2) it is found in such suit that the seller of such vehicle or any of his or her employees or agents knew or had reason to know that the odometer on such vehicle had been so tampered with or replaced and failed to disclose such knowledge to the purchaser prior to the time of sale. [2010 c 8 § 9057; 1975 c 24 § 1; 1969 c 112 § 7.]

46.37.600 Liability of operator, owner, lessee for violations. Whenever an act or omission is declared to be unlawful in chapter 46.37 RCW, if the operator of the vehicle is not the owner or lessee of such vehicle, but is so operating or moving the vehicle with the express or implied permission of the owner or lessee, then the operator and/or owner or lessee are both subject to the provisions of this chapter with the primary responsibility to be that of the owner or lessee.

If the person operating the vehicle at the time of the unlawful act or omission is not the owner or lessee of the vehicle, such person is fully authorized to accept the citation and execute the promise to appear on behalf of the owner or lessee. [1980 c 104 § 4; 1969 ex.s. c 69 § 3.]

46.37.610 Wheelchair conveyance standards. The state patrol shall adopt rules for wheelchair conveyance safety standards. Operation of a wheelchair conveyance that is in violation of these standards is a traffic infraction. [1987 c 330 § 734; 1983 c 200 § 4.]

Wheelchair conveyances

definition: RCW 46.04.710.

licensing: RCW 46.16.640.

operator's license: RCW 46.20.109.

public roadways, operating on: RCW 46.61.730.

Additional notes found at www.leg.wa.gov

46.37.620 School buses—Crossing arms. Effective September 1, 1992, every school bus shall, in addition to any other equipment required by this chapter, be equipped with a crossing arm mounted to the bus that, when extended, will require students who are crossing in front of the bus to walk more than five feet from the front of the bus. [1991 c 166 § 1.]

46.37.630 Private school buses. A private school bus is subject to the requirements set forth in the National Standards for School Buses established by the national safety council in effect at the time of the bus manufacture, as adopted by rule by reference by the chief of the Washington state patrol. A private school bus manufactured before 1980 must meet the minimum standards set forth in the 1980 edition of the National Standards for School Buses. [1995 c 141 § 3.]

46.37.640 Air bags—Definitions. (1) "Air bag" means an inflatable restraint system or portion of an inflatable restraint system installed in a motor vehicle.

(2) "Previously deployed air bag" means an inflatable restraint system or portion of the system that has been activated or inflated as a result of a collision or other incident involving the vehicle.

(3) "Nondeployed salvage air bag" means an inflatable restraint system that has not been previously activated or inflated as a result of a collision or other incident involving the vehicle. [2003 c 33 § 1.]

46.37.650 Air bags—Installation of previously deployed—Penalty. (1) A person is guilty of a gross misdemeanor if he or she knew or reasonably should have known that an air bag he or she installs or reinstalls in a vehicle for compensation, or distributes as an auto part, is a previously deployed air bag that is part of an inflatable restraint system.

(2) A person found guilty under subsection (1) of this section shall be punished by a fine of not more than five thousand dollars or by confinement in the county jail for not more than one year, or both. [2003 c 33 § 2.]

46.37.660 Air bags—Replacement requirements. Whenever an air bag that is part of a previously deployed inflatable restraint system is replaced by either a new air bag that is part of an inflatable restraint system or a nondeployed salvage air bag that is part of an inflatable restraint system, the air bag must conform to the original equipment manufacturer requirements and the installer must verify that the self-diagnostic system for the inflatable restraint system indicates that the entire inflatable restraint system is operating properly. [2003 c 33 § 3.]

46.37.670 Signal preemption devices—Prohibited—Exceptions. (1) Signal preemption devices shall not be installed or used on or with any vehicle other than an emergency vehicle authorized by the state patrol, a publicly owned law enforcement or emergency vehicle, a department of transportation, city, or county maintenance vehicle, or a public transit vehicle.

(2) This section does not apply to any of the following:

(a) A law enforcement agency and law enforcement personnel in the course of providing law enforcement services;

(b) A fire station or a firefighter in the course of providing fire prevention or fire extinguishing services;

(c) An emergency medical service or ambulance in the course of providing emergency medical transportation or ambulance services;

(d) An operator, passenger, or owner of an authorized emergency vehicle in the course of his or her emergency duties;

(e) Department of transportation, city, or county maintenance personnel while performing maintenance;

(f) Public transit personnel in the performance of their duties. However, public transit personnel operating a signal preemption device shall have second degree priority to law enforcement personnel, firefighters, emergency medical personnel, and other authorized emergency vehicle personnel, when simultaneously approaching the same traffic control signal;

(g) A mail or package delivery service or employee or agent of a mail or package delivery service in the course of shipping or delivering a signal preemption device;

(h) An employee or agent of a signal preemption device manufacturer or retailer in the course of his or her employment in providing, selling, manufacturing, or transporting a signal preemption device to an individual or agency described in this subsection. [2005 c 183 § 2.]

Reviser's note: 2005 c 183 directed that this section be added to chapter 46.61 RCW, but codification in chapter 46.37 RCW appears more appropriate.

46.37.671 Signal preemption device—Possession—Penalty. (1) It is unlawful to possess a signal preemption device except as authorized in RCW 46.37.670.

(2) A person who violates this section is guilty of a misdemeanor. [2005 c 183 § 3.]

Reviser's note: 2005 c 183 directed that this section be added to chapter 46.61 RCW, but codification in chapter 46.37 RCW appears more appropriate.

46.37.672 Signal preemption device—Use, sale, purchase—Penalty. (1) It is unlawful to:

(a) Use a signal preemption device except as authorized in RCW 46.37.670;

(b) Sell a signal preemption device to a person other than a person described in RCW 46.37.670; or

(c) Purchase a signal preemption device for use other than a duty as described in RCW 46.37.670.

(2) A person who violates this section is guilty of a gross misdemeanor. [2005 c 183 § 4.]

Reviser's note: 2005 c 183 directed that this section be added to chapter 46.61 RCW, but codification in chapter 46.37 RCW appears more appropriate.

46.37.673 Signal preemption device—Accident—Property damage or less than substantial bodily harm—Penalty. (1) When an accident that results only in injury to property or injury to a person that does not arise to substantial bodily harm as defined in RCW 9A.04.110 occurs as a proximate result of the operation of a signal preemption device which was not authorized in RCW 46.37.670, the driver is

guilty of negligently causing an accident by use of a signal preemption device.

(2) Negligently causing an accident by use of a signal preemption device is a class C felony punishable under chapter 9A.20 RCW. [2005 c 183 § 5.]

Reviser's note: 2005 c 183 directed that this section be added to chapter 46.61 RCW, but codification in chapter 46.37 RCW appears more appropriate.

46.37.674 Signal preemption device—Accident—Substantial bodily harm—Penalty. (1) When an accident that results in injury to a person that arises to substantial bodily harm as defined in RCW 9A.04.110 occurs as a proximate result of the operation of a signal preemption device which was not authorized in RCW 46.37.670, the driver is guilty of negligently causing substantial bodily harm by use of a signal preemption device.

(2) Negligently causing substantial bodily harm by use of a signal preemption device is a class B felony punishable under chapter 9A.20 RCW. [2005 c 183 § 6.]

Reviser's note: 2005 c 183 directed that this section be added to chapter 46.61 RCW, but codification in chapter 46.37 RCW appears more appropriate.

46.37.675 Signal preemption device—Accident—Death—Penalty. (1) When an accident that results in death to a person occurs as a proximate result of the operation of a signal preemption device which was not authorized in RCW 46.37.670, the driver is guilty of negligently causing death by use of a signal preemption device.

(2) Negligently causing death by use of a signal preemption device is a class B felony punishable under chapter 9A.20 RCW. [2005 c 183 § 7.]

Reviser's note: 2005 c 183 directed that this section be added to chapter 46.61 RCW, but codification in chapter 46.37 RCW appears more appropriate.

46.37.680 Sound system attachment. (1) All vehicle sound system components, including any supplemental speaker systems or components, must be securely attached to the vehicle regardless of where the components are located, so that the components cannot become dislodged or loose during operation of the vehicle.

(2) Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a vehicle has been detained for a suspected violation of this title or an equivalent local ordinance or some other offense.

(3) The Washington state traffic safety commission shall create and implement a statewide educational program regarding the safety risks of unsecured vehicle sound system components, including supplemental speaker systems or components. The educational program shall include information regarding securely attaching sound system components to the vehicle, regardless of where the components are located, so that the components do not become dislodged or loose during the operation of the vehicle. The commission shall create and implement this program within the commission's existing budget. [2005 c 50 § 1.]

Short title—2005 c 50: "This act shall be known as the Courtney Amison Act." [2005 c 50 § 2.]

Chapter 46.38 RCW

VEHICLE EQUIPMENT SAFETY COMPACT

Sections

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46.38.080	State auditor to inspect accounts of vehicle equipment safety commission.
46.38.090	Withdrawal from compact, "executive head" defined.

46.38.010 Compact enacted—Provisions. (*Effective until June 30, 2011.*) The vehicle equipment safety compact prepared pursuant to resolutions of the western governors' conference and the western interstate committee on highway policy problems of the council of state governments, is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

VEHICLE EQUIPMENT SAFETY COMPACT

ARTICLE I—Findings and Purposes

(a) The party states find that:

(1) Accidents and deaths on their streets and highways present a very serious human and economic problem with a major deleterious effect on the public welfare.

(2) There is a vital need for the development of greater interjurisdictional cooperation to achieve the necessary uniformity in the laws, rules, regulations and codes relating to vehicle equipment, and to accomplish this by such means as will minimize the time between the development of demonstrably and scientifically sound safety features and their incorporation into vehicles.

(b) The purposes of this compact are to:

(1) Promote uniformity in regulation of and standards for equipment.

(2) Secure uniformity of law and administrative practice in vehicular regulation and related safety standards to permit incorporation of desirable equipment changes in vehicles in the interest of greater traffic safety.

(3) To provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in subdivision (a) of this Article.

(c) It is the intent of this compact to emphasize performance requirements and not to determine the specific detail of engineering in the manufacture of vehicles or equipment except to the extent necessary for the meeting of such performance requirements.

ARTICLE II—Definitions

As used in this compact:

(a) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(c) "Equipment" means any part of a vehicle or any accessory for use thereon which affects the safety of operation of such vehicle or the safety of the occupants.

ARTICLE III—The Commission

(a) There is hereby created an agency of the party states to be known as the "Vehicle Equipment Safety Commission" hereinafter called the Commission. The Commission shall be composed of one commissioner from each party state who shall be appointed, serve and be subject to removal in accordance with the laws of the state which he represents. If authorized by the laws of his party state, a commissioner may provide for the discharge of his duties and the performance of his functions on the Commission, either for the duration of his membership or for any lesser period of time, by an alternate. No such alternate shall be entitled to serve unless notification of his identity and appointment shall have been given to the Commission in such form as the Commission may require. Each commissioner, and each alternate, when serving in the place and stead of a commissioner, shall be entitled to be reimbursed by the Commission for expenses actually incurred in attending Commission meetings or while engaged in the business of the Commission.

(b) The commissioners shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the commissioners, or their alternates, are present.

(c) The Commission shall have a seal.

(d) The Commission shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The Commission may appoint an Executive Director and fix his duties and compensation. Such Executive Director shall serve at the pleasure of the Commission, and together with the Treasurer shall be bonded in such amount as the Commission shall determine. The Executive Director also shall serve as secretary. If there be no Executive Director, the Commission shall elect a Secretary in addition to the other officers provided by this subdivision.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the Executive Director with the approval of the Commission, or the Commission if there be no Executive Director, shall appoint, remove or discharge such personnel as may be necessary for the performance of the Commission's functions, and shall fix the duties and compensation of such personnel.

(f) The Commission may establish and maintain independently or in conjunction with any one or more of the party states, a suitable retirement system for its full time employees. Employees of the Commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the Commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a governmental agency or unit. The Commission may establish and maintain

or participate in such additional programs of employee benefits as may be appropriate.

(g) The Commission may borrow, accept or contract for the services of personnel from any party state, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party states or their subdivisions.

(h) The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency and may receive, utilize, and dispose of the same.

(i) The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

(j) The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states. The bylaws shall provide for appropriate notice to the commissioners of all Commission meetings and hearings and the business to be transacted at such meetings or hearings. Such notice shall also be given to such agencies or officers of each party state as the laws of such party state may provide.

(k) The Commission annually shall make to the governor and legislature of each party state a report covering the activities of the Commission for the preceding year, and embodying such recommendations as may have been issued by the Commission. The Commission may make such additional reports as it may deem desirable.

ARTICLE IV—Research and Testing

The Commission shall have power to:

(a) Collect, correlate, analyze and evaluate information resulting or derivable from research and testing activities in equipment and related fields.

(b) Recommend and encourage the undertaking of research and testing in any aspect of equipment or related matters when, in its judgment, appropriate or sufficient research or testing has not been undertaken.

(c) Contract for such equipment research and testing as one or more governmental agencies may agree to have contracted for by the Commission, provided that such governmental agency or agencies shall make available the funds necessary for such research and testing.

(d) Recommend to the party states changes in law or policy with emphasis on uniformity of laws and administrative rules, regulations or codes which would promote effective governmental action or coordination in the prevention of equipment-related highway accidents or the mitigation of equipment-related highway safety problems.

ARTICLE V—Vehicular Equipment

(a) In the interest of vehicular and public safety, the Commission may study the need for or desirability of the establishment of or changes in performance requirements or restrictions for any item of equipment. As a result of such

study, the Commission may publish a report relating to any item or items of equipment, and the issuance of such a report shall be a condition precedent to any proceedings or other action provided or authorized by this Article. No less than sixty days after the publication of a report containing the results of such study, the Commission upon due notice shall hold a hearing or hearings at such place or places as it may determine.

(b) Following the hearing or hearings provided for in subdivision (a) of this Article, and with due regard for standards recommended by appropriate professional and technical associations and agencies, the Commission may issue rules, regulations or codes embodying performance requirements or restrictions for any item or items of equipment covered in the report, which in the opinion of the Commission will be fair and equitable and effectuate the purposes of this compact.

(c) Each party state obligates itself to give due consideration to any and all rules, regulations and codes issued by the Commission and hereby declares its policy and intent to be the promotion of uniformity in the laws of the several party states relating to equipment.

(d) The Commission shall send prompt notice of its action in issuing any rule, regulation or code pursuant to this Article to the appropriate motor vehicle agency of each party state and such notice shall contain the complete text of the rule, regulation or code.

(e) If the constitution of a party state requires, or if its statutes provide, the approval of the legislature by appropriate resolution or act may be made a condition precedent to the taking effect in such party state of any rule, regulation or code. In such event, the commissioner of such party state shall submit any Commission rule, regulation or code to the legislature as promptly as may be in lieu of administrative acceptance or rejection thereof by the party state.

(f) Except as otherwise specifically provided in or pursuant to subdivisions (e) and (g) of this Article, the appropriate motor vehicle agency of a party state shall in accordance with its constitution or procedural laws adopt the rule, regulation or code within six months of the sending of the notice, and, upon such adoption, the rule, regulation or code shall have the force and effect of law therein.

(g) The appropriate motor vehicle agency of a party state may decline to adopt a rule, regulation or code issued by the Commission pursuant to this Article if such agency specifically finds, after public hearing on due notice, that a variation from the Commission's rule, regulation or code is necessary to the public safety, and incorporates in such finding the reasons upon which it is based. Any such finding shall be subject to review by such procedure for review of administrative determinations as may be applicable pursuant to the laws of the party state. Upon request, the Commission shall be furnished with a copy of the transcript of any hearings held pursuant to this subdivision.

ARTICLE VI—Finance

(a) The Commission shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations under any such budget shall be apportioned among the party states as follows: one-third in equal shares; and the remainder in proportion to the number of motor vehicles registered in each party state. In determining the number of such registrations, the Commission may employ such source or sources of information as, in its judgment present the most equitable and accurate comparisons among the party states. Each of the Commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning vehicular registrations.

(c) The Commission shall not pledge the credit of any party state. The Commission may meet any of its obligations in whole or in part with funds available to it under Article III (h) of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it under Article III (h) hereof, the Commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its rules. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual reports of the Commission.

(e) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the Commission.

(f) Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VII—Conflict of Interest

(a) The Commission shall adopt rules and regulations with respect to conflict of interest for the commissioners of the party states, and their alternates, if any, and for the staff of the Commission and contractors with the Commission to the end that no member or employee or contractor shall have a pecuniary or other incompatible interest in the manufacture, sale or distribution of motor vehicles or vehicular equipment or in any facility or enterprise employed by the Commission or on its behalf for testing, conduct of investigations or research. In addition to any penalty for violation of such rules and regulations as may be applicable under the laws of the violator's jurisdiction of residence, employment or business, any violation of a Commission rule or regulation adopted pursuant to this Article shall require the immediate discharge of any violating employee and the immediate vacating of membership, or relinquishing of status as a member on the Commission by any commissioner or alternate. In the case of a contractor, any violation of any such rule or regulation shall

make any contract of the violator with the Commission subject to cancellation by the Commission.

(b) Nothing contained in this Article shall be deemed to prevent a contractor for the Commission from using any facilities subject to his control in the performance of the contract even though such facilities are not devoted solely to work of or done on behalf of the Commission; nor to prevent such a contractor from receiving remuneration or profit from the use of such facilities.

ARTICLE VIII—Advisory and Technical Committees

The Commission may establish such advisory and technical committees as it may deem necessary, membership on which may include private citizens and public officials, and may cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities.

ARTICLE IX—Entry Into Force and Withdrawal

(a) This compact shall enter into force when enacted into law by any six or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE X—Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters. [1963 c 204 § 1.]

46.38.020 Legislative findings. (Effective until June 30, 2011.) The legislature finds that:

(1) The public safety necessitates the continuous development, modernization and implementation of standards and requirements of law relating to vehicle equipment, in accordance with expert knowledge and opinion.

(2) The public safety further requires that such standards and requirements be uniform from jurisdiction to jurisdiction, except to the extent that specific and compelling evidence supports variation.

(3) The state patrol, acting upon recommendations of the vehicle equipment safety commission and pursuant to the vehicle equipment safety compact provides a just, equitable and orderly means of promoting the public safety in the manner and within the scope contemplated by this chapter. [1987 c 330 § 735; 1963 c 204 § 2.]

Additional notes found at www.leg.wa.gov

46.38.030 Effective date of rules, etc. of vehicle safety equipment commission. (*Effective until June 30, 2011.*) Pursuant to Article V(e) of the vehicle equipment safety compact it is the intention of this state and it is hereby provided that any rule, regulation, or code issued by the vehicle equipment safety commission in accordance with Article V of the compact shall take effect when issued in accordance with the administrative procedure act by the state patrol. [1987 c 330 § 736; 1967 ex.s. c 145 § 57; 1963 c 204 § 3.]

Additional notes found at www.leg.wa.gov

46.38.040 Appointment of commissioner and alternate commissioner. (*Effective until June 30, 2011.*) The commissioner of this state on the vehicle equipment safety commission shall be appointed by the chief of the state patrol to serve at the chief's pleasure. The chief of the state patrol may also designate an alternate commissioner to serve whenever the commissioner of this state is unable to participate on the vehicle equipment safety commission. Subject to the provisions of the compact and bylaws of the vehicle equipment safety commission, the authority and responsibilities of such alternate shall be as determined by the chief of the state patrol. [1987 c 330 § 737; 1963 c 204 § 4.]

Additional notes found at www.leg.wa.gov

46.38.050 Cooperation of state agencies with vehicle equipment safety commission. (*Effective until June 30, 2011.*) Within appropriations available therefor, the departments, agencies and officers of the government of this state may cooperate with and assist the vehicle equipment safety commission within the scope contemplated by Article III(h) of the compact. The departments, agencies and officers of the government of this state are authorized generally to cooperate with said commission. [1963 c 204 § 5.]

46.38.060 State officers for the filing of documents and receipt of notices. (*Effective until June 30, 2011.*) Filing of documents as required by Article III(j) of the compact shall be with the chief of the state patrol. Any and all notices required by commission bylaws to be given pursuant to Article III(j) of the compact shall be given to the commissioner of this state, his alternate, if any, and the chief of the state patrol. [1987 c 330 § 738; 1963 c 204 § 6.]

Additional notes found at www.leg.wa.gov

46.38.070 Vehicle equipment safety commission to submit budgets to director of financial management. (*Effective until June 30, 2011.*) Pursuant to Article VI(a) of the compact, the vehicle equipment safety commission shall submit its budgets to the director of financial management. [1979 c 151 § 160; 1963 c 204 § 7.]

(2010 Ed.)

46.38.080 State auditor to inspect accounts of vehicle equipment safety commission. (*Effective until June 30, 2011.*) Pursuant to Article VI(e) of the compact, the state auditor is hereby empowered and authorized to inspect the accounts of the vehicle equipment safety commission. [1963 c 204 § 8.]

46.38.090 Withdrawal from compact, "executive head" defined. (*Effective until June 30, 2011.*) The term "executive head" as used in Article IX(b) of the compact shall, with reference to this state, mean the governor. [1963 c 204 § 9.]

Chapter 46.39 RCW INTERSTATE COMPACT FOR SCHOOL BUS SAFETY

Sections

- 46.39.010 Compact enacted—Provisions.
46.39.020 Designation of Washington state commissioners.

46.39.010 Compact enacted—Provisions. (*Effective until June 30, 2011.*) The "Interstate Compact for School Bus Safety" is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE COMPACT FOR SCHOOL BUS SAFETY

ARTICLE I FINDINGS AND PURPOSES

(a) The party states find that:

(1) School transportation is an integral part of our education systems. The increasing volume of traffic on streets and highways, with larger numbers of school children being transported each year, presents a serious problem in safety that requires regulation and control.

(2) During recent years the various states have each developed their own rules, regulations and standards which govern the operation of school buses in the individual states, thus creating vast differences in construction standards and operational procedures.

(3) Standardization by means of interstate cooperation, exchange of information, and the promulgation of uniform practices among the states can do much to mitigate present hazards and at the same time generate cost reductions and improved service.

(b) The purposes of this compact are to:

(1) Promote uniformity in regulation of and standards for school bus equipment.

(2) Secure uniformity of law and administrative practices in school bus vehicle regulation and related safety standards, incorporating desirable equipment changes in the interest of greater school bus safety.

(3) Establish a means whereby the states party to this compact shall jointly agree on certain school bus minimum standards and procedures including, without limitation by the enumeration, the following:

(i) Items which affect the motorist, such as use of lights, signs, and signaling devices that control traffic;

(ii) Procedural activities of school bus drivers in controlling traffic; and in the loading and unloading of buses;

(iii) Construction and other specifications which can lead to lower initial costs and the interchangeability of school buses among states;

(iv) A framework within which the party states may develop uniform driver training programs; and

(v) Development of accurate and uniform accident statistical reporting among the party states.

(4) Encourage and utilize research which will facilitate achievement of the foregoing purposes, with due regard for the findings set forth in subsection (a) of this Article.

(5) It is recognized that there are inherent differences in transportation needs in each of the party states. It shall not be the purpose of this compact to abridge, impair or adversely affect the jurisdiction or authority of the individual states to regulate and control their own school transportation systems.

(6) Investigate the safety and economic advantage of children being transported.

ARTICLE II DEFINITIONS

(a) "State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other special commonwealth as may be established by the Government of the United States.

(b) "School bus" shall have the same meaning as provided in RCW 46.04.521.

(c) "Equipment" means the equipment required for school buses under chapter 46.37 RCW.

ARTICLE III THE COMMISSION

(a) There is hereby created an agency of the party states to be known as the "Western States School Bus Safety Commission" (hereinafter called the Commission). The Commission shall consist of not less than one nor more than three commissioners from each State, each of whom shall be a citizen of the State from which he is appointed, and not less than one or nor more than three commissioners representing the United States Government. The commissioners from each State shall be chosen in the manner and for the terms provided by the laws of the States from which they shall be appointed, provided that at least one member shall be appointed from the State agency which has primary responsibility for pupil transportation in that State. Any commissioner may be removed or suspended from office as provided by the law of the State from which he shall be appointed. The commissioners representing the United States shall be appointed by the President of the United States, or in such other manner as may be provided by Congress. The commissioners shall serve without compensation, but shall be paid their actual expenses incurred in and incidental to the performance of their duties; but nothing herein shall prevent the appointment of an officer or employee of any State or of the United States Government.

(b) Each state delegation shall be entitled to one vote, and the presence of commissioners from a majority of the party states shall constitute a quorum for the transaction of business at any meeting of the Commission. A majority vote of the quorum will be required to adopt any measure before

the Commission. The commissioners representing the United States Government shall act in an advisory capacity and shall not have voting powers.

(c) The Commission shall have a seal.

(d) The Commission shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Commission shall appoint an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, shall be bonded in such amounts as the Commission may require.

(e) The Executive Director, with the approval of the Commission, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Commission's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The Commission may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. The Commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Commission may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

(i) The Commission shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Commission shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(j) The Commission annually shall make to the governor and the legislature of each party state, a report covering the activities of the Commission for the preceding year, and embodying such recommendations as may have been adopted by the Commission. The Commission may issue such additional reports as it may deem desirable.

ARTICLE IV FUNCTIONS AND ACTIVITIES

(a) The Commission shall have power to perform the following functions and activities that relate to school bus transportation:

(1) Recommend and encourage research, testing and training activities to the extent the Commission finds necessary.

(2) Contract for research, testing and training activities on behalf of the Commission itself or for one or more governmental agencies if they provide special funding for that purpose.

(3) Engage directly in such activities to the extent approved by the Commission.

(4) Recommend to the party states of needed changes in law or policy with emphasis on uniformity of laws and administrative rules, regulations or codes which would promote effective governmental action or coordination of school

bus construction, equipment, safety programs, and school bus driver training.

(5) The Commission shall send prompt notice of its action in issuing any rule, regulation or code pursuant to this article to the appropriate agency of each party state and such notice shall contain the complete text of the rule, regulation or code.

(6) Each party state, recognizing that to carry out the intent of this compact, obligates itself to adopt in identical terms, all rules, regulations and specifications which are standardized through due process to the States.

(b) The Commission may establish such advisory and technical committees as may be necessary, membership on which may include public officials and private citizens. The Commission may also cooperate with other governmental agencies and interstate organizations and with organizations representing the private sector.

ARTICLE V FINANCE

(a) Moneys necessary to finance the Commission in carrying out its duties shall be provided through appropriations from the states party to this compact, said payments to be in direct proportion to the number of school buses registered in the respective party states. The initial rate of payment shall be figured at \$0.50 per bus, provided that no state shall contribute less than \$500.00 per annum. The annual contribution of each state above the minimum shall be figured to the nearest one hundred dollars. Subsequent budgets shall be determined by the Commission, and the cost thereof allocated in the same proportion as the initial budget.

(b) The Commission may accept for any of its purposes under this compact any and all donations, and grants of money, equipment, supplies, materials, and services (conditional and otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize and dispose of the same.

ARTICLE VI ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into immediate force and effect as to any state when enacted by it into law, and such state shall thereafter be a party thereto with any and all states joining therein.

(b) It is the purpose of this compact to provide the necessary legal basis for implementation and adoption by each party state of the standardized rules, regulations and specifications as adopted by the Commission. Consistent with the laws of each party state, there shall be a "compact administrator" who, acting jointly with like officials of other party states, shall promulgate necessary rules, regulations and specifications within that state to carry out the actions and directives of the Commission.

(c) Any state party to this compact may, by legislative act after one year's notice to the Commission, withdraw from the compact. The compact may also be terminated at any time by the unanimous agreement of the several party states. Withdrawal shall not relieve a state from its obligations hereunder prior to the effective withdrawal date.

(2010 Ed.)

(d) If any state shall at any time default in the performance of any of its obligations assumed herein or with respect to any obligation imposed upon said state as authorized by and in compliance with the terms and provisions of this compact, all rights, privileges and benefits of such defaulting state and its members on the Commission shall be suspended after the date of such default. Such suspension shall in no manner release such defaulting state from any accrued obligation or otherwise affect this compact or the rights, duties, privileges or obligations of the remaining states thereunder.

ARTICLE VII SEVERABILITY

(a) The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be unconstitutional or the applicability thereof to any state, agency, person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to any other state, agency, person or circumstances shall not be affected thereby. It is the legislative intent that the provisions of this compact be reasonably and liberally construed. [1977 ex.s. c 88 § 1.]

46.39.020 Designation of Washington state commissioners. (*Effective until June 30, 2011.*) The Washington state commissioners to the western states school bus safety commission shall be the secretary of transportation, the superintendent of public instruction, and the chief of the Washington state patrol or their respective designees. Annually the Washington commissioners shall elect a chairman from their own membership who shall serve for one year commencing July 1st. Election as chairman shall not interfere with the member's right to vote on all matters before the Washington commissioners. The Washington commissioners may by majority vote designate one of their members to represent the state on any matter coming before the Western states school bus safety commission. [1984 c 7 § 51; 1977 ex.s. c 88 § 2.]

Additional notes found at www.leg.wa.gov

Chapter 46.44 RCW **SIZE, WEIGHT, LOAD**

Sections

46.44.010	Outside width limit.
46.44.013	Appurtenances on recreational vehicles.
46.44.020	Maximum height—Impaired clearance signs.
46.44.030	Maximum lengths.
46.44.034	Maximum lengths—Front and rear protrusions.
46.44.036	Combination of units—Limitation.
46.44.037	Combination of units—Lawful operations.
46.44.041	Maximum gross weights—Wheelbase and axle factors.
46.44.042	Maximum gross weights—Axle and tire factors.
46.44.043	Cement trucks—Axle loading controls.
46.44.047	Excess weight—Logging trucks—Special permits—County or city permits—Fees—Discretion of arresting officer.
46.44.049	Effect of weight on highways—Study authorized.
46.44.050	Minimum length of wheelbase.
46.44.060	Outside load limits for passenger vehicles.
46.44.070	Drawbar requirements—Trailer whipping or weaving—Towing flag.
46.44.080	Local regulations—State highway regulations.
46.44.090	Special permits for oversize or overweight movements.
46.44.091	Special permits—Gross weight limit.

- 46.44.0915 Heavy haul industrial corridors—Overweight sealed containers and vehicles.
- 46.44.092 Special permits—Overall width limits, exceptions—Application for permit.
- 46.44.093 Special permits—Discretion of issuer—Conditions.
- 46.44.0941 Special permits—Fees.
- 46.44.095 Temporary additional tonnage permits—Fees.
- 46.44.096 Special permits—Determining fee—To whom paid.
- 46.44.098 Increase in federal limits on sizes and weights—Increases by commission.
- 46.44.101 Interstate travel by specialized equipment.
- 46.44.105 Enforcement procedures—Penalties—Rules.
- 46.44.110 Liability for damage to highways, bridges, etc.
- 46.44.120 Liability of owner, others, for violations.
- 46.44.130 Farm implements—Gross weight and size limitation exception—Penalty.
- 46.44.140 Farm implements—Special permits—Penalty.
- 46.44.150 Highway improvement vehicles—Gross weight limit excesses authorized—Limitations.
- 46.44.170 Mobile home or park model trailer movement special permit and decal—Responsibility for taxes—License plates—Rules.
- 46.44.173 Notice to treasurer and assessor of county where mobile home or park trailer to be located.
- 46.44.175 Penalties—Hearing.
- 46.44.180 Operation of mobile home pilot vehicle without insurance unlawful—Amounts—Exception—Penalty.
- 46.44.190 Fire-fighting apparatus.

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Traffic infractions—Monetary penalty schedule—IRLJ 6.2.

Auto transportation companies: Chapter 81.68 RCW.

Permitting escape of load materials: RCW 46.61.655.

46.44.010 Outside width limit. The total outside width of any vehicle or load thereon must not exceed eight and one-half feet; except that an externally mounted rear vision mirror may extend beyond the width limits of the vehicle body to a point that allows the driver a view to the rear of the vehicle along both sides in conformance with Federal National Safety Standard 111 (49 C.F.R. 571.111), and RCW 46.37.400. Excluded from this calculation of width are certain devices that provide added safety, energy conservation, or are otherwise necessary, and are not designed or used to carry cargo. The width-exclusive devices must be identified in rules adopted by the department of transportation under RCW 46.44.101. A width-exclusive device must not extend more than three inches beyond the width limit of the vehicle body. [2005 c 189 § 1; 1997 c 63 § 1; 1983 c 278 § 1; 1961 c 12 § 46.44.010. Prior: 1947 c 200 § 4; 1937 c 189 § 47; Rem. Supp. 1947 § 6360-47; 1923 c 181 § 4, part; RRS § 6362-8, part.]

46.44.013 Appurtenances on recreational vehicles. Motor homes, travel trailers, and campers may exceed the maximum width established under RCW 46.44.010 if the excess width is attributable to appurtenances that do not extend beyond the body of the vehicle by more than four inches, or if an awning, by more than six inches. As used in this section, "appurtenance" means an appendage that is installed by a factory or a vehicle dealer and is intended as an integral part of the motor home, travel trailer, or camper. "Appurtenance" does not include an item temporarily affixed or attached to the exterior of a vehicle for the purpose of transporting the item from one location to another. "Appurtenance" does not include an item that obstructs the driver's rearward vision. [2005 c 264 § 1.]

46.44.020 Maximum height—Impaired clearance signs. It is unlawful for any vehicle unladen or with load to exceed a height of fourteen feet above the level surface upon which the vehicle stands. This height limitation does not apply to authorized emergency vehicles or repair equipment of a public utility engaged in reasonably necessary operation. The provisions of this section do not relieve the owner or operator of a vehicle or combination of vehicles from the exercise of due care in determining that sufficient vertical clearance is provided upon the public highways where the vehicle or combination of vehicles is being operated; and no liability may attach to the state or to any county, city, town, or other political subdivision by reason of any damage or injury to persons or property by reason of the existence of any structure over or across any public highway where the vertical clearance above the roadway is fourteen feet or more; or, where the vertical clearance is less than fourteen feet, if impaired clearance signs of a design approved by the state department of transportation are erected and maintained on the right side of any such public highway in accordance with the manual of uniform traffic control devices for streets and highways as adopted by the state department of transportation under chapter 47.36 RCW. If any structure over or across any public highway is not owned by the state or by a county, city, town, or other political subdivision, it is the duty of the owner thereof when billed therefor to reimburse the state department of transportation or the county, city, town, or other political subdivision having jurisdiction over the highway for the actual cost of erecting and maintaining the impaired clearance signs, but no liability may attach to the owner by reason of any damage or injury to persons or property caused by impaired vertical clearance above the roadway. [1984 c 7 § 52; 1977 c 81 § 1; 1975-'76 2nd ex.s. c 64 § 7; 1971 ex.s. c 248 § 1; 1965 c 43 § 1; 1961 c 12 § 46.44.020. Prior: 1959 c 319 § 26; 1955 c 384 § 1; 1953 c 125 § 1; 1951 c 269 § 20; 1937 c 189 § 48; RRS § 6360-48.]

Additional notes found at www.leg.wa.gov

46.44.030 Maximum lengths. It is unlawful for any person to operate upon the public highways of this state any vehicle having an overall length, with or without load, in excess of forty feet. This restriction does not apply to (1) a municipal transit vehicle, (2) auto stage, private carrier bus, school bus, or motor home with an overall length not to exceed forty-six feet, or (3) an articulated auto stage with an overall length not to exceed sixty-one feet.

It is unlawful for any person to operate upon the public highways of this state any combination consisting of a tractor and semitrailer that has a semitrailer length in excess of fifty-three feet or a combination consisting of a tractor and two trailers in which the combined length of the trailers exceeds sixty-one feet, with or without load.

It is unlawful for any person to operate on the highways of this state any combination consisting of a truck and trailer, or log truck and stinger-steered pole trailer, with an overall length, with or without load, in excess of seventy-five feet. "Stinger-steered," as used in this section, means the coupling device is located behind the tread of the tires of the last axle of the towing vehicle.

These length limitations do not apply to vehicles transporting poles, pipe, machinery, or other objects of a structural

nature that cannot be dismembered and operated by a public utility when required for emergency repair of public service facilities or properties, but in respect to night transportation every such vehicle and load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load.

Excluded from the calculation of length are certain devices that provide added safety, energy conservation, or are otherwise necessary, and are not designed or used to carry cargo. The length-exclusive devices must be identified in rules adopted by the department of transportation under RCW 46.44.101. [2005 c 189 § 2; 2000 c 102 § 1; 1995 c 26 § 1; 1994 c 59 § 2; 1993 c 301 § 1; 1991 c 113 § 1; 1990 c 28 § 1; 1985 c 351 § 1; 1984 c 104 § 1; 1983 c 278 § 2; 1979 ex.s. c 113 § 4; 1977 ex.s. c 64 § 1; 1975-'76 2nd ex.s. c 53 § 1; 1974 ex.s. c 76 § 2; 1971 ex.s. c 248 § 2; 1967 ex.s. c 145 § 61; 1963 ex.s. c 3 § 52; 1961 ex.s. c 21 § 36; 1961 c 12 § 46.44.030. Prior: 1959 c 319 § 25; 1957 c 273 § 14; 1951 c 269 § 22; prior: 1949 c 221 § 1, part; 1947 c 200 § 5, part; 1941 c 116 § 1, part; 1937 c 189 § 49, part; Rem. Supp. 1949 § 6360-49, part.]

Additional notes found at www.leg.wa.gov

46.44.034 Maximum lengths—Front and rear protrusions. (1) The load, or any portion of any vehicle, operated alone upon the public highway of this state, or the load, or any portion of the front vehicle of a combination of vehicles, shall not extend more than three feet beyond the front wheels of such vehicle, or the front bumper, if equipped with front bumper. This subsection does not apply to a front-loading garbage truck or recycling truck while on route and actually engaged in the collection of solid waste or recyclables at speeds of twenty miles per hour or less.

(2) No vehicle shall be operated upon the public highways with any part of the permanent structure or load extending in excess of fifteen feet beyond the center of the last axle of such vehicle. This subsection does not apply to "specialized equipment" designated under 49 U.S.C. Sec. 2311 that is operated on the interstate highway system, those designated portions of the federal-aid primary system, and routes constituting reasonable access from such highways to terminals and facilities for food, fuel, repairs, and rest. [1997 c 191 § 1; 1991 c 143 § 1; 1961 c 12 § 46.44.034. Prior: 1957 c 273 § 15; 1951 c 269 § 24; prior: 1949 c 221 § 1, part; 1947 c 200 § 5, part; 1941 c 116 § 1, part; 1937 c 189 § 49, part; Rem. Supp. 1949 § 6360-49, part.]

46.44.036 Combination of units—Limitation. Except as provided in RCW 46.44.037, it is unlawful for any person to operate upon the public highways of this state any combination of vehicles consisting of more than two vehicles. For the purposes of this section a truck tractor-semitrailer or pole trailer combination will be considered as two vehicles but the addition of another axle to the tractor of a truck tractor-semitrailer or pole trailer combination in such a way that it supports a proportional share of the load of the semitrailer or pole trailer shall not be deemed a separate vehicle but shall be considered a part of the truck tractor. For the purposes of this section a converter gear used in converting a semitrailer to a

full trailer shall not be deemed a separate vehicle but shall be considered a part of the trailer. [1975-'76 2nd ex.s. c 64 § 8; 1961 c 12 § 46.44.036. Prior: 1955 c 384 § 2; 1951 c 269 § 23; prior: 1949 c 221 § 1, part; 1947 c 200 § 5, part; 1941 c 116 § 1, part; 1937 c 189 § 49, part; Rem. Supp. 1949 § 6360-49, part.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.44.037 Combination of units—Lawful operations. Notwithstanding the provisions of RCW 46.44.036 and subject to such rules and regulations governing their operation as may be adopted by the state department of transportation, operation of the following combinations is lawful:

(1) A combination consisting of a truck tractor, a semi-trailer, and another semitrailer or a full trailer. In this combination a converter gear used to convert a semitrailer into a full trailer shall be considered to be a part of the full trailer and not a separate vehicle. A converter gear being pulled without load and not used to convert a semitrailer into a full trailer may be substituted in lieu of a full trailer or a semitrailer in any lawful combination;

(2) A combination not exceeding seventy-five feet in overall length consisting of four trucks or truck tractors used in driveway service where three of the vehicles are towed by the fourth in triple saddlemount position;

(3) A combination consisting of a truck tractor carrying a freight compartment no longer than eight feet, a semitrailer, and another semitrailer or full trailer that meets the legal length requirement for a truck and trailer combination set forth in RCW 46.44.030. [1991 c 143 § 2; 1985 c 351 § 2; 1984 c 7 § 53; 1979 ex.s. c 149 § 3; 1975-'76 2nd ex.s. c 64 § 9; 1965 ex.s. c 170 § 37; 1963 ex.s. c 3 § 53; 1961 c 12 § 46.44.037. Prior: 1957 c 273 § 16; 1955 c 384 § 3.]

Additional notes found at www.leg.wa.gov

46.44.041 Maximum gross weights—Wheelbase and axle factors. No vehicle or combination of vehicles shall operate upon the public highways of this state with a gross load on any single axle in excess of twenty thousand pounds, or upon any group of axles in excess of that set forth in the following table, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each, if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles								
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	
4	34,000								
5	34,000								
6	34,000								
7	34,000								
8 & less	34,000	34,000							
more than 8	38,000	42,000							
9	39,000	42,500							
10	40,000	43,500							
11		44,000							
12		45,000	50,000						
13		45,500	50,500						
14		46,500	51,500						
15		47,000	52,000						

16	48,000	52,500	58,000			
17	48,500	53,500	58,500			
18	49,500	54,000	59,000			
19	50,000	54,500	60,000			
20	51,000	55,500	60,500	66,000		
21	51,500	56,000	61,000	66,500		
22	52,500	56,500	61,500	67,000		
23	53,000	57,500	62,500	68,000		
24	54,000	58,000	63,000	68,500	74,000	
25	54,500	58,500	63,500	69,000	74,500	
26	55,500	59,500	64,000	69,500	75,000	
27	56,000	60,000	65,000	70,000	75,500	
28	57,000	60,500	65,500	71,000	76,500	82,000
29	57,500	61,500	66,000	71,500	77,000	82,500
30	58,500	62,000	66,500	72,000	77,500	83,000
31	59,000	62,500	67,500	72,500	78,000	83,500
32	60,000	63,500	68,000	73,000	78,500	84,500
33		64,000	68,500	74,000	79,000	85,000
34		64,500	69,000	74,500	80,000	85,500
35		65,500	70,000	75,000	80,500	86,000
36		66,000	70,500	75,500	81,000	86,500
37		66,500	71,000	76,000	81,500	87,000
38		67,500	71,500	77,000	82,000	87,500
39		68,000	72,500	77,500	82,500	88,500
40		68,500	73,000	78,000	83,500	89,000
41		69,500	73,500	78,500	84,000	89,500
42		70,000	74,000	79,000	84,500	90,000
43		70,500	75,000	80,000	85,000	90,500
44		71,500	75,500	80,500	85,500	91,000
45		72,000	76,000	81,000	86,000	91,500
46		72,500	76,500	81,500	87,000	92,500
47		73,500	77,500	82,000	87,500	93,000
48		74,000	78,000	83,000	88,000	93,500
49		74,500	78,500	83,500	88,500	94,000
50		75,500	79,000	84,000	89,000	94,500
51		76,000	80,000	84,500	89,500	95,000
52		76,500	80,500	85,000	90,500	95,500
53		77,500	81,000	86,000	91,000	96,500
54		78,000	81,500	86,500	91,500	97,000
55		78,500	82,500	87,000	92,000	97,500
56		79,500	83,000	87,500	92,500	98,000
57		80,000	83,500	88,000	93,000	98,500
58			84,000	89,000	94,000	99,000
59			85,000	89,500	94,500	99,500
60			85,500	90,000	95,000	100,500
61			86,000	90,500	95,500	101,000
62			86,500	91,000	96,000	101,500
63			87,500	92,000	96,500	102,000
64			88,000	92,500	97,500	102,500
65			88,500	93,000	98,000	103,000
66			89,000	93,500	98,500	103,500
67			90,000	94,000	99,000	104,500
68			90,500	95,000	99,500	105,000
69			91,000	95,500	100,000	105,500
70			91,500	96,000	101,000	105,500
71			92,500	96,500	101,500	105,500
72			93,000	97,000	102,000	105,500
73			93,500	98,000	102,500	105,500
74			94,000	98,500	103,000	105,500
75			95,000	99,000	103,500	105,500
76			95,500	99,500	104,500	105,500
77			96,000	100,000	105,000	105,500
78			96,500	101,000	105,500	105,500
79			97,500	101,500	105,500	105,500
80			98,000	102,000	105,500	105,500
81			98,500	102,500	105,500	105,500
82			99,000	103,000	105,500	105,500
83			100,000	104,000	105,500	105,500
84				104,500	105,500	105,500
85				105,000	105,500	105,500
86 or more				105,500	105,500	105,500

When inches are involved: Under six inches take lower, six inches or over take higher. The maximum load on any axle in any group of axles shall not exceed the single axle or tandem axle allowance as set forth in the table above.

The maximum axle and gross weights specified in this section are subject to the braking requirements set up for the service brakes upon any motor vehicle or combination of vehicles as provided by law.

Loads of not more than eighty thousand pounds which may be legally hauled in the state bordering this state which also has a sales tax, are legal in this state when moving to a

port district within four miles of the bordering state except on the interstate system. This provision does not allow the operation of a vehicle combination consisting of a truck tractor and three trailers.

Notwithstanding anything contained herein, a vehicle or combination of vehicles in operation on January 4, 1975, may operate upon the public highways of this state, including the interstate system within the meaning of section 127 of Title 23, United States Code, with an overall gross weight upon a group of two consecutive sets of dual axles which was lawful in this state under the laws, regulations, and procedures in effect in this state on January 4, 1975. [1997 c 198 § 1; 1995 c 171 § 1. Prior: 1993 c 246 § 1; 1993 c 102 § 3; prior: 1988 c 229 § 1; 1988 c 6 § 2; 1985 c 351 § 3; 1977 c 81 § 2; 1975-'76 2nd ex.s. c 64 § 22.]

Additional notes found at www.leg.wa.gov

46.44.042 Maximum gross weights—Axle and tire factors. Subject to the maximum gross weights specified in RCW 46.44.041, it is unlawful to operate any vehicle upon the public highways with a gross weight, including load, upon any tire concentrated upon the surface of the highway in excess of six hundred pounds per inch width of such tire. An axle manufactured after July 31, 1993, carrying more than ten thousand pounds gross weight must be equipped with four or more tires. An axle carrying more than ten thousand pounds gross weight must have four or more tires, regardless of date of manufacture. Instead of the four or more tires per axle requirements of this section, an axle may be equipped with two tires limited to five hundred pounds per inch width of tire. This section does not apply to vehicles operating under oversize or overweight permits, or both, issued under RCW 46.44.090, while carrying a nonreducible load.

The following equipment may operate at six hundred pounds per inch width of tire: (1) A nonliftable steering axle or axles on the power unit; (2) a tiller axle on firefighting apparatus; (3) a rear booster trailing axle equipped with two tires on a ready-mix concrete transit truck; and (4) a straddle trailer manufactured before January 1, 1996, equipped with single-tire axles or a single axle using a walking beam supported by two in-line single tires and used exclusively for the transport of fruit bins between field, storage, and processing. A straddle trailer manufactured after January 1, 1996, meeting this use criteria may carry five hundred fifteen pounds per inch width of tire on sixteen and one-half inch wide tires.

For the purpose of this section, the width of tire in case of solid rubber or hollow center cushion tires, so long as the use thereof may be permitted by the law, shall be measured between the flanges of the rim. For the purpose of this section, the width of tires in case of pneumatic tires shall be the maximum overall normal inflated width as stipulated by the manufacturer when inflated to the pressure specified and without load thereon.

The department of transportation, by rule with respect to state highways, and a local authority, with respect to a public highway under its jurisdiction, may extend the weight table in RCW 46.44.041 to one hundred fifteen thousand pounds. However, the extension must be in compliance with federal law, and vehicles operating under the extension must be in full compliance with the 1997 axle and tire requirements

under this section. [2006 c 334 § 15; 1996 c 116 § 1; 1993 c 103 § 1; 1985 c 351 § 4; 1975-'76 2nd ex.s. c 64 § 10; 1961 c 12 § 46.44.042. Prior: 1959 c 319 § 27; 1951 c 269 § 27; prior: 1949 c 221 § 2, part; 1947 c 200 § 6, part; 1941 c 116 § 2, part; 1937 c 189 § 50, part; Rem. Supp. 1949 § 6360-50, part; 1929 c 180 § 3, part; 1927 c 309 § 8, part; 1923 c 181 § 4, part; 1921 c 96 § 20, part; RRS § 6362-8, part.]

Effective date—2006 c 334: See note following RCW 47.01.051.

Additional notes found at www.leg.wa.gov

46.44.043 Cement trucks—Axle loading controls.

The switch that controls the raising and lowering of the retractable rear booster or tag axle on a ready-mix cement truck may be located within the reach of the driver's compartment as long as the variable control, used to adjust axle loadings by regulating air pressure or by other means, is out of the reach of the driver's compartment. [1994 c 305 § 1.]

46.44.047 Excess weight—Logging trucks—Special permits—County or city permits—Fees—Discretion of arresting officer.

A three axle truck tractor and a two axle pole trailer combination engaged in the operation of hauling logs may exceed by not more than six thousand eight hundred pounds the legal gross weight of the combination of vehicles when licensed, as permitted by law, for sixty-eight thousand pounds: PROVIDED, That the distance between the first and last axle of the vehicles in combination shall have a total wheelbase of not less than thirty-seven feet, and the weight upon two axles spaced less than seven feet apart shall not exceed thirty-three thousand six hundred pounds.

Such additional allowances shall be permitted by a special permit to be issued by the department of transportation valid only on state primary or secondary highways authorized by the department and under such rules, regulations, terms, and conditions prescribed by the department. The fee for such special permit shall be fifty dollars for a twelve-month period beginning and ending on April 1st of each calendar year. Permits may be issued at any time, but if issued after July 1st of any year the fee shall be thirty-seven dollars and fifty cents. If issued on or after October 1st the fee shall be twenty-five dollars, and if issued on or after January 1st the fee shall be twelve dollars and fifty cents. A copy of such special permit covering the vehicle involved shall be carried in the cab of the vehicle at all times. Upon the third offense within the duration of the permit for violation of the terms and conditions of the special permit, the special permit shall be canceled. The vehicle covered by such canceled special permit shall not be eligible for a new special permit until thirty days after the cancellation of the special permit issued to said vehicle. The fee for such renewal shall be at the same rate as set forth in this section which covers the original issuance of such special permit. Each special permit shall be assigned to a three-axle truck tractor in combination with a two-axle pole trailer. When the department issues a duplicate permit to replace a lost or destroyed permit and where the department transfers a permit, a fee of fourteen dollars shall be charged for each such duplicate issued or each such transfer.

All fees collected hereinabove shall be deposited with the state treasurer and credited to the motor vehicle fund.

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Permits involving city streets or county roads or using city streets or county roads to reach or leave state highways, authorized for permit by the department may be issued by the city or county or counties involved. A fee of five dollars for such city or county permit may be assessed by the city or by the county legislative authority which shall be deposited in the city or county road fund. The special permit provided for herein shall be known as a "log tolerance permit" and shall designate the route or routes to be used, which shall first be approved by the city or county engineer involved. Authorization of additional route or routes may be made at the discretion of the city or county by amending the original permit or by issuing a new permit. Said permits shall be issued on a yearly basis expiring on March 31st of each calendar year. Any person, firm, or corporation who uses any city street or county road for the purpose of transporting logs with weights authorized by state highway log tolerance permits, to reach or leave a state highway route, without first obtaining a city or county permit when required by the city or the county legislative authority shall be subject to the penalties prescribed by RCW 46.44.105. For the purpose of determining gross weight the actual scale weight taken by the officer shall be prima facie evidence of such total gross weight. In the event the gross weight is in excess of the weight permitted by law, the officer may, within his or her discretion, permit the operator to proceed with his or her vehicles in combination.

The chief of the state patrol, with the advice of the department, may make reasonable rules and regulations to aid in the enforcement of the provisions of this section. [2010 c 8 § 9058; 1994 c 172 § 1; 1979 ex.s. c 136 § 74; 1975-'76 2nd ex.s. c 64 § 11; 1973 1st ex.s. c 150 § 2; 1971 ex.s. c 249 § 2; 1961 ex.s. c 21 § 35; 1961 c 12 § 46.44.047. Prior: 1955 c 384 § 19; 1953 c 254 § 10; 1951 c 269 § 31.]

Additional notes found at www.leg.wa.gov

46.44.049 Effect of weight on highways—Study authorized. The department of transportation may make and enter into agreements with the federal government or any state or group of states or agencies thereof, or any nonprofit association, on a joint or cooperative basis, to study, analyze, or test the effects of weight on highway construction. The studies or tests may be made either by designating existing highways or the construction of test strips including natural resource roads to the end that a proper solution of the many problems connected with the imposition on highways of motor vehicle weights may be determined.

The studies may include the determination of values to be assigned various highway-user groups according to their gross weight or use. [1984 c 7 § 54; 1961 c 12 § 46.44.049. Prior: 1951 c 269 § 47.]

Additional notes found at www.leg.wa.gov

46.44.050 Minimum length of wheelbase. It shall be unlawful to operate any vehicle upon public highways with a wheelbase between any two axles thereof of less than three feet, six inches when weight exceeds that allowed for one axle under RCW 46.44.042 or 46.44.041. It shall be unlawful to operate any motor vehicle upon the public highways of this state with a wheelbase between the front most axle and the rearmost axle of less than three feet, six inches.

For the purposes of this section, wheelbase shall be measured upon a straight line from center to center of the vehicle axles designated. [2009 c 275 § 6; 1979 ex.s. c 213 § 7; 1975-'76 2nd ex.s. c 64 § 12; 1961 c 12 § 46.44.050. Prior: 1941 c 116 § 3; 1937 c 189 § 51; Rem. Supp. 1941 § 6360-51; 1929 c 180 § 3, part; 1927 c 309 § 8, part; 1923 c 181 § 4, part; RRS § 6362-8, part.]

Additional notes found at www.leg.wa.gov

46.44.060 Outside load limits for passenger vehicles.

No passenger type vehicle shall be operated on any public highway with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof. [1961 c 12 § 46.44.060. Prior: 1937 c 189 § 52; RRS § 6360-52; 1929 c 180 § 5, part; 1927 c 309 § 10, part; RRS § 6362-10, part.]

46.44.070 Drawbar requirements—Trailer whipping or weaving—Towing flag. The drawbar or other connection between vehicles in combination shall be of sufficient strength to hold the weight of the towed vehicle on any grade where operated. No trailer shall whip, weave or oscillate or fail to follow substantially in the course of the towing vehicle. When a disabled vehicle is being towed by means of bar, chain, rope, cable or similar means and the distance between the towed vehicle and the towing vehicle exceeds fifteen feet there shall be fastened on such connection in approximately the center thereof a white flag or cloth not less than twelve inches square. [1961 c 12 § 46.44.070. Prior: 1937 c 189 § 53; RRS § 6360-53; 1929 c 180 § 5, part; 1927 c 309 § 10, part; RRS § 6362-10, part; 1923 c 181 § 4, part.]

46.44.080 Local regulations—State highway regulations. Local authorities with respect to public highways under their jurisdiction may prohibit the operation thereon of motor trucks or other vehicles or may impose limits as to the weight thereof, or any other restrictions as may be deemed necessary, whenever any such public highway by reason of rain, snow, climatic or other conditions, will be seriously damaged or destroyed unless the operation of vehicles thereon be prohibited or restricted or the permissible weights thereof reduced: PROVIDED, That whenever a highway has been closed generally to vehicles or specified classes of vehicles, local authorities shall by general rule or by special permit authorize the operation thereon of school buses, emergency vehicles, and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under such weight and speed restrictions as the local authorities deem necessary to protect the highway from undue damage: PROVIDED FURTHER, That the governing authorities of incorporated cities and towns shall not prohibit the use of any city street designated a part of the route of any primary state highway through any such incorporated city or town by vehicles or any class of vehicles or impose any restrictions or reductions in permissible weights unless such restriction, limitation, or prohibition, or reduction in permissible weights be first approved in writing by the department of transportation.

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The local authorities imposing any such restrictions or limitations, or prohibiting any use or reducing the permissible weights shall do so by proper ordinance or resolution and shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution in each end of the portion of any public highway affected thereby, and no such ordinance or resolution shall be effective unless and until such signs are erected and maintained.

The department shall have the same authority as hereinabove granted to local authorities to prohibit or restrict the operation of vehicles upon state highways. The department shall give public notice of closure or restriction. The department may issue special permits for the operation of school buses and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under specified weight and speed restrictions as may be necessary to protect any state highway from undue damage. [2006 c 334 § 16; 1977 ex.s. c 151 § 29; 1973 2nd ex.s. c 15 § 1; 1961 c 12 § 46.44.080. Prior: 1937 c 189 § 54; RRS § 6360-54.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Effective date—2006 c 334: See note following RCW 47.01.051.

Highway and street closures authorized—Notice: Chapter 47.48 RCW.

Additional notes found at www.leg.wa.gov

46.44.090 Special permits for oversize or overweight movements. The department of transportation, pursuant to its rules with respect to state highways, and local authorities, with respect to public highways under their jurisdiction, may, upon application in writing and good cause being shown therefor, issue a special permit in writing, or electronically, authorizing the applicant to operate or move a vehicle or combination of vehicles of a size, weight of vehicle, or load exceeding the maximum set forth in RCW 46.44.010, 46.44.020, 46.44.030, 46.44.034, and 46.44.041 upon any public highway under the jurisdiction of the authority granting such permit and for the maintenance of which such authority is responsible. [2006 c 334 § 17; 2001 c 262 § 1; 1977 ex.s. c 151 § 30; 1975-'76 2nd ex.s. c 64 § 13; 1961 c 12 § 46.44.090. Prior: 1951 c 269 § 34; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Effective date—2006 c 334: See note following RCW 47.01.051.

Additional notes found at www.leg.wa.gov

46.44.091 Special permits—Gross weight limit. (1) Except as otherwise provided in subsections (3) and (4) of this section, no special permit shall be issued for movement on any state highway or route of a state highway within the limits of any city or town where the gross weight, including load, exceeds the following limits:

(a) Twenty-two thousand pounds on a single axle or on dual axles with a wheelbase between the first and second axles of less than three feet six inches;

(b) Forty-three thousand pounds on dual axles having a wheelbase between the first and second axles of not less than three feet six inches but less than seven feet;

(c) On any group of axles or in the case of a vehicle employing two single axles with a wheel base between the first and last axle of not less than seven feet but less than ten

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feet, a weight in pounds determined by multiplying six thousand five hundred times the distance in feet between the center of the first axle and the center of the last axle of the group;

(d) On any group of axles with a wheel base between the first and last axle of not less than ten feet but less than thirty feet, a weight in pounds determined by multiplying two thousand two hundred times the sum of twenty and the distance in feet between the center of the first axle and the center of the last axle of the group;

(e) On any group of axles with a wheel base between the first and last axle of thirty feet or greater, a weight in pounds determined by multiplying one thousand six hundred times the sum of forty and the distance in feet between the center of the first axle and the center of the last axle of the group.

(2) The total weight of a vehicle or combination of vehicles allowable by special permit under subsection (1) of this section shall be governed by the lesser of the weights obtained by using the total number of axles as a group or any combination of axles as a group.

(3) The weight limitations pertaining to single axles may be exceeded to permit the movement of equipment operating upon single pneumatic tires having a rim width of twenty inches or more and a rim diameter of twenty-four inches or more or dual pneumatic tires having a rim width of sixteen inches or more and a rim diameter of twenty-four inches or more and specially designed vehicles manufactured and certified for special permits prior to July 1, 1975.

(4) Permits may be issued for weights in excess of the limitations contained in subsection (1) of this section on highways or sections of highways which have been designed and constructed for weights in excess of such limitations, or for any shipment duly certified as necessary by military officials, or by officials of public or private power facilities, or when in the opinion of the department of transportation the movement or action is a necessary movement or action: PROVIDED, That in the judgment of the department of transportation the structures and highway surfaces on the routes involved are capable of sustaining weights in excess of such limitations and it is not reasonable for economic or operational considerations to transport such excess weights by rail or water for any substantial distance of the total mileage applied for.

(5) Application shall be made in writing on special forms provided by the department of transportation and shall be submitted at least thirty-six hours in advance of the proposed movement. An application for a special permit for a gross weight of any combination of vehicles exceeding two hundred thousand pounds shall be submitted in writing to the department of transportation at least thirty days in advance of the proposed movement. [2001 c 262 § 2; 1989 c 52 § 1; 1977 ex.s. c 151 § 31; 1975-'76 2nd ex.s. c 64 § 14; 1975 1st ex.s. c 168 § 1; 1969 ex.s. c 281 § 30; 1961 c 12 § 46.44.091. Prior: 1959 c 319 § 28; 1953 c 254 § 12; 1951 c 269 § 35; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Additional notes found at www.leg.wa.gov

46.44.0915 Heavy haul industrial corridors—Overweight sealed containers and vehicles. (1)(a) Except as

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provided in (b) of this subsection, the department of transportation, with respect to state highways maintained within port district property, may, at the request of a port commission, make and enter into agreements with port districts and adjacent jurisdictions or agencies of the districts, for the purpose of identifying, managing, and maintaining short heavy haul industrial corridors within port district property for the movement of overweight sealed containers used in international trade.

(b) The department of transportation shall designate that portion of state route number 97 from the Canadian border to milepost 331.22 as a heavy haul industrial corridor for the movement of overweight vehicles to and from the Oroville railhead. The department may issue special permits to vehicles operating in the heavy haul industrial corridor to carry weight in excess of weight limits established in RCW 46.44.041, but not to exceed a gross vehicle weight of 137,788 pounds.

(2) Except as provided in subsection (1)(b) of this section, the department may issue special permits to vehicles operating in a heavy haul industrial corridor to carry weight in excess of weight limits established in RCW 46.44.041. However, the excess weight on a single axle, tandem axle, or any axle group must not exceed that allowed by RCW 46.44.091 (1) and (2), weight per tire must not exceed six hundred pounds per inch width of tire, and gross vehicle weight must not exceed one hundred five thousand five hundred pounds.

(3) The entity operating or hiring vehicles under subsection (1)(b) of this section or moving overweight sealed containers used in international trade must pay a fee for each special permit of one hundred dollars per month or one thousand dollars annually, beginning from the date of issue, for all movements under the special permit made on state highways within a heavy haul industrial corridor. Within a port district property, under no circumstances are the for hire carriers or rail customers responsible for the purchase or cost of the permits. All funds collected, except the amount retained by authorized agents of the department under RCW 46.44.096, must be forwarded to the state treasurer and deposited in the motor vehicle fund.

(4) For purposes of this section, an overweight sealed container used in international trade, including its contents, is considered nondivisible when transported within a heavy haul industrial corridor defined by the department.

(5) Any agreement entered into by the department as authorized under this section with a port district adjacent to Puget Sound and located within a county that has a population of more than seven hundred thousand, but less than one million, must limit the applicability of any established heavy haul corridor to that portion of state route no. 509 beginning at milepost 0.25 in the vicinity of East 'D' Street and ending at milepost 3.88 in the vicinity of Taylor Way.

(6) The department of transportation may adopt reasonable rules to implement this section. [2008 c 89 § 1; 2005 c 311 § 1.]

46.44.092 Special permits—Overall width limits, exceptions—Application for permit. Special permits may not be issued for movements on any state highway outside the limits of any city or town in excess of the following widths:

On two-lane highways, fourteen feet;

On multiple-lane highways where a physical barrier serving as a median divider separates opposing traffic lanes, twenty feet;

On multiple-lane highways without a physical barrier serving as a median divider, thirty-two feet.

These limits apply except under the following conditions:

(1) In the case of buildings, the limitations referred to in this section for movement on any two lane state highway other than the national system of interstate and defense highways may be exceeded under the following conditions: (a) Controlled vehicular traffic shall be maintained in one direction at all times; (b) the maximum distance of movement shall not exceed five miles; additional contiguous permits shall not be issued to exceed the five-mile limit: PROVIDED, That when the department of transportation determines a hardship would result, this limitation may be exceeded upon approval of the department of transportation; (c) prior to issuing a permit a qualified transportation department employee shall make a visual inspection of the building and route involved determining that the conditions listed herein shall be complied with and that structures or overhead obstructions may be cleared or moved in order to maintain a constant and uninterrupted movement of the building; (d) special escort or other precautions may be imposed to assure movement is made under the safest possible conditions, and the Washington state patrol shall be advised when and where the movement is to be made;

(2) Permits may be issued for widths of vehicles in excess of the preceding limitations on highways or sections of highways which have been designed and constructed for width in excess of such limitations;

(3) Permits may be issued for vehicles with a total outside width, including the load, of nine feet or less when the vehicle is equipped with a mechanism designed to cover the load pursuant to RCW 46.61.655;

(4) These limitations may be rescinded when certification is made by military officials, or by officials of public or private power facilities, or when in the opinion of the department of transportation the movement or action is a necessary movement or action: PROVIDED FURTHER, That in the judgment of the department of transportation the structures and highway surfaces on the routes involved are capable of sustaining widths in excess of such limitation;

(5) These limitations shall not apply to movement during daylight hours on any two lane state highway where the gross weight, including load, does not exceed eighty thousand pounds and the overall width of load does not exceed sixteen feet: PROVIDED, That the minimum and maximum speed of such movements, prescribed routes of such movements, the times of such movements, limitation upon frequency of trips (which limitation shall be not less than one per week), and conditions to assure safety of traffic may be prescribed by the department of transportation or local authority issuing such special permit.

The applicant for any special permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular state highways for which permit to operate is requested and whether such permit is requested for a single trip or for continuous operation. [2006 c 334 § 18;

1989 c 398 § 2; 1981 c 63 § 1; 1977 ex.s. c 151 § 32; 1975-'76 2nd ex.s. c 64 § 15; 1970 ex.s. c 9 § 1; 1969 ex.s. c 281 § 60; 1965 ex.s. c 170 § 39; 1963 ex.s. c 3 § 54; 1961 c 12 § 46.44.092. Prior: 1959 c 319 § 29; 1955 c 146 § 2; 1951 c 269 § 36; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Effective date—2006 c 334: See note following RCW 47.01.051.

Additional notes found at www.leg.wa.gov

46.44.093 Special permits—Discretion of issuer—

Conditions. The department of transportation or the local authority is authorized to issue or withhold such special permit at its discretion, although where a mobile home is being moved, the verification of a valid license under chapter 46.70 RCW as a mobile home dealer or manufacturer, or under chapter 46.76 RCW as a transporter, shall be done by the department or local government. If the permit is issued, the department or local authority may limit the number of trips, establish seasonal or other time limitations within which the vehicle described may be operated on the public highways indicated, or otherwise limit or prescribe conditions of operation of the vehicle or vehicles when necessary to assure against undue damage to the road foundation, surfaces, or structures or safety of traffic and may require such undertaking or other security as may be deemed necessary to compensate for injury to any roadway or road structure. [1988 c 239 § 3; 1984 c 7 § 55; 1961 c 12 § 46.44.093. Prior: 1951 c 269 § 37; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Additional notes found at www.leg.wa.gov

46.44.0941 Special permits—Fees. (Effective until

July 1, 2011.) The following fees, in addition to the regular license and tonnage fees, shall be paid for all movements under special permit made upon state highways. All funds collected, except the amount retained by authorized agents of the department as provided in RCW 46.44.096, shall be forwarded to the state treasury and shall be deposited in the motor vehicle fund:

All overlegal loads, except overweight, single trip	\$ 10.00
Continuous operation of overlegal loads having either overwidth or overheight features only, for a period not to exceed thirty days	\$ 20.00
Continuous operations of overlegal loads having overlength features only, for a period not to exceed thirty days	\$ 10.00
Continuous operation of a combination of vehicles having one trailing unit that exceeds fifty-three feet and is not more than fifty-six feet in length, for a period of one year.	\$ 100.00
Continuous operation of a combination of vehicles having two trailing units which together exceed sixty-one feet and are not more than sixty-eight feet in length, for a period of one year.	\$ 100.00

Continuous operation of a three-axle fixed load vehicle having less than 65,000 pounds gross weight, for a period not to exceed thirty days	\$ 70.00
Continuous operation of a four-axle fixed load vehicle meeting the requirements of RCW 46.44.091(1) and weighing less than 86,000 pounds gross weight, not to exceed thirty days	\$ 90.00
Continuous movement of a mobile home or manufactured home having nonreducible features not to exceed eighty-five feet in total length and fourteen feet in width, for a period of one year	\$ 150.00
Continuous operation of a class C tow truck or a class E tow truck with a class C rating while performing emergency and nonemergency tows of oversize or overweight, or both, vehicles and vehicle combinations, under rules adopted by the transportation commission, for a period of one year	\$ 150.00
Continuous operation of a class B tow truck or a class E tow truck with a class B rating while performing emergency and nonemergency tows of oversize or overweight, or both, vehicles and vehicle combinations, under rules adopted by the transportation commission, for a period of one year	\$ 75.00
Continuous operation of a two or three-axle collection truck, actually engaged in the collection of solid waste or recyclables, or both, under chapter 81.77 or 35.21 RCW or by contract under RCW 36.58.090, for one year with an additional six thousand pounds more than the weight authorized in RCW 46.16.070 on the rear axle of a two-axle truck or eight thousand pounds for the tandem axles of a three-axle truck. RCW 46.44.041 and 46.44.091 notwithstanding, the tire limits specified in RCW 46.44.042 apply, but none of the excess weight is valid or may be permitted on any part of the federal interstate highway system	\$ 42.00 per thousand pounds

The department may issue any of the above-listed permits that involve height, length, or width for an expanded period of consecutive months, not to exceed one year.

Continuous operation of farm implements under a permit issued as authorized by RCW 46.44.140 by:

(1) Farmers in the course of farming activities, for any three-month period	\$ 10.00
(2) Farmers in the course of farming activities, for a period not to exceed one year	\$ 25.00
(3) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for any three-month period	\$ 25.00
(4) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for a period not to exceed one year	\$ 100.00

Overweight Fee Schedule	
Excess weight over legal capacity, as provided in RCW 46.44.041.	Cost per mile.
0- 9,999 pounds	\$.07
10,000-14,999 pounds	\$.14
15,000-19,999 pounds	\$.21
20,000-24,999 pounds	\$.28
25,000-29,999 pounds	\$.35
30,000-34,999 pounds	\$.49
35,000-39,999 pounds	\$.63
40,000-44,999 pounds	\$.79
45,000-49,999 pounds	\$.93
50,000-54,999 pounds	\$ 1.14
55,000-59,999 pounds	\$ 1.35
60,000-64,999 pounds	\$ 1.56
65,000-69,999 pounds	\$ 1.77
70,000-74,999 pounds	\$ 2.12
75,000-79,999 pounds	\$ 2.47
80,000-84,999 pounds	\$ 2.82
85,000-89,999 pounds	\$ 3.17
90,000-94,999 pounds	\$ 3.52
95,000-99,999 pounds	\$ 3.87
100,000 pounds	\$ 4.25

The fee for weights in excess of 100,000 pounds is \$4.25 plus fifty cents for each 5,000 pound increment or portion thereof exceeding 100,000 pounds.

PROVIDED: (a) The minimum fee for any overweight permit shall be \$14.00, (b) the fee for issuance of a duplicate permit shall be \$14.00, (c) when computing overweight fees prescribed in this section or in RCW 46.44.095 that result in an amount less than even dollars the fee shall be carried to the next full dollar if fifty cents or over and shall be reduced to the next full dollar if forty-nine cents or under.

The fees levied in this section and RCW 46.44.095 do not apply to vehicles owned and operated by the state of Washington, a county within the state, a city or town or metropolitan municipal corporation within the state, or the federal government. [2004 c 109 § 1; 1995 c 171 § 2. Prior: 1994 c 172 § 2; 1994 c 59 § 1; 1993 c 102 § 4; 1990 c 42 § 107; 1989 c 398 § 1; 1985 c 351 § 5; 1983 c 278 § 3; 1979 ex.s. c 113 § 5; 1975-'76 2nd ex.s. c 64 § 16; 1975 1st ex.s. c 168 § 2; 1973 1st ex.s. c 1 § 3; 1971 ex.s. c 248 § 3; 1967 c 174 § 8; 1965 c 137 § 2.]

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.
Additional notes found at www.leg.wa.gov

46.44.0941 Special permits—Fees. (Effective July 1, 2011.) The following fees, in addition to the regular license and tonnage fees, shall be paid for all movements under special permit made upon state highways. All funds collected, except the amount retained by authorized agents of the department as provided in RCW 46.44.096, shall be forwarded to the state treasury and shall be deposited in the motor vehicle fund:

All overlegal loads, except overweight, single trip	\$ 10.00
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Continuous operation of overlegal loads having either overwidth or overheight features only, for a period not to exceed thirty days	\$ 20.00
Continuous operations of overlegal loads having overlength features only, for a period not to exceed thirty days	\$ 10.00
Continuous operation of a combination of vehicles having one trailing unit that exceeds fifty-three feet and is not more than fifty-six feet in length, for a period of one year.	\$ 100.00
Continuous operation of a combination of vehicles having two trailing units which together exceed sixty-one feet and are not more than sixty-eight feet in length, for a period of one year.	\$ 100.00
Continuous operation of a three-axle fixed load vehicle having less than 65,000 pounds gross weight, for a period not to exceed thirty days	\$ 70.00
Continuous operation of a four-axle fixed load vehicle meeting the requirements of RCW 46.44.091(1) and weighing less than 86,000 pounds gross weight, not to exceed thirty days	\$ 90.00
Continuous movement of a mobile home or manufactured home having nonreducible features not to exceed eighty-five feet in total length and fourteen feet in width, for a period of one year.	\$ 150.00
Continuous operation of a class C tow truck or a class E tow truck with a class C rating while performing emergency and nonemergency tows of oversize or overweight, or both, vehicles and vehicle combinations, under rules adopted by the transportation commission, for a period of one year.	\$ 150.00
Continuous operation of a class B tow truck or a class E tow truck with a class B rating while performing emergency and nonemergency tows of oversize or overweight, or both, vehicles and vehicle combinations, under rules adopted by the transportation commission, for a period of one year.	\$ 75.00
Continuous operation of a two or three-axle collection truck, actually engaged in the collection of solid waste or recyclables, or both, under chapter 81.77 or 35.21 RCW or by contract under RCW 36.58.090, for one year with an additional six thousand pounds more than the weight authorized in RCW 46.16A.455 on the rear axle of a two-axle truck or eight thousand pounds for the tandem axles of a three-axle truck. RCW 46.44.041 and 46.44.091 notwithstanding, the tire limits specified in RCW 46.44.042 apply, but none of the excess weight is valid or may be permitted on any part of the federal interstate highway system	\$ 42.00 per thousand pounds

The department may issue any of the above-listed permits that involve height, length, or width for an expanded period of consecutive months, not to exceed one year.

Continuous operation of farm implements under a permit issued as authorized by RCW 46.44.140 by:

- (1) Farmers in the course of farming activities, for any three-month period \$ 10.00
- (2) Farmers in the course of farming activities, for a period not to exceed one year. \$ 25.00
- (3) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for any three-month period . . \$ 25.00
- (4) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for a period not to exceed one year. \$ 100.00

Overweight Fee Schedule

Excess weight over legal capacity, as provided in RCW 46.44.041.	Cost per mile.
0- 9,999 pounds	\$.07
10,000-14,999 pounds	\$.14
15,000-19,999 pounds	\$.21
20,000-24,999 pounds	\$.28
25,000-29,999 pounds	\$.35
30,000-34,999 pounds	\$.49
35,000-39,999 pounds	\$.63
40,000-44,999 pounds	\$.79
45,000-49,999 pounds	\$.93
50,000-54,999 pounds	\$ 1.14
55,000-59,999 pounds	\$ 1.35
60,000-64,999 pounds	\$ 1.56
65,000-69,999 pounds	\$ 1.77
70,000-74,999 pounds	\$ 2.12
75,000-79,999 pounds	\$ 2.47
80,000-84,999 pounds	\$ 2.82
85,000-89,999 pounds	\$ 3.17
90,000-94,999 pounds	\$ 3.52
95,000-99,999 pounds	\$ 3.87
100,000 pounds	\$ 4.25

The fee for weights in excess of 100,000 pounds is \$4.25 plus fifty cents for each 5,000 pound increment or portion thereof exceeding 100,000 pounds.

PROVIDED: (a) The minimum fee for any overweight permit shall be \$14.00, (b) the fee for issuance of a duplicate permit shall be \$14.00, (c) when computing overweight fees prescribed in this section or in RCW 46.44.095 that result in an amount less than even dollars the fee shall be carried to the next full dollar if fifty cents or over and shall be reduced to the next full dollar if forty-nine cents or under.

The fees levied in this section and RCW 46.44.095 do not apply to vehicles owned and operated by the state of Washington, a county within the state, a city or town or metropolitan municipal corporation within the state, or the federal government. [2010 c 161 § 1117; 2004 c 109 § 1; 1995 c 171 § 2. Prior: 1994 c 172 § 2; 1994 c 59 § 1; 1993 c 102 § 4; 1990 c 42 § 107; 1989 c 398 § 1; 1985 c 351 § 5; 1983 c 278 § 3; 1979 ex.s. c 113 § 5; 1975-'76 2nd ex.s. c 64 § 16;

1975 1st ex.s. c 168 § 2; 1973 1st ex.s. c 1 § 3; 1971 ex.s. c 248 § 3; 1967 c 174 § 8; 1965 c 137 § 2.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

46.44.095 Temporary additional tonnage permits—

Fees. When a combination of vehicles has been licensed to a total gross weight of 80,000 pounds or when a three or more axle single unit vehicle has been licensed to a total gross weight of 40,000 pounds, a temporary additional tonnage permit to haul loads in excess of these limits may be issued. This permit is valid for periods of not less than five days at two dollars and eighty cents per day for each two thousand pounds or fraction thereof. The fee may not be prorated. The permits shall authorize the movement of loads not exceeding the weight limits set forth in RCW 46.44.041 and 46.44.042. [1993 c 102 § 5; 1990 c 42 § 108; 1989 c 398 § 3; 1988 c 55 § 1; 1983 c 68 § 2; 1979 c 158 § 159; 1977 ex.s. c 151 § 33; 1975-'76 2nd ex.s. c 64 § 17; 1974 ex.s. c 76 § 1; 1973 1st ex.s. c 150 § 3; 1969 ex.s. c 281 § 55; 1967 ex.s. c 94 § 15; 1967 c 32 § 51; 1965 ex.s. c 170 § 38; 1961 ex.s. c 7 § 15; 1961 c 12 § 46.44.095. Prior: 1959 c 319 § 31; 1957 c 273 § 18; 1955 c 185 § 1; 1953 c 254 § 13; 1951 c 269 § 39; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

46.44.096 Special permits—Determining fee—To whom paid. In determining fees according to RCW 46.44.0941, mileage on state primary and secondary highways shall be determined from the planning survey records of the department of transportation, and the gross weight of the vehicle or vehicles, including load, shall be declared by the applicant. Overweight on which fees shall be paid will be gross loadings in excess of loadings authorized by law or axle loadings in excess of loadings authorized by law, whichever is the greater. Loads which are overweight and oversize shall be charged the fee for the overweight permit without additional fees being assessed for the oversize features.

Special permits issued under RCW 46.44.047, 46.44.0941, or 46.44.095, may be obtained from offices of the department of transportation, ports of entry, or other agents appointed by the department.

The department may appoint agents for the purposes of selling special motor vehicle permits, temporary additional tonnage permits, and log tolerance permits. Agents so appointed may retain three dollars and fifty cents for each permit sold to defray expenses incurred in handling and selling the permits. If the fee is collected by the department of transportation, the department shall certify the fee so collected to the state treasurer for deposit to the credit of the motor vehicle fund.

The department may select a third party contractor, by means of competitive bid, to perform the department's permit

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issuance function, as provided under RCW 46.44.090. Factors the department shall consider, but is not limited to, in the selection of a third party contractor are economic benefit to both the department and the motor carrier industry, and enhancement of the overall level of permit service. For purposes of this section, "third party contractor" means a business entity that is authorized by the department to issue special permits. The department of transportation may adopt rules specifying the criteria that a business entity must meet in order to qualify as a third party contractor under this section.

Fees established in RCW 46.44.0941 shall be paid to the political body issuing the permit if the entire movement is to be confined to roads, streets, or highways for which that political body is responsible. When a movement involves a combination of state highways, county roads, and/or city streets the fee shall be paid to the department of transportation. When a movement is confined within the city limits of a city or town upon city streets, including routes of state highways on city streets, all fees shall be paid to the city or town involved. A permit will not be required from city or town authorities for a move involving a combination of city or town streets and state highways when the move through a city or town is being confined to the route of the state highway. When a move involves a combination of county roads and city streets the fee shall be paid to the county authorities, but the fee shall not be collected nor the county permit issued until valid permits are presented showing that the city or town authorities approve of the move in question. When the movement involves only county roads the fees collected shall be paid to the county involved. Fees established shall be paid to the political body issuing the permit if the entire use of the vehicle during the period covered by the permit shall be confined to the roads, streets, or highways for which that political body is responsible. [2006 c 334 § 19; 1996 c 92 § 1; 1993 c 102 § 6; 1989 c 398 § 4; 1984 c 7 § 56; 1975-'76 2nd ex.s. c 64 § 18; 1971 ex.s. c 248 § 4; 1969 ex.s. c 281 § 31; 1961 c 12 § 46.44.096. Prior: 1955 c 185 § 2; 1951 c 269 § 40; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Effective date—2006 c 334: See note following RCW 47.01.051.

Additional notes found at www.leg.wa.gov

46.44.098 Increase in federal limits on sizes and weights—Increases by commission. If the congress of the United States further amends section 127, Title 23 of the United States Code, authorizing increased sizes and weights, the Washington state department of transportation may authorize the operation of vehicles and combinations of vehicles upon completed portions of the interstate highway system and other designated state highways if determined to be capable of accommodating the increased sizes and weights in excess of those prescribed in RCW 46.44.041, or as provided in RCW 46.44.010 and 46.44.037. The permitted increases shall not in any way exceed the federal limits which would jeopardize the state's allotment of federal funds. [1984 c 7 § 57; 1975-'76 2nd ex.s. c 64 § 19; 1965 c 38 § 1.]

Additional notes found at www.leg.wa.gov

46.44.101 Interstate travel by specialized equipment.

The department of transportation may, within the provisions set forth in this chapter, adopt rules for size and weight criteria relating to vehicles considered to be specialized equipment by the federal highway administration for interstate travel or as determined by the department for intrastate travel. [2005 c 189 § 3.]

46.44.105 Enforcement procedures—Penalties—

Rules. (1) Violation of any of the provisions of this chapter is a traffic infraction, and upon the first finding thereof shall be assessed a basic penalty of not less than fifty dollars; and upon a second finding thereof shall be assessed a basic penalty of not less than seventy-five dollars; and upon a third or subsequent finding shall be assessed a basic penalty of not less than one hundred dollars.

(2) In addition to the penalties imposed in subsection (1) of this section, any person violating RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 shall be assessed a penalty for each pound overweight, as follows:

(a) One pound through four thousand pounds overweight is three cents for each pound;

(b) Four thousand one pounds through ten thousand pounds overweight is one hundred twenty dollars plus twelve cents per pound for each additional pound over four thousand pounds overweight;

(c) Ten thousand one pounds through fifteen thousand pounds overweight is eight hundred forty dollars plus sixteen cents per pound for each additional pound over ten thousand pounds overweight;

(d) Fifteen thousand one pounds through twenty thousand pounds overweight is one thousand six hundred forty dollars plus twenty cents per pound for each additional pound over fifteen thousand pounds overweight;

(e) Twenty thousand one pounds and more is two thousand six hundred forty dollars plus thirty cents per pound for each additional pound over twenty thousand pounds overweight.

Upon a first violation in any calendar year, the court may suspend the penalty for five hundred pounds of excess weight for each axle on any vehicle or combination of vehicles, not to exceed a two thousand pound suspension. In no case may the basic penalty assessed in subsection (1) of this section or the additional penalty assessed in subsection (2) of this section, except as provided for the first violation, be suspended.

(3) Any person found to have violated any posted limitations of a highway or section of highway shall be assessed a monetary penalty of not less than one hundred and fifty dollars, and the court shall in addition thereto upon second violation within a twelve-month period involving the same power unit, suspend the certificate of license registration for not less than thirty days.

(4) It is unlawful for the driver of a vehicle to fail or refuse to stop and submit the vehicle and load to a weighing, or to fail or refuse, when directed by an officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with the provisions of this section. It is unlawful for a driver of a commercial motor vehicle as defined in RCW 46.32.005, other than the driver of a bus as defined in RCW 46.32.005(3) or a vehicle with a gross vehicle weight rating or gross com-

ination weight rating of 7,257 kilograms or less (16,000 pounds or less) and not transporting hazardous materials in accordance with RCW 46.32.005(4), to fail or refuse to stop at a weighing station when proper traffic control signs indicate scales are open. However, unladen tow trucks regardless of weight and farm vehicles carrying farm produce with a gross vehicle weight rating or gross combination weight rating of 11,794 kilograms or less (26,000 pounds or less) may fail or refuse to stop at a weighing station when proper traffic control signs indicate scales are open.

Any police officer is authorized to require the driver of any vehicle or combination of vehicles to stop and submit to a weighing either by means of a portable or stationary scale and may require that the vehicle be driven to the nearest public scale. Whenever a police officer, upon weighing a vehicle and load, determines that the weight is unlawful, the officer may require the driver to stop the vehicle in a suitable location and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of the vehicle to the limit permitted by law. If the vehicle is loaded with grain or other perishable commodities, the driver shall be permitted to proceed without removing any of the load, unless the gross weight of the vehicle and load exceeds by more than ten percent the limit permitted by this chapter. The owner or operator of the vehicle shall care for all materials unloaded at the risk of the owner or operator.

Any vehicle whose driver or owner represents that the vehicle is disabled or otherwise unable to proceed to a weighing location shall have its load sealed or otherwise marked by any police officer. The owner or driver shall be directed that upon completion of repairs, the vehicle shall submit to weighing with the load and markings and/or seal intact and undisturbed. Failure to report for weighing, appearing for weighing with the seal broken or the markings disturbed, or removal of any cargo prior to weighing is unlawful. Any person so convicted shall be fined one thousand dollars, and in addition the certificate of license registration shall be suspended for not less than thirty days.

(5) Any other provision of law to the contrary notwithstanding, district courts having venue have concurrent jurisdiction with the superior courts for the imposition of any penalties authorized under this section.

(6) For the purpose of determining additional penalties as provided by subsection (2) of this section, "overweight" means the poundage in excess of the maximum allowable gross weight or axle/axle grouping weight prescribed by RCW 46.44.041, 46.44.042, 46.44.047, 46.44.091, and 46.44.095.

(7) The penalties provided in subsections (1) and (2) of this section shall be remitted as provided in chapter 3.62 RCW or RCW 10.82.070. For the purpose of computing the basic penalties and additional penalties to be imposed under subsections (1) and (2) of this section, the convictions shall be on the same vehicle or combination of vehicles within a twelve-month period under the same ownership.

(8) Any state patrol officer or any weight control officer who finds any person operating a vehicle or a combination of vehicles in violation of the conditions of a permit issued under RCW 46.44.047, 46.44.090, and 46.44.095 may confiscate the permit and forward it to the state department of transportation which may return it to the permittee or revoke,

cancel, or suspend it without refund. The department of transportation shall keep a record of all action taken upon permits so confiscated, and if a permit is returned to the permittee the action taken by the department of transportation shall be endorsed thereon. Any permittee whose permit is suspended or revoked may upon request receive a hearing before the department of transportation or person designated by that department. After the hearing the department of transportation may reinstate any permit or revise its previous action.

Every permit issued as provided for in this chapter shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any law enforcement officer or authorized agent of any authority granting such a permit.

Upon the third finding within a calendar year of a violation of the requirements and conditions of a permit issued under RCW 46.44.095, the permit shall be canceled, and the canceled permit shall be immediately transmitted by the court or the arresting officer to the department of transportation. The vehicle covered by the canceled permit is not eligible for a new permit for a period of thirty days.

(9) For the purposes of determining gross weights the actual scale weight taken by the arresting officer is prima facie evidence of the total gross weight.

(10) It is a traffic infraction to direct the loading of a vehicle with knowledge that it violates the requirements in RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 and that it is to be operated on the public highways of this state.

(11) The chief of the state patrol, with the advice of the department, may adopt reasonable rules to aid in the enforcement of this section. [2007 c 419 § 13. Prior: 2006 c 297 § 1; 2006 c 50 § 4; 2002 c 254 § 1; 1999 c 23 § 1; 1996 c 92 § 2; 1993 c 403 § 4; 1990 c 217 § 1; 1985 c 351 § 6; 1984 c 258 § 327; 1984 c 7 § 58; 1979 ex.s. c 136 § 75; 1975-'76 2nd ex.s. c 64 § 23.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Findings—Short title—2007 c 419: See notes following RCW 46.16A.010.

Intent—1984 c 258: See note following RCW 3.34.130.

Additional notes found at www.leg.wa.gov

46.44.110 Liability for damage to highways, bridges, etc. Any person operating any vehicle or moving any object or conveyance upon any public highway in this state or upon any bridge or elevated structure that is a part of any such public highway is liable for all damages that the public highway, bridge, elevated structure, or other state property may sustain as a result of any illegal operation of the vehicle or the moving of any such object or conveyance or as a result of the operation or moving of any vehicle, object, or conveyance weighing in excess of the legal weight limits allowed by law. This section applies to any person operating any vehicle or moving any object or contrivance in any illegal or negligent manner or without a special permit as provided by law for vehicles, objects, or contrivances that are overweight, overwidth, overheight, or overlength. Any person operating any vehicle is liable for any damage to any public highway, bridge, elevated structure, or other state property sustained as

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the result of any negligent operation thereof. When the operator is not the owner of the vehicle, object, or contrivance but is operating or moving it with the express or implied permission of the owner, the owner and the operator are jointly and severally liable for any such damage. Such damage to any state highway, structure, or other state property may be recovered in a civil action instituted in the name of the state of Washington by the department of transportation or other affected state agency. Any measure of damage determined by the department of transportation to its highway, bridge, elevated structure, or other property under this section is prima facie the amount of damage caused thereby and is presumed to be the amount recoverable in any civil action therefor. The damages available under this section include the incident response costs, including traffic control, incurred by the department of transportation. [2009 c 393 § 1; 1984 c 7 § 59; 1961 c 12 § 46.44.110. Prior: 1937 c 189 § 57; RRS 6360-57.]

Additional notes found at www.leg.wa.gov

46.44.120 Liability of owner, others, for violations.

Whenever an act or omission is declared to be unlawful in chapter 46.44 RCW, the owner or lessee of any motor vehicle involved in such act or omission is responsible therefor. Any person knowingly and intentionally participating in creating an unlawful condition of use, is also subject to the penalties provided in this chapter for such unlawful act or omission.

If the person operating the vehicle at the time of the unlawful act or omission is not the owner or lessee of the vehicle, such person is fully authorized to accept the citation and execute the promise to appear on behalf of the owner or lessee. [1980 c 104 § 2; 1971 ex.s. c 148 § 1; 1969 ex.s. c 69 § 1.]

46.44.130 Farm implements—Gross weight and size limitation exception—Penalty. The limitations of RCW 46.44.010, 46.44.020, 46.44.030, and 46.44.041 shall not apply to the movement of farm implements of less than forty-five thousand pounds gross weight, a total length of seventy feet or less, and a total outside width of fourteen feet or less when being moved while patrolled, flagged, lighted, signed, and at a time of day in accordance with rules hereby authorized to be adopted by the department of transportation and the statutes. Violation of a rule adopted by the department as authorized by this section or a term of this section is a traffic infraction. [1979 ex.s. c 136 § 76; 1975-'76 2nd ex.s. c 64 § 20; 1975 1st ex.s. c 168 § 3; 1973 1st ex.s. c 1 § 1.]

Additional notes found at www.leg.wa.gov

46.44.140 Farm implements—Special permits—Penalty. In addition to any other special permits authorized by law, special permits may be issued by the department of transportation for a quarterly or annual period upon such terms and conditions as it finds proper for the movement of (1) farm implements used for the cutting or threshing of mature crops; or (2) other farm implements that may be identified by rule of the department of transportation. Any farm implement moved under this section must comply with RCW 46.44.091, have a gross weight of less than sixty-five thousand pounds, and have a total outside width of less than

twenty feet while being moved, and such movement must be patrolled, flagged, lighted, signed, at a time of day, and otherwise in accordance with rules hereby authorized to be adopted by the department of transportation for the control of such movements.

Applications for and permits issued under this section shall provide for a description of the farm implements to be moved, the approximate dates of movement, and the routes of movement so far as they are reasonably known to the applicant at the time of application, but the permit shall not be limited to these circumstances but shall be general in its application except as limited by the statutes and rules adopted by the department of transportation.

A copy of the governing permit shall be carried on the farm implement being moved during the period of its movement. The department shall collect a fee as provided in RCW 46.44.0941.

Violation of a term or condition under which a permit was issued, of a rule adopted by the department of transportation as authorized by this section, or of a term of this section is a traffic infraction. [2008 c 76 § 1; 1984 c 7 § 60; 1979 ex.s. c 136 § 77; 1973 1st ex.s. c 1 § 2.]

Additional notes found at www.leg.wa.gov

46.44.150 Highway improvement vehicles—Gross weight limit excesses authorized—Limitations. The state, county, or city authority having responsibility for the reconstruction or improvement of any public highway may, subject to prescribed conditions and limitations, authorize vehicles employed in such highway reconstruction or improvement to exceed the gross weight limitations contained in RCW 46.44.041 and 46.44.042 without a special permit or additional fees as prescribed by chapter 46.44 RCW, but only while operating within the boundaries of project limits as defined in the public works contract or plans. [1983 c 3 § 121; 1975 1st ex.s. c 63 § 1.]

46.44.170 Mobile home or park model trailer movement special permit and decal—Responsibility for taxes—License plates—Rules. (*Effective until July 1, 2011.*) (1) Any person moving a mobile home as defined in RCW 46.04.302 or a park model trailer as defined in RCW 46.04.622 upon public highways of the state must obtain:

(a) A special permit from the department of transportation and local authorities pursuant to RCW 46.44.090 and 46.44.093 and shall pay the proper fee as prescribed by RCW 46.44.0941 and 46.44.096; and

(b) For mobile homes constructed before June 15, 1976, and already situated in the state: (i) A certification from the department of labor and industries that the mobile home was inspected for fire safety; or (ii) an affidavit in the form prescribed by the *department of community, trade, and economic development signed by the owner at the county treasurer's office at the time of the application for the movement permit stating that the mobile home is being moved by the owner for his or her continued occupation or use; or (iii) a copy of the certificate of ownership or title together with an affidavit signed under penalty of perjury by the certified owner stating that the mobile home is being transferred to a wrecking yard or similar facility for disposal. In addition, the

destroyed mobile home must be removed from the assessment rolls of the county and any outstanding taxes on the destroyed mobile home must be removed by the county treasurer.

(2) A special permit issued as provided in subsection (1) of this section for the movement of any mobile home or a park model trailer that is assessed for purposes of property taxes shall not be valid until the county treasurer of the county in which the mobile home or park model trailer is located shall endorse or attach his or her certificate that all property taxes which are a lien or which are delinquent, or both, upon the mobile home or park model trailer being moved have been satisfied. Further, any mobile home or park model trailer required to have a special movement permit under this section shall display an easily recognizable decal. However, endorsement or certification by the county treasurer and the display of the decal is not required:

(a) When a mobile home or park model trailer is to enter the state or is being moved from a manufacturer or distributor to a retail sales outlet or directly to the purchaser's designated location or between retail and sales outlets;

(b) When a signed affidavit of destruction is filed with the county assessor and the mobile home or park model trailer is being moved to a disposal site by a landlord as defined in RCW 59.20.030 after (i) the mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (ii) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the mobile home or park model trailer. The mobile home or park model trailer will be removed from the tax rolls and, upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer will be removed by the county treasurer; or

(c) When a signed affidavit of destruction is filed with the county assessor by any mobile home or park model trailer owner or any property owner with an abandoned mobile home or park model trailer, the same shall be removed from the tax rolls and upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer shall be removed by the county treasurer.

(3) If the landlord of a mobile home park takes ownership of a mobile home or park model trailer with the intent to resell or rent the same under RCW 59.20.030 after (a) the mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (b) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the mobile home or park model trailer, the outstanding taxes become the responsibility of the landlord.

(4) It is the responsibility of the owner of the mobile home or park model trailer subject to property taxes or the agent to obtain the endorsement and decal from the county treasurer before a mobile home or park model trailer is moved.

(5) This section does not prohibit the issuance of vehicle license plates for a mobile home or park model trailer subject to property taxes, but plates shall not be issued unless the mobile home or park model trailer subject to property taxes for which plates are sought has been listed for property tax

purposes in the county in which it is principally located and the appropriate fee for the license has been paid.

(6) The department of transportation, the department of labor and industries, and local authorities are authorized to adopt reasonable rules for implementing the provisions of this section. The department of transportation shall adopt rules specifying the design, reflective characteristics, annual coloration, and for the uniform implementation of the decal required by this section. By January 1, 2006, the department of labor and industries shall also adopt procedures for notifying destination local jurisdictions concerning the arrival of mobile homes that failed safety inspections. [2005 c 399 § 1; 2004 c 79 § 4; 2003 c 61 § 1; 2002 c 168 § 6; 1986 c 211 § 4. Prior: 1985 c 395 § 1; 1985 c 22 § 1; 1980 c 152 § 1; 1977 ex.s. c 22 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

46.44.170 Mobile home or park model trailer movement special permit and decal—Responsibility for taxes—License plates—Rules. (Effective July 1, 2011.)

(1) Any person moving a mobile home as defined in RCW 46.04.302 or a park model trailer as defined in RCW 46.04.622 upon public highways of the state must obtain:

(a) A special permit from the department of transportation and local authorities pursuant to RCW 46.44.090 and 46.44.093 and shall pay the proper fee as prescribed by RCW 46.44.0941 and 46.44.096; and

(b) For mobile homes constructed before June 15, 1976, and already situated in the state: (i) A certification from the department of labor and industries that the mobile home was inspected for fire safety; or (ii) an affidavit in the form prescribed by the department of commerce signed by the owner at the county treasurer's office at the time of the application for the movement permit stating that the mobile home is being moved by the owner for his or her continued occupation or use; or (iii) a copy of the certificate of title together with an affidavit signed under penalty of perjury by the certified owner stating that the mobile home is being transferred to a wrecking yard or similar facility for disposal. In addition, the destroyed mobile home must be removed from the assessment rolls of the county and any outstanding taxes on the destroyed mobile home must be removed by the county treasurer.

(2) A special permit issued as provided in subsection (1) of this section for the movement of any mobile home or a park model trailer that is assessed for purposes of property taxes shall not be valid until the county treasurer of the county in which the mobile home or park model trailer is located shall endorse or attach his or her certificate that all property taxes which are a lien or which are delinquent, or both, upon the mobile home or park model trailer being moved have been satisfied. Further, any mobile home or park model trailer required to have a special movement permit under this section shall display an easily recognizable decal. However, endorsement or certification by the county treasurer and the display of the decal is not required:

(a) When a mobile home or park model trailer is to enter the state or is being moved from a manufacturer or distributor

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to a retail sales outlet or directly to the purchaser's designated location or between retail and sales outlets;

(b) When a signed affidavit of destruction is filed with the county assessor and the mobile home or park model trailer is being moved to a disposal site by a landlord as defined in RCW 59.20.030 after (i) the mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (ii) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the mobile home or park model trailer. The mobile home or park model trailer will be removed from the tax rolls and, upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer will be removed by the county treasurer; or

(c) When a signed affidavit of destruction is filed with the county assessor by any mobile home or park model trailer owner or any property owner with an abandoned mobile home or park model trailer, the same shall be removed from the tax rolls and upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer shall be removed by the county treasurer.

(3) If the landlord of a mobile home park takes ownership of a mobile home or park model trailer with the intent to resell or rent the same under RCW 59.20.030 after (a) the mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (b) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the mobile home or park model trailer, the outstanding taxes become the responsibility of the landlord.

(4) It is the responsibility of the owner of the mobile home or park model trailer subject to property taxes or the agent to obtain the endorsement and decal from the county treasurer before a mobile home or park model trailer is moved.

(5) This section does not prohibit the issuance of vehicle license plates for a mobile home or park model trailer subject to property taxes, but plates shall not be issued unless the mobile home or park model trailer subject to property taxes for which plates are sought has been listed for property tax purposes in the county in which it is principally located and the appropriate fee for the license has been paid.

(6) The department of transportation, the department of labor and industries, and local authorities are authorized to adopt reasonable rules for implementing the provisions of this section. The department of transportation shall adopt rules specifying the design, reflective characteristics, annual coloration, and for the uniform implementation of the decal required by this section. The department of labor and industries shall adopt procedures for notifying destination local jurisdictions concerning the arrival of mobile homes that failed safety inspections. [2010 c 161 § 1118; 2005 c 399 § 1; 2004 c 79 § 4; 2003 c 61 § 1; 2002 c 168 § 6; 1986 c 211 § 4. Prior: 1985 c 395 § 1; 1985 c 22 § 1; 1980 c 152 § 1; 1977 ex.s. c 22 § 2.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.44.173 Notice to treasurer and assessor of county where mobile home or park trailer to be located. (1) Upon validation of a special permit as provided in RCW 46.44.170, the county treasurer shall forward notice of movement of the mobile home or park model trailer subject to property taxes to the treasurer's own county assessor and to the county assessor of the county in which the mobile home or park model trailer will be located.

(2) When a single trip special permit not requiring tax certification is issued, the department of transportation or the local authority shall notify the assessor of the county in which the mobile home or park model trailer is to be located. When a continuous trip special permit is used to transport a mobile home or park model trailer not requiring tax certification, the transporter shall notify the assessor of the county in which the mobile home or park model trailer is to be located. Notification is not necessary when the destination of a mobile home or park model trailer is a manufacturer, distributor, retailer, or location outside the state.

(3) A notification under this section shall state the specific, residential destination of the mobile home or park model trailer. [2002 c 168 § 7; 1984 c 7 § 61; 1977 ex.s. c 22 § 3.]

Additional notes found at www.leg.wa.gov

46.44.175 Penalties—Hearing. (1) Failure of any person or agent acting for a person who causes to be moved or moves a mobile home as defined in RCW 46.04.302 upon public highways of this state and failure to comply with any of the provisions of RCW 46.44.170 and 46.44.173 is a traffic infraction for which a penalty of not less than one hundred dollars or more than five hundred dollars shall be assessed. In addition to the above penalty, the department of transportation or local authority may withhold issuance of a special permit or suspend a continuous special permit as provided by RCW 46.44.090 and 46.44.093 for a period of not less than thirty days.

(2) Any person who shall alter, reuse, transfer, or forge the decal required by RCW 46.44.170, or who shall display a decal knowing it to have been forged, reused, transferred, or altered, shall be guilty of a gross misdemeanor.

(3) Any person or agent who is denied a special permit or whose special permit is suspended may upon request receive a hearing before the department of transportation or the local authority having jurisdiction. The department or the local authority after such hearing may revise its previous action. [2003 c 53 § 239; 1995 c 38 § 11; 1994 c 301 § 15; 1985 c 22 § 2; 1979 ex.s. c 136 § 78; 1977 ex.s. c 22 § 4.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

46.44.180 Operation of mobile home pilot vehicle without insurance unlawful—Amounts—Exception—Penalty. (1) It is unlawful for a person, other than an employee of a dealer or other principal licensed to transport mobile homes within this state acting within the course of employment with the principal, to operate a pilot vehicle accompanying a mobile home, as defined in RCW 46.04.302, being transported on the public highways of this state, with-

out maintaining insurance for the pilot vehicle in the minimum amounts of:

(a) One hundred thousand dollars for bodily injury to or death of one person in any one accident;

(b) Three hundred thousand dollars for bodily injury to or death of two or more persons in any one accident; and

(c) Fifty thousand dollars for damage to or destruction of property of others in any one accident.

(2) Satisfactory evidence of the insurance shall be carried at all times by the operator of the pilot vehicle, which evidence shall be displayed upon demand by a police officer.

(3) Failure to maintain the insurance as required by this section is a gross misdemeanor.

(4) Failure to carry or disclose the evidence of the insurance as required by this section is a misdemeanor. [2003 c 53 § 240; 1980 c 153 § 3.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.44.190 Fire-fighting apparatus. (1) As used in this section, "fire-fighting apparatus" means a vehicle or combination of vehicles, owned by a regularly organized fire suppression agency, designed, maintained, and used exclusively for fire suppression and rescue or for fire prevention activities. These vehicles and associated loads or equipment are necessary to protect the public safety and are considered non-divisible loads. A vehicle or combination of vehicles that is not designed primarily for fire suppression including, but not limited to, a hazardous materials response vehicle, bus, mobile kitchen, mobile sanitation facility, and heavy equipment transport vehicle is not a fire-fighting apparatus for purposes of this section.

(2) Fire-fighting apparatus must comply with all applicable federal and state vehicle operating and safety criteria, including rules adopted by agencies within each jurisdiction.

(3) All owners and operators of fire-fighting apparatus shall comply with current information, provided by the department, regarding the applicable load restrictions of state and local bridges within the designated fire service area, including any automatic or mutual aid agreement areas.

(4) Fire-fighting apparatus operating within a fire district or municipal department boundary of the owner of the apparatus, including any automatic or mutual aid agreement areas, may operate without a permit if:

(a) The weight does not exceed:

(i) 600 pounds per inch width of tire;

(ii) 24,000 pounds on a single axle;

(iii) 43,000 pounds on a tandem axle set;

(iv) 67,000 pounds gross vehicle weight, subject to the gross weight limits of RCW 46.44.091(1) (c), (d), and (e);

(v) The tire manufacturer's tire load rating.

(b) There is no tridem axle set.

(c) The dimensions do not exceed:

(i) 8 feet, 6 inches wide;

(ii) 14 feet high;

(iii) 50 feet overall length;

(iv) 15 foot front overhang;

(v) Rear overhang not exceeding the length of the wheel base.

(5) Operators of fire-fighting apparatus that exceed the weight limits in subsection (4) of this section must apply for

an overweight permit with the department. The maximum weight a fire-fighting apparatus may weigh is 50,000 pounds on the tandem axle set, and may not exceed 600 pounds per inch width of tire. The maximum weight limit must include the weight of a full water tank, if applicable, all equipment necessary for operation, and the normal number of personnel usually assigned to be on board, or four personnel, whichever is greater. At least four personnel must be physically present at the time the apparatus is weighed.

(6) When applying for a permit, a current weight slip from a certified scale must be attached to the department's application form. Upon receiving an application, the department shall transmit it to the local jurisdictions in which the fire-fighting apparatus will be operating, so that the local jurisdictions can make a determination on the need for local travel and route restrictions within the operating area. The department shall issue a permit within twenty days of receiving a permit application and shall issue the permit on an annual basis for the apparatus to operate on the state highway system, with reference made to applicable load restrictions and any other limitations stipulated on the permit, including limitations placed by local jurisdictions.

(7) Fire-fighting apparatus in operation in this state before June 13, 2002, and privately owned industrial fire-fighting apparatus used for purposes of providing emergency response and mutual aid are each exempt from subsections (4) and (5) of this section. However, operators of the exempt fire-fighting apparatus must still obtain an annual permit under subsection (6) of this section.

(8) Fire-fighting apparatus without the proper overweight permits are prohibited from being operated on city, county, or state roadways until the apparatus is within legal weight limits and a current permit has been issued by the department. When the permit is issued, the fire district must notify the Washington state patrol that the apparatus is in compliance with overweight permit regulations.

(9) The Washington state patrol may conduct random spot checks of fire-fighting apparatus to ensure compliance with overweight permit regulations. If a fire-fighting apparatus is found to be not in compliance with overweight permit regulations, the state patrol shall issue a violation notice to the fire department stating this fact and prohibiting operation of the apparatus on city, county, and state roadways.

(10) It is a traffic infraction to continue to operate a fire-fighting apparatus on the roadways after a violation notice has been issued. The following penalties apply:

(a) For a first offense, the penalty will be no less than fifty dollars but no more than fifty dollars;

(b) For a second offense, the penalty will be no less than seventy-five dollars;

(c) For a third or subsequent offense, the penalty will be no less than one hundred dollars.

(11) No individual liability attaches to an employee or volunteer of the penalized fire department. [2002 c 231 § 1; 2001 c 262 § 3.]

(2010 Ed.)

Chapter 46.48 RCW

TRANSPORTATION OF HAZARDOUS MATERIALS

Sections

46.48.170	State patrol authority—Rules and regulations.
46.48.175	Rules—Penalties—Responsibility for compliance.
46.48.185	Inspections.

Hazardous materials incident command agency, state patrol as: RCW 70.136.030.

46.48.170 State patrol authority—Rules and regulations. The Washington state patrol acting by and through the chief of the Washington state patrol shall have the authority to adopt and enforce the regulations promulgated by the United States department of transportation, Title 49 C.F.R. parts 100 through 199, transportation of hazardous materials, as these regulations apply to motor carriers. "Motor carrier" means any person engaged in the transportation of passengers or property operating interstate and intrastate upon the public highways of this state, except farmers. The chief of the Washington state patrol shall confer with the emergency management council under RCW 38.52.040 and may make rules and regulations pertaining thereto, sufficient to protect persons and property from unreasonable risk of harm or damage. The chief of the Washington state patrol shall establish such additional rules not inconsistent with Title 49 C.F.R. parts 100 through 199, transportation of hazardous materials, which for compelling reasons make necessary the reduction of risk associated with the transportation of hazardous materials. No such rules may lessen a standard of care; however, the chief of the Washington state patrol may, after conferring with the emergency management council, establish a rule imposing a more stringent standard of care. The chief of the Washington state patrol shall appoint the necessary qualified personnel to carry out the provisions of RCW 46.48.170 through *46.48.190. [1988 c 81 § 19; 1980 c 20 § 1; 1961 c 12 § 46.48.170. Prior: 1951 c 102 § 1; 1949 c 101 § 1; Rem. Supp. 1949 § 6360-63a.]

*Reviser's note: RCW 46.48.190 was repealed by 1988 c 81 § 20.

46.48.175 Rules—Penalties—Responsibility for compliance. Each violation of any rules and/or regulations made pursuant to RCW 46.48.170 or 81.80.290 pertaining to vehicle equipment on motor carriers transporting hazardous material shall be a misdemeanor.

Bail for such a violation shall be set at a minimum of one hundred dollars. The fine for such a violation shall be not less than two hundred dollars nor more than five hundred dollars. Compliance with the provisions of this chapter is the primary responsibility of the owner or lessee of the vehicle or any vehicle used in combination that is cited in the violation. [1980 c 104 § 1; 1961 c 12 § 46.48.175. Prior: 1951 c 102 § 2.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

46.48.185 Inspections. The chief of the Washington state patrol shall direct the necessary qualified personnel to inspect the cargo of any motor carriers vehicle transporting hazardous material, inspect for proper securing, and inspect for the combined loading of cargo which would be inconsistent with the provisions of Title 49 C.F.R., parts 100 through

199. Authorized personnel inspecting loads of hazardous material shall do so in the presence of a representative of the motor carrier. Seal and locking devices may be removed as necessary to facilitate the inspection. The seals or locking devices removed shall be replaced by the Washington state patrol with a written form approved by the chief to certify seal or locking device removal for inspection of the cargo. [1980 c 20 § 3.]

Chapter 46.52 RCW

ACCIDENTS—REPORTS— ABANDONED VEHICLES

Sections

46.52.010	Duty on striking unattended car or other property—Penalty.
46.52.020	Duty in case of personal injury or death or damage to attended vehicle or other property—Penalties.
46.52.030	Accident reports.
46.52.035	Accident reports—Suspension of license or permit for failure to make report.
46.52.040	Accident reports—Report when operator disabled.
46.52.050	Coroner's reports to sheriff and state patrol.
46.52.060	Tabulation and analysis of reports—Availability for use.
46.52.065	Blood samples to state toxicologist—Analysis—Availability, admissibility of reports.
46.52.070	Police officer's report.
46.52.080	Confidentiality of reports—Information required to be disclosed—Evidence.
46.52.083	Confidentiality of reports—Availability of factual data to interested parties.
46.52.085	Confidentiality of reports—Fee for written information.
46.52.088	Reports—False information.
46.52.090	Reports of major repairs, etc.—Violations, penalties—Rules—Exceptions for older vehicles.
46.52.101	Records of traffic charges, dispositions.
46.52.120	Case record of convictions and infractions—Cross-reference to accident reports.
46.52.130	Abstract of driving record—Access—Fees—Penalty.

Abandoned, unauthorized vehicles generally: Chapter 46.55 RCW.

Hulk haulers and scrap processors: Chapter 46.79 RCW.

Removal of certain vehicles from roadway: RCW 46.55.113, 46.55.115, 46.61.590.

Vehicle wreckers: Chapter 46.80 RCW.

46.52.010 Duty on striking unattended car or other property—Penalty. (1) The operator of any vehicle which collided with any other vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the operator and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice, giving the name and address of the operator and of the owner of the vehicle striking such other vehicle.

(2) The driver of any vehicle involved in an accident resulting only in damage to property fixed or placed upon or adjacent to any public highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of the name and address of the operator and owner of the vehicle striking such property, or shall leave in a conspicuous place upon the property struck a written notice, giving the name and address of the operator and of the owner of the vehicle so striking the property, and such person shall further make report of such accident as in the case of other accidents upon the public highways of this state.

(3) Any person violating this section is guilty of a misdemeanor. [2003 c 53 § 241; 1979 ex.s. c 136 § 79; 1961 c 12

§ 46.52.010. Prior: 1937 c 189 § 133; RRS § 6360-133; 1927 c 309 § 50, part; RRS § 6362-50, part.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Arrest of person violating duty on striking unattended vehicle or other property: RCW 10.31.100.

Additional notes found at www.leg.wa.gov

46.52.020 Duty in case of personal injury or death or damage to attended vehicle or other property—Penalties.

(1) A driver of any vehicle involved in an accident resulting in the injury to or death of any person or involving striking the body of a deceased person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to, and in every event remain at, the scene of such accident until he or she has fulfilled the requirements of subsection (3) of this section; every such stop shall be made without obstructing traffic more than is necessary.

(2)(a) The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person or damage to other property must move the vehicle as soon as possible off the roadway or freeway main lanes, shoulders, medians, and adjacent areas to a location on an exit ramp shoulder, the frontage road, the nearest suitable cross street, or other suitable location. The driver shall remain at the suitable location until he or she has fulfilled the requirements of subsection (3) of this section. Moving the vehicle in no way affects fault for an accident.

(b) A law enforcement officer or representative of the department of transportation may cause a motor vehicle, cargo, or debris to be moved from the roadway; and neither the department of transportation representative, nor anyone acting under the direction of the officer or the department of transportation representative is liable for damage to the motor vehicle, cargo, or debris caused by reasonable efforts of removal.

(3) Unless otherwise provided in subsection (7) of this section the driver of any vehicle involved in an accident resulting in injury to or death of any person, or involving striking the body of a deceased person, or resulting in damage to any vehicle which is driven or attended by any person or damage to other property shall give his or her name, address, insurance company, insurance policy number, and vehicle license number and shall exhibit his or her vehicle driver's license to any person struck or injured or the driver or any occupant of, or any person attending, any such vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying or the making of arrangements for the carrying of such person to a physician or hospital for medical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person or on his or her behalf. Under no circumstances shall the rendering of assistance or other compliance with the provisions of this subsection be evidence of the liability of any driver for such accident.

(4)(a) Any driver covered by the provisions of subsection (1) of this section failing to stop or comply with any of the requirements of subsection (3) of this section in the case

of an accident resulting in death is guilty of a class B felony and, upon conviction, is punishable according to chapter 9A.20 RCW.

(b) Any driver covered by the provisions of subsection (1) of this section failing to stop or comply with any of the requirements of subsection (3) of this section in the case of an accident resulting in injury is guilty of a class C felony and, upon conviction, is punishable according to chapter 9A.20 RCW.

(c) Any driver covered by the provisions of subsection (1) of this section failing to stop or comply with any of the requirements of subsection (3) of this section in the case of an accident involving striking the body of a deceased person is guilty of a gross misdemeanor.

(d) This subsection shall not apply to any person injured or incapacitated by such accident to the extent of being physically incapable of complying with this section.

(5) Any driver covered by the provisions of subsection (2) of this section failing to stop or to comply with any of the requirements of subsection (3) of this section under said circumstances shall be guilty of a gross misdemeanor: PROVIDED, That this provision shall not apply to any person injured or incapacitated by such accident to the extent of being physically incapable of complying herewith.

(6) The license or permit to drive or any nonresident privilege to drive of any person convicted under this section or any local ordinance consisting of substantially the same language as this section of failure to stop and give information or render aid following an accident with any vehicle driven or attended by any person shall be revoked by the department.

(7) If none of the persons specified are in condition to receive the information to which they otherwise would be entitled under subsection (3) of this section, and no police officer is present, the driver of any vehicle involved in such accident after fulfilling all other requirements of subsections (1) and (3) of this section insofar as possible on his or her part to be performed, shall forthwith report such accident to the nearest office of the duly authorized police authority and submit thereto the information specified in subsection (3) of this section. [2002 c 194 § 1; 2001 c 145 § 1; 2000 c 66 § 1; 1990 c 210 § 2; 1980 c 97 § 1; 1979 ex.s. c 136 § 80; 1975-'76 2nd ex.s. c 18 § 1. Prior: 1975 1st ex.s. c 210 § 1; 1975 c 62 § 14; 1967 c 32 § 53; 1961 c 12 § 46.52.020; prior: 1937 c 189 § 134; RRS § 6360-134; 1927 c 309 § 50, part; RRS § 6362-50, part.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Arrest of person violating duty in case of injury to or death of person or damage to attended vehicle: RCW 10.31.100.

Additional notes found at www.leg.wa.gov

46.52.030 Accident reports. (1) Unless a report is to be made by a law enforcement officer under subsection (3) of this section, the driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to the property of any one person to an apparent extent equal to or greater than the minimum amount established by rule adopted by the chief of the Washington state patrol in accordance with subsection (5) of this section, shall, within four days after such accident, make a written report of such acci-

dent to the chief of police of the city or town if such accident occurred within an incorporated city or town or the county sheriff or state patrol if such accident occurred outside incorporated cities and towns. Nothing in this subsection prohibits accident reports from being filed by drivers where damage to property is less than the minimum amount or where a law enforcement officer has submitted a report.

(2) The original of the report shall be immediately forwarded by the authority receiving the report to the chief of the Washington state patrol at Olympia, Washington. The Washington state patrol shall give the department of licensing full access to the report.

(3) Any law enforcement officer who investigates an accident for which a report is required under subsection (1) of this section shall submit an investigator's report as required by RCW 46.52.070.

(4) The chief of the Washington state patrol may require any driver of any vehicle involved in an accident, of which report must be made as provided in this section, to file supplemental reports whenever the original report in the chief's opinion is insufficient, and may likewise require witnesses of any such accident to render reports. For this purpose, the chief of the Washington state patrol shall prepare and, upon request, supply to any police department, coroner, sheriff, and any other suitable agency or individual, sample forms of accident reports required hereunder, which reports shall be upon a form devised by the chief of the Washington state patrol and shall call for sufficiently detailed information to disclose all material facts with reference to the accident to be reported thereon, including the location, the circumstances, the conditions then existing, the persons and vehicles involved, the insurance information required under RCW 46.30.030, personal injury or death, if any, the amounts of property damage claimed, the total number of vehicles involved, whether the vehicles were legally parked, legally standing, or moving, whether such vehicles were occupied at the time of the accident, and whether any driver involved in the accident was distracted at the time of the accident. Distractions contributing to an accident must be reported on the accident form and include at least the following minimum reporting options: Not distracted; operating a handheld electronic telecommunication device; operating a hands-free wireless telecommunication device; other electronic devices (including, but not limited to, PDA's, laptop computers, navigational devices, etc.); adjusting an audio or entertainment system; smoking; eating or drinking; reading or writing; grooming; interacting with children, passengers, animals, or objects in the vehicle; other inside distractions; outside distractions; and distraction unknown. Every required accident report shall be made on a form prescribed by the chief of the Washington state patrol and each authority charged with the duty of receiving such reports shall provide sufficient report forms in compliance with the form devised. The report forms shall be designated so as to provide that a copy may be retained by the reporting person.

(5) The chief of the Washington state patrol shall adopt rules establishing the accident-reporting threshold for property damage accidents. Beginning October 1, 1987, the accident-reporting threshold for property damage accidents shall be five hundred dollars. The accident-reporting threshold for property damage accidents shall be revised when necessary,

but not more frequently than every two years. The revisions shall only be for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the time period since the last revision. [2005 c 171 § 1; 1997 c 248 § 1; 1996 c 183 § 1; 1989 c 353 § 5; 1987 c 463 § 2; 1981 c 30 § 1; 1979 c 158 § 160; 1979 c 11 § 2. Prior: 1977 ex.s. c 369 § 2; 1977 ex.s. c 68 § 1; 1969 ex.s. c 40 § 2; 1967 c 32 § 54; 1965 ex.s. c 119 § 1; 1961 c 12 § 46.52.030; prior: 1943 c 154 § 1; 1937 c 189 § 135; RRS § 6360-135.]

Effective date—2005 c 171: "This act takes effect January 1, 2006." [2005 c 171 § 3.]

Additional notes found at www.leg.wa.gov

46.52.035 Accident reports—Suspension of license or permit for failure to make report. The director may suspend the license or permit to drive and any nonresident operating privileges of any person failing to report an accident as provided in RCW 46.52.030 until such report has been filed. [1988 c 8 § 1; 1965 ex.s. c 119 § 2.]

46.52.040 Accident reports—Report when operator disabled. Whenever the driver of the vehicle involved in any accident, concerning which accident report is required, is physically incapable of making the required accident report and there is another occupant other than a passenger for hire therein, in the vehicle at the time of the accident capable of making a report, such occupant shall make or cause to be made such report. Upon recovery such driver shall make such report in the manner required by law. [1967 c 32 § 55; 1961 c 12 § 46.52.040. Prior: 1937 c 189 § 136; RRS § 6360-136.]

46.52.050 Coroner's reports to sheriff and state patrol. Every coroner or other official performing like functions shall on or before the tenth day of each month, report in writing to the sheriff of the county in which he or she holds office and to the chief of the Washington state patrol the death of any person within his or her jurisdiction during the preceding calendar month as a result of an accident involving any vehicle, together with the circumstances of such accident. [2010 c 8 § 9059; 1961 c 12 § 46.52.050. Prior: 1937 c 189 § 137; RRS § 6360-137.]

46.52.060 Tabulation and analysis of reports—Availability for use. It shall be the duty of the chief of the Washington state patrol to file, tabulate, and analyze all accident reports and to publish annually, immediately following the close of each fiscal year, and monthly during the course of the year, statistical information based thereon showing the number of accidents, the location, the frequency, whether any driver involved in the accident was distracted at the time of the accident and the circumstances thereof, and other statistical information which may prove of assistance in determining the cause of vehicular accidents. Distractions contributing to an accident to be reported must include at least the following: Not distracted; operating a handheld electronic telecommunication device; operating a hands-free wireless telecommunication device; other electronic devices (including, but not limited to, PDA's, laptop computers, naviga-

tional devices, etc.); adjusting an audio or entertainment system; smoking; eating or drinking; reading or writing; grooming; interacting with children, passengers, animals, or objects in the vehicle; other inside distractions; outside distractions; and distraction unknown.

Such accident reports and analysis or reports thereof shall be available to the director of licensing, the department of transportation, the utilities and transportation commission, the traffic safety commission, and other public entities authorized by the chief of the Washington state patrol, or their duly authorized representatives, for further tabulation and analysis for pertinent data relating to the regulation of highway traffic, highway construction, vehicle operators and all other purposes, and to publish information so derived as may be deemed of publication value. [2005 c 171 § 2; 1998 c 169 § 1; 1979 c 158 § 161; 1977 c 75 § 67; 1967 c 32 § 56; 1961 c 12 § 46.52.060. Prior: 1937 c 189 § 138; RRS § 6360-138.]

Effective date—2005 c 171: See note following RCW 46.52.030.

46.52.065 Blood samples to state toxicologist—Analysis—Availability, admissibility of reports. Every coroner or other official performing like functions shall submit to the state toxicologist a blood sample taken from all drivers and all pedestrians who are killed in any traffic accident where the death occurred within four hours after the accident. Blood samples shall be taken and submitted in the manner prescribed by the state toxicologist. The state toxicologist shall analyze these blood samples to determine the concentration of alcohol and, where feasible, the presence of drugs or other toxic substances. The reports and records of the state toxicologist relating to analyses made pursuant to this section shall be confidential: PROVIDED, That the results of these analyses shall be reported to the state patrol and made available to the prosecuting attorney or law enforcement agency having jurisdiction: PROVIDED FURTHER, That the results of these analyses may be admitted in evidence in any civil or criminal action where relevant and shall be made available to the parties to any such litigation on application to the court. [1977 ex.s. c 50 § 1; 1971 ex.s. c 270 § 1.]

46.52.070 Police officer's report. (1) Any police officer of the state of Washington or of any county, city, town, or other political subdivision, present at the scene of any accident or in possession of any facts concerning any accident whether by way of official investigation or otherwise shall make report thereof in the same manner as required of the parties to such accident and as fully as the facts in his or her possession concerning such accident will permit.

(2) The police officer shall report to the department, on a form prescribed by the director: (a) When a collision has occurred that results in a fatality; and (b) the identity of the operator of a vehicle involved in the collision when the officer has reasonable grounds to believe the operator caused the collision.

(3) The police officer shall report to the department, on a form prescribed by the director: (a) When a collision has occurred that results in a serious injury; (b) the identity of the operator of a vehicle involved in the collision when the officer has reasonable grounds to believe the operator who caused the serious injury may not be competent to operate a

motor vehicle; and (c) the reason or reasons for the officer's belief. [2010 c 8 § 9060; 1999 c 351 § 2; 1998 c 165 § 8; 1967 c 32 § 57; 1961 c 12 § 46.52.070. Prior: 1937 c 189 § 139; RRS § 6360-139.]

Additional notes found at www.leg.wa.gov

46.52.080 Confidentiality of reports—Information required to be disclosed—Evidence. All required accident reports and supplemental reports and copies thereof shall be without prejudice to the individual so reporting and shall be for the confidential use of the county prosecuting attorney and chief of police or county sheriff, as the case may be, and the director of licensing and the chief of the Washington state patrol, and other officer or commission as authorized by law, except that any such officer shall disclose the names and addresses of persons reported as involved in an accident or as witnesses thereto, the vehicle license plate numbers and descriptions of vehicles involved, and the date, time and location of an accident, to any person who may have a proper interest therein, including the driver or drivers involved, or the legal guardian thereof, the parent of a minor driver, any person injured therein, the owner of vehicles or property damaged thereby, or any authorized representative of such an interested party, or the attorney or insurer thereof. No such accident report or copy thereof shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that any officer above named for receiving accident reports shall furnish, upon demand of any person who has, or who claims to have, made such a report, or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the chief of the Washington state patrol solely to prove a compliance or a failure to comply with the requirement that such a report be made in the manner required by law: PROVIDED, That the reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of RCW 46.52.088. [1979 c 158 § 162; 1975 c 62 § 15; 1967 c 32 § 58; 1965 ex.s. c 119 § 3; 1961 c 12 § 46.52.080. Prior: 1937 c 189 § 140; RRS § 6360-140.]

Additional notes found at www.leg.wa.gov

46.52.083 Confidentiality of reports—Availability of factual data to interested parties. All of the factual data submitted in report form by the officers, together with the signed statements of all witnesses, except the reports signed by the drivers involved in the accident, shall be made available upon request to the interested parties named in RCW 46.52.080. [1965 ex.s. c 119 § 4.]

46.52.085 Confidentiality of reports—Fee for written information. Any information authorized for release under RCW 46.52.080 and 46.52.083 may be furnished in written form for a fee sufficient to meet, but not exceed, the costs incurred. All fees received by the Washington state patrol for such copies shall be deposited in the motor vehicle fund. [1979 c 34 § 1; 1971 ex.s. c 91 § 5; 1965 ex.s. c 119 § 5.]

46.52.088 Reports—False information. A person shall not give information in oral or written reports as (2010 Ed.)

required in chapter 46.52 RCW knowing that such information is false. [1975 c 62 § 16.]

Additional notes found at www.leg.wa.gov

46.52.090 Reports of major repairs, etc.—Violations, penalties—Rules—Exceptions for older vehicles. (1) Any person, firm, corporation, or association engaged in the business of repairs of any kind to vehicles or any person, firm, corporation, or association which may at any time engage in any kind of major repair, restoration, or substantial alteration to a vehicle required to be licensed or registered under this title shall maintain verifiable records regarding the source of used major component parts used in such repairs, restoration, or alteration. Satisfactory records include but are not limited to personal identification of the seller if such parts were acquired from other than a vehicle wrecker licensed under chapter 46.80 RCW, signed work orders, and bills of sale signed by the seller whose identity and address has been verified describing parts acquired, and the make, model, and vehicle identification number of a vehicle from which the following parts are removed: (a) Engines and short blocks, (b) frames, (c) transmissions and transfer cases, (d) cabs, (e) doors, (f) front or rear differentials, (g) front or rear clips, (h) quarter panels or fenders, (i) bumpers, (j) truck beds or boxes, (k) seats, and (l) hoods.

(2) The records required under subsection (1) of this section shall be kept for a period of four years and shall be made available for inspection by a law enforcement officer during ordinary business hours.

(3) It is a gross misdemeanor to: (a) Acquire a part without a substantiating bill of sale or invoice from the parts supplier or fail to comply with any rules adopted under this section; (b) fail to obtain the vehicle identification number for those parts requiring that it be obtained; or (c) fail to keep records for four years or to make such records available during normal business hours to a law enforcement officer.

(4) The chief of the Washington state patrol shall adopt rules for the purpose of regulating record-keeping and parts acquisition by vehicle repairers, restorers, rebuilders, or those who perform substantial vehicle alterations.

(5) The provisions of this section do not apply to major repair, restoration, or alteration of a vehicle thirty years of age or older. [2003 c 53 § 242; 1983 c 142 § 1; 1967 c 32 § 59; 1961 c 12 § 46.52.090. Prior: 1937 c 189 § 141; RRS § 6360-141.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.52.101 Records of traffic charges, dispositions. (1) Every district court, municipal court, and clerk of a superior court shall keep or cause to be kept a record of every traffic complaint, traffic citation, notice of infraction, or other legal form of traffic charge deposited with or presented to the court or a traffic violations bureau, and shall keep a record of every official action by the court or its traffic violations bureau regarding the charge, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, finding that a traffic infraction has been committed, dismissal of a notice of infraction, and the amount of fine, forfeiture, or

penalty resulting from every traffic charge deposited with or presented to the court or traffic violations bureau. In the case of a record of a conviction for a violation of RCW 46.61.502 or 46.61.504, and notwithstanding any other provision of law, the court shall maintain the record permanently.

(2) After the conviction, forfeiture of bail, or finding that a traffic infraction was committed for a violation of any provisions of this chapter or other law regulating the operating of vehicles on highways, the clerk of the court in which the conviction was had, bail was forfeited, or the finding of commission was made shall prepare and immediately forward to the director of licensing at Olympia an abstract of the court record covering the case. Report need not be made of a finding involving the illegal parking or standing of a vehicle.

(3) The abstract must be made upon a form or forms furnished by the director and must include the name and address of the party charged, the number, if any, of the party's driver's or chauffeur's license, the registration number of the vehicle involved if required by the director, the nature of the offense, the date of hearing, the plea, the judgment, whether the offense was an alcohol-related offense as defined in RCW 46.01.260(2), whether the incident that gave rise to the offense charged resulted in a fatality, whether bail was forfeited, whether the determination that a traffic infraction was committed was contested, and the amount of the fine, forfeiture, or penalty, as the case may be.

(4) In courts where the judicial information system or other secure method of electronic transfer of information has been implemented between the court and the department of licensing, the court may electronically provide the information required in subsections (2), (3), and (5) of this section.

(5) The superior court clerk shall also forward a like report to the director upon the conviction of a person of a felony in the commission of which a vehicle was used.

(6) The director shall keep all abstracts received under this section at the director's office in Olympia. The abstracts must be open to public inspection during reasonable business hours.

(7) The officer, prosecuting attorney, or city attorney signing the charge or information in a case involving a charge of driving under the influence of intoxicating liquor or any drug shall immediately request from the director an abstract of convictions and forfeitures. The director shall furnish the requested abstract. [2006 c 327 § 6; 1999 c 86 § 4.]

46.52.120 Case record of convictions and infractions—Cross-reference to accident reports. (1) The director shall keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each driver, showing all the convictions and findings of traffic infractions certified by the courts, together with an index cross-reference record of each accident reported relating to such individual with a brief statement of the cause of the accident and whether or not the accident resulted in any fatality. The chief of the Washington state patrol shall furnish the index cross-reference record to the director, with reference to each driver involved in the reported accidents.

(2) The records shall be for the confidential use of the director, the chief of the Washington state patrol, the director of the Washington traffic safety commission, and for such police officers or other cognizant public officials as may be

designated by law. Such case records shall not be admitted into evidence in any court, except where relevant to the prosecution or defense of a criminal charge, or in case appeal is taken from the order of the director, suspending, revoking, canceling, or refusing a vehicle driver's license.

(3) The director shall tabulate and analyze vehicle driver's case records and suspend, revoke, cancel, or refuse a vehicle driver's license to a person when it is deemed from facts contained in the case record of such person that it is for the best interest of public safety that such person be denied the privilege of operating a motor vehicle. The director shall also suspend a person's driver's license if the person fails to attend or complete a driver improvement interview or fails to abide by conditions of probation under RCW 46.20.335. Whenever the director orders the vehicle driver's license of any such person suspended, revoked, or canceled, or refuses the issuance of a vehicle driver's license, such suspension, revocation, cancellation, or refusal is final and effective unless appeal from the decision of the director is taken as provided by law. [1998 c 218 § 1; 1998 c 165 § 10; 1993 c 501 § 12; 1992 c 32 § 3; 1989 c 178 § 23; 1988 c 38 § 2; 1984 c 99 § 1; 1982 c 52 § 1; 1979 ex.s. c 136 § 83; 1977 ex.s. c 356 § 1; 1967 c 32 § 62; 1961 c 12 § 46.52.120. Prior: 1937 c 189 § 144; RRS § 6360-144.]

Reviser's note: This section was amended by 1998 c 165 § 10 and by 1998 c 218 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

46.52.130 Abstract of driving record—Access—Fees—Penalty. (*Effective until October 31, 2010.*) (1) A certified abstract of the driving record shall be furnished only to:

- (a) The individual named in the abstract;
- (b) An employer or prospective employer or an agent acting on behalf of an employer or prospective employer, or a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with mental or physical disabilities;
- (c) An employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs;
- (d) The insurance carrier that has insurance in effect covering the employer or a prospective employer;
- (e) The insurance carrier that has motor vehicle or life insurance in effect covering the named individual;
- (f) The insurance carrier to which the named individual has applied;
- (g) An alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment;
- (h) City and county prosecuting attorneys;
- (i) State colleges, universities, or agencies for employment and risk management purposes; or units of local government authorized to self-insure under RCW 48.62.031; or
- (j) An employer or prospective employer or volunteer organization, or an agent acting on behalf of an employer or

prospective employer or volunteer organization, for employment purposes related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization.

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

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

(4)(a) The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years to insurance companies.

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

(5) Upon proper request, the director shall furnish a certified abstract covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies, except that the certified abstract shall also include records of alcohol-related offenses as defined in RCW 46.01.260(2) covering a period of not more than the last ten years.

(6) Upon proper request, a certified abstract of the full driving record maintained by the department shall be furnished to a city or county prosecuting attorney, to the individual named in the abstract, to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual, or to a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, or to an employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.

(7) The abstract, whenever possible, shall include:

(a) An enumeration of motor vehicle accidents in which the person was driving;

(b) The total number of vehicles involved;

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

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

(e) Whether the accident resulted in any fatality;

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

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

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

(8) Certified abstracts furnished to prosecutors and alcohol/drug assessment or treatment agencies shall also indicate whether a recorded violation is an alcohol-related offense as defined in RCW 46.01.260(2) that was originally charged as one of the alcohol-related offenses designated in *RCW 46.01.260(2)(b)(i).

(9) The abstract provided to the insurance company shall exclude any information, except that related to the commission of misdemeanors or felonies by the individual, pertaining to law enforcement officers or firefighters as defined in RCW 41.26.030, or any officer of the Washington state patrol, while driving official vehicles in the performance of occupational duty. The abstract provided to the insurance company shall include convictions for RCW 46.61.5249 and 46.61.525 except that the abstract shall report them only as negligent driving without reference to whether they are for first or second degree negligent driving. The abstract provided to the insurance company shall exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract shall show the deferred prosecution as well as the removal.

(10) The director shall collect for each abstract the sum of ten dollars, fifty percent of which shall be deposited in the highway safety fund and fifty percent of which must be deposited according to RCW 46.68.038.

(11) Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, denied, or have the rate increased on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment, nor may any insurance company or its agent for underwriting purposes relating to the operation of noncommercial motor vehicles use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

(12) Any employer or prospective employer or an agent acting on behalf of an employer or prospective employer, or a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, receiving the certified abstract shall use it exclusively for his or her own purpose: (a) To determine whether the licensee should be permitted to operate a commercial vehicle or school bus, or operate a vehicle for a volunteer organization for purposes of transporting children

under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, upon the public highways of this state; or (b) for employment purposes related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization, and shall not divulge any information contained in it to a third party.

(13) Any employee or agent of a transit authority receiving a certified abstract for its vanpool program shall use it exclusively for determining whether the volunteer licensee meets those insurance and risk management requirements necessary to drive a vanpool vehicle. The transit authority may not divulge any information contained in the abstract to a third party.

(14) Any alcohol/drug assessment or treatment agency approved by the department of social and health services receiving the certified abstract shall use it exclusively for the purpose of assisting its employees in making a determination as to what level of treatment, if any, is appropriate. The agency, or any of its employees, shall not divulge any information contained in the abstract to a third party.

(15) Release of a certified abstract of the driving record of an employee, prospective employee, or prospective volunteer requires a statement signed by: (a) The employee, prospective employee, or prospective volunteer that authorizes the release of the record, and (b) the employer or volunteer organization attesting that the information is necessary: (i) To determine whether the licensee should be employed to operate a commercial vehicle or school bus, or operate a vehicle for a volunteer organization for purposes of transporting children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, upon the public highways of this state; or (ii) for employment purposes related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement. This subsection does not apply to entities identified in subsection (1)(i) of this section.

(16) Any negligent violation of this section is a gross misdemeanor.

(17) Any intentional violation of this section is a class C felony. [2009 c 276 § 1; 2008 c 253 § 1; 2007 c 424 § 3; 2004 c 49 § 1; 2003 c 367 § 1. Prior: 2002 c 352 § 20; 2002 c 221 § 1; 2001 c 309 § 1; 1998 c 165 § 11; 1997 c 66 § 12; prior: 1996 c 307 § 4; 1996 c 183 § 2; 1994 c 275 § 16; 1991 c 243 § 1; 1989 c 178 § 24; prior: 1987 1st ex.s. c 9 § 2; 1987 c 397 § 2; 1987 c 181 § 1; 1986 c 74 § 1; 1985 ex.s. c 1 § 11; 1979 ex.s. c 136 § 84; 1977 ex.s. c 356 § 2; 1977 ex.s. c 140 § 1; 1973 1st ex.s. c 37 § 1; 1969 ex.s. c 40 § 3; 1967 c 174 § 2; 1967 c 32 § 63; 1963 c 169 § 65; 1961 ex.s. c 21 § 27.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

***Reviser's note:** RCW 46.01.260 was amended by 2009 c 276 § 2, which deleted subsection (2)(b)(i). The reference should be to RCW 46.01.260(2)(a).

Effective date—2008 c 253: "This act takes effect August 1, 2008." [2008 c 253 § 2.]

Effective date—2007 c 424: See note following RCW 46.20.293.

Effective dates—2002 c 352: See note following RCW 46.09.070.

Intent—1987 c 397: See note following RCW 46.61.410.

Abstract of driving record to be furnished: RCW 46.29.050.

Use of highway safety fund to defray cost of furnishing and maintaining driving records: RCW 46.68.060.

Additional notes found at www.leg.wa.gov

46.52.130 Abstract of driving record—Access—Fee—Violations. (*Effective October 31, 2010.*) Upon a proper request, the department may furnish an abstract of a person's driving record as permitted under this section.

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

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

- (i) The total number of vehicles involved;
- (ii) Whether the vehicles were legally parked or moving;
- (iii) Whether the vehicles were occupied at the time of the accident; and

(iv) Whether the accident resulted in a fatality;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) **City attorneys and county prosecuting attorneys.** An abstract of the full driving record maintained by the department, including whether a recorded violation is an alcohol-related offense, as defined in RCW 46.01.260(2), that was originally charged as a violation of either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys or county prosecuting attorneys. City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

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

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

(3) **Release to third parties prohibited.** Any person or entity receiving an abstract of a person's driving record under subsection (2)(b) through (i) of this section shall use the abstract exclusively for his, her, or its own purposes or as oth-

erwise expressly permitted under this section, and shall not divulge any information contained in the abstract to a third party.

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

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

(b) Any intentional violation of this section is a class C felony. [2010 c 253 § 1; 2009 c 276 § 1; 2008 c 253 § 1; 2007 c 424 § 3; 2004 c 49 § 1; 2003 c 367 § 1. Prior: 2002 c 352 § 20; 2002 c 221 § 1; 2001 c 309 § 1; 1998 c 165 § 11; 1997 c 66 § 12; prior: 1996 c 307 § 4; 1996 c 183 § 2; 1994 c 275 § 16; 1991 c 243 § 1; 1989 c 178 § 24; prior: 1987 1st ex.s c 9 § 2; 1987 c 397 § 2; 1987 c 181 § 1; 1986 c 74 § 1; 1985 ex.s. c 1 § 11; 1979 ex.s. c 136 § 84; 1977 ex.s. c 356 § 2; 1977 ex.s. c 140 § 1; 1973 1st ex.s. c 37 § 1; 1969 ex.s. c 40 § 3; 1967 c 174 § 2; 1967 c 32 § 63; 1963 c 169 § 65; 1961 ex.s. c 21 § 27.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Effective date—2010 c 253: "This act takes effect October 31, 2010." [2010 c 253 § 3.]

Effective date—2008 c 253: "This act takes effect August 1, 2008." [2008 c 253 § 2.]

Effective date—2007 c 424: See note following RCW 46.20.293.

Effective dates—2002 c 352: See note following RCW 46.09.410.

Intent—1987 c 397: See note following RCW 46.61.410.

Abstract of driving record to be furnished: RCW 46.29.050.

Use of highway safety fund to defray cost of furnishing and maintaining driving records: RCW 46.68.060.

Additional notes found at www.leg.wa.gov

Chapter 46.55 RCW

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46.55.901 Headings not part of law—1985 c 377.
46.55.902 Effective date—1985 c 377.
46.55.910 Chapter not applicable to certain activities of department of transportation.

Removal of unattended vehicle from highway: RCW 46.61.590.

Riding in towed vehicles: RCW 46.61.625.

Safety chains for towing: RCW 46.37.495.

46.55.010 Definitions. The definitions set forth in this section apply throughout this chapter:

(1) "Abandoned vehicle" means a vehicle that a registered tow truck operator has impounded and held in the operator's possession for one hundred twenty consecutive hours.

(2) "Immobilize" means the use of a locking wheel boot that, when attached to the wheel of a vehicle, prevents the vehicle from moving without damage to the tire to which the locking wheel boot is attached.

(3) "Abandoned vehicle report" means the document prescribed by the state that the towing operator forwards to the department after a vehicle has become abandoned.

(4) "Impound" means to take and hold a vehicle in legal custody. There are two types of impounds—public and private.

(a) "Public impound" means that the vehicle has been impounded at the direction of a law enforcement officer or by a public official having jurisdiction over the public property upon which the vehicle was located.

(b) "Private impound" means that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

(5) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as meeting at least three of the following requirements:

(a) Is three years old or older;

(b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield, or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable;

(d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

(6) "Master log" means the document or an electronic facsimile prescribed by the department and the Washington state patrol in which an operator records transactions involving impounded vehicles.

(7) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles.

(8) "Residential property" means property that has no more than four living units located on it.

(9) "Suspended license impound" means an impound ordered under RCW 46.55.113 because the operator was arrested for a violation of RCW 46.20.342 or 46.20.345.

(10) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing vehicles with equipment as approved by the state patrol.

(11) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.

(12) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.

(13) "Tow truck service" means the transporting upon the public streets and highways of this state of vehicles, together with personal effects and cargo, by a tow truck of a registered operator.

(14) "Unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

Subject to removal after:

- (a) Public locations:
 - (i) Constituting an accident or a traffic hazard as defined in RCW 46.55.113 Immediately
 - (ii) On a highway and tagged as described in RCW 46.55.085 24 hours
 - (iii) In a publicly owned or controlled parking facility, properly posted under RCW 46.55.070 Immediately
- (b) Private locations:
 - (i) On residential property Immediately
 - (ii) On private, nonresidential property, properly posted under RCW 46.55.070 Immediately
 - (iii) On private, nonresidential property, not posted 24 hours

[2005 c 88 § 2; 1999 c 398 § 2; 1998 c 203 § 8; 1994 c 176 § 1; 1991 c 292 § 1; 1989 c 111 § 1. Prior: 1987 c 330 § 739; 1987 c 311 § 1; 1985 c 377 § 1.]

Finding—1998 c 203: See note following RCW 46.55.105.

Additional notes found at www.leg.wa.gov

TOW TRUCK OPERATORS—
REGISTRATION REQUIREMENTS

46.55.020 Registration required—Penalty. (1) A person shall not engage in or offer to engage in the activities of a registered tow truck operator without a current registration certificate from the department of licensing authorizing him or her to engage in such activities.

(2) Any person engaging in or offering to engage in the activities of a registered tow truck operator without the registration certificate required by this chapter is guilty of a gross misdemeanor.

(3) A registered operator who engages in a business practice that is prohibited under this chapter may be issued a notice of traffic infraction under chapter 46.63 RCW and is also subject to the civil penalties that may be imposed by the department under this chapter.

(4) A person found to have committed an offense that is a traffic infraction under this chapter is subject to a monetary penalty of at least two hundred fifty dollars.

(5) All traffic infractions issued under this chapter shall be under the jurisdiction of the district court in whose jurisdiction they were issued. [2003 c 53 § 243; 1989 c 111 § 2; 1985 c 377 § 2.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.55.025 Registration or insurance required—Penalty. A vehicle engaging in the business of recovery of disabled vehicles for monetary compensation, from or on a public road or highway must either be operated by a registered tow truck operator, or someone who at a minimum has insurance in a like manner and amount as prescribed in RCW 46.55.030(3), and have had their tow trucks inspected in a like manner as prescribed by RCW 46.55.040(1). The department shall adopt rules to enforce this section. Failure to comply with this section is a class 1 civil infraction punishable under RCW 7.80.120. [1995 c 360 § 2.]

46.55.030 Application—Contents, bond, insurance, fee, certificate. (1) Application for licensing as a registered tow truck operator shall be made on forms furnished by the department, shall be accompanied by an inspection certification from the Washington state patrol, shall be signed by the applicant or an agent, and shall include the following information:

- (a) The name and address of the person, firm, partnership, association, or corporation under whose name the business is to be conducted;
- (b) The names and addresses of all persons having an interest in the business, or if the owner is a corporation, the names and addresses of the officers of the corporation;
- (c) The names and addresses of all employees who serve as tow truck drivers;
- (d) Proof of minimum insurance required by subsection (3) of this section;
- (e) The vehicle license and vehicle identification numbers of all tow trucks of which the applicant is the registered owner;

(f) Any other information the department may require; and

(g) A certificate of approval from the Washington state patrol certifying that:

(i) The applicant has an established place of business and that mail is received at the address shown on the application;

(ii) The address of any storage locations where vehicles may be stored is correctly stated on the application;

(iii) The place of business has an office area that is accessible to the public without entering the storage area; and

(iv) The place of business has adequate and secure storage facilities, as defined in this chapter and the rules of the department, where vehicles and their contents can be properly stored and protected.

(2) Before issuing a registration certificate to an applicant the department shall require the applicant to file with the department a surety bond in the amount of five thousand dollars running to the state and executed by a surety company authorized to do business in this state. The bond shall be approved as to form by the attorney general and conditioned that the operator shall conduct his or her business in conformity with the provisions of this chapter pertaining to abandoned or unauthorized vehicles, and to compensate any person, company, or the state for failure to comply with this chapter or the rules adopted hereunder, or for fraud, negligence, or misrepresentation in the handling of these vehicles. Any person injured by the tow truck operator's failure to fully perform duties imposed by this chapter and the rules adopted hereunder, or an ordinance or resolution adopted by a city, town, or county is entitled to recover actual damages, including reasonable attorney's fees against the surety and the tow truck operator. Successive recoveries against the bond shall be permitted, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. As a condition of authority to do business, the operator shall keep the bond in full force and effect. Failure to maintain the penalty value of the bond or cancellation of the bond by the surety automatically cancels the operator's registration.

(3) Before the department may issue a registration certificate to an applicant, the applicant shall provide proof of minimum insurance requirements of:

(a) One hundred thousand dollars for liability for bodily injury or property damage per occurrence; and

(b) Fifty thousand dollars of legal liability per occurrence, to protect against vehicle damage, including but not limited to fire and theft, from the time a vehicle comes into the custody of an operator until it is redeemed or sold.

Cancellation of or failure to maintain the insurance required by (a) and (b) of this subsection automatically cancels the operator's registration.

(4) The fee for each original registration and annual renewal is one hundred dollars per company, plus fifty dollars per truck. The department shall forward the registration fee to the state treasurer for deposit in the motor vehicle fund.

(5) The applicant must submit an inspection certificate from the state patrol before the department may issue or renew an operator's registration certificate or tow truck permits.

(6) Upon approval of the application, the department shall issue a registration certificate to the registered operator to be displayed prominently at the operator's place of busi-

ness. [2010 c 8 § 9061; 1989 c 111 § 3; 1987 c 311 § 2; 1985 c 377 § 3.]

46.55.035 Prohibited acts—Penalty. (1) No registered tow truck operator may:

(a) Except as authorized under RCW 46.55.037, ask for or receive any compensation, gratuity, reward, or promise thereof from a person having control or possession of private property or from an agent of the person authorized to sign an impound authorization, for or on account of the impounding of a vehicle;

(b) Be beneficially interested in a contract, agreement, or understanding that may be made by or between a person having control or possession of private property and an agent of the person authorized to sign an impound authorization;

(c) Have a financial, equitable, or ownership interest in a firm, partnership, association, or corporation whose functions include acting as an agent or a representative of a property owner for the purpose of signing impound authorizations;

(d)(i) Enter into any contract or agreement or offer any program that provides an incentive to a person authorized to order a private impound under RCW 46.55.080 that is related to the authorization of an impound or a number of impounds.

(ii) The incentives prohibited by this section may be either monetary or nonmonetary things of value, such as gifts or prizes which are contingent on, or as a reward for the authorization of impounds.

(iii) Gifts of de minimus value that are given in the ordinary course of business and are not tied to any specific decision to authorize an impound or impounds are not prohibited. Permitted gifts would include promotional items such as pens, calendars, cups, and other items labeled with the registered tow truck operator's business information, holiday gifts such as cookies or candy, flowers for occasions such as illness or death, or the cost of a single meal for one person when discussing business.

(iv) The provision of the actual physical signs required by this chapter to be posted on private property and the labor and materials for placing them is not a violation of this section.

(2) This section does not prohibit the registered tow truck operator from collecting the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing of an impounded vehicle as provided by RCW 46.55.120.

(3) A violation of this section is a gross misdemeanor. [2010 c 56 § 1; 1992 c 18 § 1; 1989 c 111 § 4.]

Riding in towed vehicles: RCW 46.61.625.

Safety chains for towing: RCW 46.37.495.

46.55.037 Compensation for private impounds. A registered tow truck operator may receive compensation from a private property owner or agent for a private impound of an unauthorized vehicle that has an approximate fair market value equal only to the approximate value of the scrap in it. The private property owner or an agent must authorize the impound under RCW 46.55.080. The registered tow truck operator shall process the vehicle in accordance with this chapter and shall deduct any compensation received from the private property owner or agent from the amount of the lien

on the vehicle in accordance with this chapter. [1992 c 18 § 2.]

46.55.040 Permit required—Inspections of equipment and facilities. (1) A registered operator shall apply for and keep current a tow truck permit for each tow truck of which the operator is the registered owner. Application for a tow truck permit shall be accompanied by a report from the Washington state patrol covering a physical inspection of each tow truck capable of being used by the applicant.

(2) Upon receipt of the fee provided in RCW 46.55.030(4) and a satisfactory inspection report from the state patrol, the department shall issue each tow truck an annual tow truck permit or decal. The class of the tow truck, determined according to RCW 46.55.050, shall be stamped on the permit or decal. The permit or decal shall be displayed on the passenger side of the truck's front windshield.

(3) A tow truck number from the department shall be affixed in a permanent manner to each tow truck.

(4) The Washington state patrol shall conduct annual inspections of tow truck operators' equipment and facilities during the operators' normal business hours. Unscheduled inspections may be conducted without notice at the operator's place of business by an inspector to determine the fitness of a tow truck or facilities. At the time of the inspection, the operator shall provide a paper copy of the master log referred to in RCW 46.55.080.

(5) If at the time of the annual or subsequent inspections the equipment does not meet the requirements of this chapter, and the deficiency is a safety related deficiency, or the equipment is necessary to the truck's performance, the inspector shall cause the registered tow truck operator to remove that equipment from service as a tow truck until such time as the equipment has been satisfactorily repaired. A red tag shall be placed on the windshield of a tow truck taken out of service, and the tow truck shall not provide tow truck service until the Washington state patrol recertifies the truck and removes the tag. [1989 c 111 § 5; 1985 c 377 § 4.]

46.55.050 Classification of trucks—Marking requirements—Time and place of inspection—Penalty.

(1) Tow trucks shall be classified by towing capabilities, and shall meet or exceed all equipment standards set by the state patrol for the type of tow trucks to be used by an operator.

(2) All tow trucks shall display the firm's name, city of address, and telephone number. This information shall be painted on or permanently affixed to both sides of the vehicle in accordance with rules adopted by the department.

(3) Before a tow truck is put into tow truck service, or when the reinspection of a tow truck is necessary, the district commander of the state patrol shall designate a location and time for the inspection to be conducted. When practicable, the inspection or reinspection shall be made within three business days following the request by the operator.

(4) Failure to comply with any requirement of this section or rules adopted under it is a traffic infraction. [1987 c 330 § 740; 1985 c 377 § 5.]

Additional notes found at www.leg.wa.gov

(2010 Ed.)

46.55.060 Business location—Requirements. (1) The address that the tow truck operator lists on his or her application shall be the business location of the firm where its files are kept. Each separate business location requires a separate registration under this chapter. The application shall also list all locations of secure areas for vehicle storage and redemption.

(2) Before an additional lot may be used for vehicle storage, it must be inspected and approved by the state patrol. The lot must also be inspected and approved on an annual basis for continued use.

(3) Each business location must have a sign displaying the firm's name that is readable from the street.

(4) At the business locations listed where vehicles may be redeemed, the registered operator shall post in a conspicuous and accessible location:

(a) All pertinent licenses and permits to operate as a registered tow truck operator;

(b) The current towing and storage charges itemized on a form approved by the department;

(c) The vehicle redemption procedure and rights;

(d) Information supplied by the department as to where complaints regarding either equipment or service are to be directed;

(e) Information concerning the acceptance of commercially reasonable tender as defined in *RCW 46.55.120(1)(b).

(5) The department shall adopt rules concerning fencing and security requirements of storage areas, which may provide for modifications or exemptions where needed to achieve compliance with local zoning laws.

(6) On any day when the registered tow truck operator holds the towing services open for business, the business office shall remain open with personnel present who are able to release impounded vehicles in accordance with this chapter and the rules adopted under it. The normal business hours of a towing service shall be from 8:00 a.m. to 5:00 p.m. on weekdays, excluding Saturdays, Sundays, and holidays.

(7) A registered tow truck operator shall maintain personnel who can be contacted twenty-four hours a day to release impounded vehicles within a reasonable time.

(8) A registered operator shall provide access to a telephone for any person redeeming a vehicle, at the time of redemption. [1989 c 111 § 6; 1987 c 311 § 3; 1985 c 377 § 6.]

*Reviser's note: RCW 46.55.120 was amended by 1999 c 398 § 7, changing subsection (1)(b) to subsection (1)(e).

46.55.063 Fees, schedules, contracts, invoices. (1) An operator shall file a fee schedule with the department. All filed fees must be adequate to cover the costs of service provided. No fees may exceed those filed with the department. At least ten days before the effective date of any change in an operator's fee schedule, the registered tow truck operator shall file the revised fee schedule with the department.

(2) Towing contracts with private property owners shall be in written form and state the hours of authorization to impound, the persons empowered to authorize the impounds, and the present charge of a private impound for the classes of tow trucks to be used in the impound, and must be retained in the files of the registered tow truck operator for three years.

(3) A fee that is charged for tow truck service must be calculated on an hourly basis, and after the first hour must be charged to the nearest quarter hour.

(4) Fees that are charged for the storage of a vehicle, or for other items of personal property registered or titled with the department, must be calculated on a twenty-four hour basis and must be charged to the nearest half day from the time the vehicle arrived at the secure storage area. However, items of personal property registered or titled with the department that are wholly contained within an impounded vehicle are not subject to additional storage fees; they are, however, subject to satisfying the underlying lien for towing and storage of the vehicle in which they are contained.

(5) All billing invoices that are provided to the redeemer of the vehicle, or other items of personal property registered or titled with the department, must be itemized so that the individual fees are clearly discernable. [1995 c 360 § 3; 1989 c 111 § 7.]

IMPOUNDING UNAUTHORIZED VEHICLES

46.55.070 Posting requirements—Exception. (1) No person may impound, tow, or otherwise disturb any unauthorized vehicle standing on nonresidential private property or in a public parking facility for less than twenty-four hours unless a sign is posted near each entrance and on the property in a clearly conspicuous and visible location to all who park on such property that clearly indicates:

(a) The times a vehicle may be impounded as an unauthorized vehicle; and

(b) The name, telephone number, and address of the towing firm where the vehicle may be redeemed.

(2) The requirements of subsection (1) of this section do not apply to residential property. Any person having charge of such property may have an unauthorized vehicle impounded immediately upon giving written authorization.

(3) The department shall adopt rules relating to the size of the sign required by subsection (1) of this section, its lettering, placement, and the number required.

(4) This section applies to all new signs erected after July 1, 1986. All other signs must meet these requirements by July 1, 1989. [1987 c 311 § 4; 1985 c 377 § 7.]

Vehicle immobilization unlawful: RCW 46.55.300.

46.55.075 Law enforcement impound—Required form, procedures. (1) The Washington state patrol shall provide by rule for a uniform impound authorization and inventory form. All law enforcement agencies must use this form for all vehicle impounds after June 30, 2001.

(2) By January 1, 2003, the Washington state patrol shall develop uniform impound procedures, which must include but are not limited to defining an impound and a visual inspection. Local law enforcement agencies shall adopt the procedures by July 1, 2003. [2002 c 279 § 5; 1999 c 398 § 3.]

46.55.080 Law enforcement impound, private impound—Master log—Certain associations restricted.

(1) If a vehicle is in violation of the time restrictions of *RCW 46.55.010(13), it may be impounded by a registered tow truck operator at the direction of a law enforcement

officer or other public official with jurisdiction if the vehicle is on public property, or at the direction of the property owner or an agent if it is on private property. A law enforcement officer may also direct the impoundment of a vehicle pursuant to a writ or court order.

(2) The person requesting a private impound or a law enforcement officer or public official requesting a public impound shall provide a signed authorization for the impound at the time and place of the impound to the registered tow truck operator before the operator may proceed with the impound. A registered tow truck operator, employee, or his or her agent may not serve as an agent of a property owner for the purposes of signing an impound authorization or, independent of the property owner, identify a vehicle for impound.

(3) In the case of a private impound, the impound authorization shall include the following statement: "A person authorizing this impound, if the impound is found in violation of chapter 46.55 RCW, may be held liable for the costs incurred by the vehicle owner."

(4) A registered tow truck operator shall record and keep in the operator's files the date and time that a vehicle is put in the operator's custody and released. The operator shall make an entry into a master log regarding transactions relating to impounded vehicles. The operator shall make this master log available, upon request, to representatives of the department or the state patrol.

(5) A person who engages in or offers to engage in the activities of a registered tow truck operator may not be associated in any way with a person or business whose main activity is authorizing the impounding of vehicles. [1999 c 398 § 4; 1989 c 111 § 8; 1987 c 311 § 5; 1985 c 377 § 8.]

**Reviser's note:* RCW 46.55.010 was amended by 2005 c 88 § 2, changing subsection (13) to subsection (14).

46.55.085 Law enforcement impound—Unauthorized vehicle in right-of-way.

(1) A law enforcement officer discovering an unauthorized vehicle left within a highway right-of-way shall attach to the vehicle a readily visible notification sticker. The sticker shall contain the following information:

(a) The date and time the sticker was attached;

(b) The identity of the officer;

(c) A statement that if the vehicle is not removed within twenty-four hours from the time the sticker is attached, the vehicle may be taken into custody and stored at the owner's expense;

(d) A statement that if the vehicle is not redeemed as provided in RCW 46.55.120, the registered owner will have committed the traffic infraction of littering—abandoned vehicle; and

(e) The address and telephone number where additional information may be obtained.

(2) If the vehicle has current Washington registration plates, the officer shall check the records to learn the identity of the last owner of record. The officer or his or her department shall make a reasonable effort to contact the owner by telephone in order to give the owner the information on the notification sticker.

(3) If the vehicle is not removed within twenty-four hours from the time the notification sticker is attached, the

law enforcement officer may take custody of the vehicle and provide for the vehicle's removal to a place of safety. A vehicle that does not pose a safety hazard may remain on the roadside for more than twenty-four hours if the owner or operator is unable to remove it from the place where it is located and so notifies law enforcement officials and requests assistance.

(4) For the purposes of this section a place of safety includes the business location of a registered tow truck operator. [2010 c 8 § 9062; 2002 c 279 § 6; 1993 c 121 § 1; 1987 c 311 § 6. Formerly RCW 46.52.170 and 46.52.180.]

46.55.090 Storage, return requirements—Personal property—Combination endorsement for tow truck drivers—Viewing impounded vehicle. (1) All vehicles impounded shall be taken to the nearest storage location that has been inspected and is listed on the application filed with the department.

(2) All vehicles shall be handled and returned in substantially the same condition as they existed before being towed.

(3) All personal belongings and contents in the vehicle, with the exception of those items of personal property that are registered or titled with the department, shall be kept intact, and shall be returned to the vehicle's owner or agent during normal business hours upon request and presentation of a driver's license or other sufficient identification. Personal belongings, with the exception of those items of personal property that are registered or titled with the department, shall not be sold at auction to fulfill a lien against the vehicle.

(4) All personal belongings, with the exception of those items of personal property that are registered or titled with the department, not claimed before the auction shall be turned over to the local law enforcement agency to which the initial notification of impoundment was given. Such personal belongings shall be disposed of pursuant to chapter 63.32 or 63.40 RCW.

(5) Tow truck drivers shall have a Washington state driver's license endorsed for the appropriate classification under chapter 46.25 RCW or the equivalent issued by another state.

(6) Any person who shows proof of ownership or written authorization from the impounded vehicle's registered or legal owner or the vehicle's insurer may view the vehicle without charge during normal business hours. [1995 c 360 § 4; 1989 c 178 § 25; 1987 c 311 § 7; 1985 c 377 § 9.]

Additional notes found at www.leg.wa.gov

46.55.100 Impound notice—Abandoned vehicle report—Owner information, liability—Disposition report. (1) At the time of impoundment the registered tow truck operator providing the towing service shall give immediate notification, by telephone or radio, to a law enforcement agency having jurisdiction who shall maintain a log of such reports. A law enforcement agency, or a private communication center acting on behalf of a law enforcement agency, shall within six to twelve hours of the impoundment, provide to a requesting operator the name and address of the legal and registered owners of the vehicle, and the registered owner of any personal property registered or titled with the department that is attached to or contained in or on the impounded vehicle, the vehicle identification number, and any other neces-

sary, pertinent information. The initial notice of impoundment shall be followed by a written or electronic facsimile notice within twenty-four hours. In the case of a vehicle from another state, time requirements of this subsection do not apply until the requesting law enforcement agency in this state receives the information.

(2) The operator shall immediately send an abandoned vehicle report to the department for any vehicle, and for any items of personal property registered or titled with the department, that are in the operator's possession after the one hundred twenty hour abandonment period. Such report need not be sent when the impoundment is pursuant to a writ, court order, or police hold that is not a suspended license impound. The owner notification and abandonment process shall be initiated by the registered tow truck operator immediately following notification by a court or law enforcement officer that the writ, court order, or police hold that is not a suspended license impound is no longer in effect.

(3) Following the submittal of an abandoned vehicle report, the department shall provide the registered tow truck operator with owner information within seventy-two hours.

(4) Within fourteen days of the sale of an abandoned vehicle at public auction, the towing operator shall send a copy of the abandoned vehicle report showing the disposition of the abandoned vehicle and any other items of personal property registered or titled with the department to the department. The vehicle buyer information sent to the department on the abandoned vehicle report relieves the previous owner of the vehicle from any civil or criminal liability for the operation of the vehicle from the date of sale thereafter and transfers full liability for the vehicle to the buyer. By January 1, 2003, the department shall create a system enabling tow truck operators the option of sending the portion of the abandoned vehicle report that contains the vehicle's buyer information to the department electronically.

(5) If the operator sends an abandoned vehicle report to the department and the department finds no owner information, an operator may proceed with an inspection of the vehicle and any other items of personal property registered or titled with the department to determine whether owner identification is within the vehicle.

(6) If the operator finds no owner identification, the operator shall immediately notify the appropriate law enforcement agency, which shall search the vehicle and any other items of personal property registered or titled with the department for the vehicle identification number or other appropriate identification numbers and check the necessary records to determine the vehicle's or other property's owners. [2002 c 279 § 9; 1999 c 398 § 5; 1998 c 203 § 9; 1995 c 360 § 5; 1991 c 20 § 1; 1989 c 111 § 9; 1987 c 311 § 8; 1985 c 377 § 10.]

Finding—1998 c 203: See note following RCW 46.55.105.

46.55.105 Responsibility of registered owner. (Effective until July 1, 2011.) (1) The abandonment of any vehicle creates a prima facie presumption that the last registered owner of record is responsible for the abandonment and is liable for costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

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

(3) A vehicle theft report filed with a law enforcement agency relieves the last registered owner of liability under subsection (2) of this section for failure to redeem the vehicle. However, the last registered owner remains liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle under subsection (1) of this section. Nothing in this section limits in any way the registered owner's rights in a civil action or as restitution in a criminal action against a person responsible for the theft of the vehicle.

(4) Properly filing a report of sale or transfer regarding the vehicle involved in accordance with RCW 46.12.101(1) relieves the last registered owner of liability under subsections (1) and (2) of this section. If the date of sale as indicated on the report of sale is on or before the date of impoundment, the buyer identified on the latest properly filed report of sale with the department is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction. If the date of sale is after the date of impoundment, the previous registered owner is assumed to be liable for such costs. A licensed vehicle dealer is not liable under subsections (1) and (2) of this section if the dealer, as transferee or assignee of the last registered owner of the vehicle involved, has complied with the requirements of RCW 46.70.122 upon selling or otherwise disposing of the vehicle, or if the dealer has timely filed a transitional ownership record or report of sale under RCW 46.12.103. In that case the person to whom the licensed vehicle dealer has sold or transferred the vehicle is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

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

(6) A notice of infraction for a violation of this section may be filed with a court of limited jurisdiction organized under Title 3, 35, or 35A RCW, or with a violations bureau subject to the court's jurisdiction. [2002 c 279 § 10; 1999 c 86 § 5; 1998 c 203 § 2; 1995 c 219 § 4; 1993 c 314 § 1.]

Finding—1998 c 203: "The legislature finds that the license to drive a motor vehicle on the public highways is suspended or revoked in order to protect public safety following a driver's failure to comply with the laws of this state. Over six hundred persons are killed in traffic accidents in Washington annually, and more than eighty-four thousand persons are injured. It is estimated that of the three million four hundred thousand drivers' licenses issued to citizens of Washington, more than two hundred sixty thousand are suspended or revoked at any given time. Suspended drivers are more likely to be involved in causing traffic accidents, including fatal accidents, than

properly licensed drivers, and pose a serious threat to the lives and property of Washington residents. Statistics show that suspended drivers are three times more likely to kill or seriously injure others in the commission of traffic felony offenses than are validly licensed drivers. In addition to not having a driver's license, most such drivers also lack required liability insurance, increasing the financial burden upon other citizens through uninsured losses and higher insurance costs for validly licensed drivers. Because of the threat posed by suspended drivers, all registered owners of motor vehicles in Washington have a duty to not allow their vehicles to be driven by a suspended driver.

Despite the existence of criminal penalties for driving with a suspended or revoked license, an estimated seventy-five percent of these drivers continue to drive anyway. Existing sanctions are not sufficient to deter or prevent persons with a suspended or revoked license from driving. It is common for suspended drivers to resume driving immediately after being stopped, cited, and released by a police officer and to continue to drive while a criminal prosecution for suspended driving is pending. More than half of all suspended drivers charged with the crime of driving while suspended or revoked fail to appear for court hearings. Vehicle impoundment will provide an immediate consequence which will increase deterrence and reduce unlawful driving by preventing a suspended driver access to that vehicle. Vehicle impoundment will also provide an appropriate measure of accountability for registered owners who permit suspended drivers to drive their vehicles. Impoundment of vehicles driven by suspended drivers has been shown to reduce future driving while suspended or revoked offenses for up to two years afterwards, and the recidivism rate for drivers whose cars were not impounded was one hundred percent higher than for drivers whose cars were impounded. In order to adequately protect public safety and to enforce the state's driver licensing laws, it is necessary to authorize the impoundment of any vehicle when it is found to be operated by a driver with a suspended or revoked license in violation of RCW 46.20.342 and 46.20.420. The impoundment of a vehicle operated in violation of RCW 46.20.342 or 46.20.420 is intended to be a civil in rem action against the vehicle in order to remove it from the public highways and reduce the risk posed to traffic safety by a vehicle accessible to a driver who is reasonably believed to have violated these laws." [1998 c 203 § 1.]

Suspension of driver's license for failure to respond to notice of traffic infraction: RCW 46.20.289.

46.55.105 Responsibility of registered owner. (Effective July 1, 2011.) (1) The abandonment of any vehicle creates a prima facie presumption that the last registered owner of record is responsible for the abandonment and is liable for costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

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

(3) A vehicle theft report filed with a law enforcement agency relieves the last registered owner of liability under subsection (2) of this section for failure to redeem the vehicle. However, the last registered owner remains liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle under subsection (1) of this section. Nothing in this section limits in any way the registered owner's rights in a civil action or as restitution in a criminal action against a person responsible for the theft of the vehicle.

(4) Properly filing a report of sale or transfer regarding the vehicle involved in accordance with RCW 46.12.650 (1)

through (3) relieves the last registered owner of liability under subsections (1) and (2) of this section. If the date of sale as indicated on the report of sale is on or before the date of impoundment, the buyer identified on the latest properly filed report of sale with the department is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction. If the date of sale is after the date of impoundment, the previous registered owner is assumed to be liable for such costs. A licensed vehicle dealer is not liable under subsections (1) and (2) of this section if the dealer, as transferee or assignee of the last registered owner of the vehicle involved, has complied with the requirements of RCW 46.70.122 upon selling or otherwise disposing of the vehicle, or if the dealer has timely filed a transitional ownership record or report of sale under RCW 46.12.660. In that case the person to whom the licensed vehicle dealer has sold or transferred the vehicle is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

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

(6) A notice of infraction for a violation of this section may be filed with a court of limited jurisdiction organized under Title 3, 35, or 35A RCW, or with a violations bureau subject to the court's jurisdiction. [2010 c 161 § 1119; 2002 c 279 § 10; 1999 c 86 § 5; 1998 c 203 § 2; 1995 c 219 § 4; 1993 c 314 § 1.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Finding—1998 c 203: "The legislature finds that the license to drive a motor vehicle on the public highways is suspended or revoked in order to protect public safety following a driver's failure to comply with the laws of this state. Over six hundred persons are killed in traffic accidents in Washington annually, and more than eighty-four thousand persons are injured. It is estimated that of the three million four hundred thousand drivers' licenses issued to citizens of Washington, more than two hundred sixty thousand are suspended or revoked at any given time. Suspended drivers are more likely to be involved in causing traffic accidents, including fatal accidents, than properly licensed drivers, and pose a serious threat to the lives and property of Washington residents. Statistics show that suspended drivers are three times more likely to kill or seriously injure others in the commission of traffic felony offenses than are validly licensed drivers. In addition to not having a driver's license, most such drivers also lack required liability insurance, increasing the financial burden upon other citizens through uninsured losses and higher insurance costs for validly licensed drivers. Because of the threat posed by suspended drivers, all registered owners of motor vehicles in Washington have a duty to not allow their vehicles to be driven by a suspended driver.

Despite the existence of criminal penalties for driving with a suspended or revoked license, an estimated seventy-five percent of these drivers continue to drive anyway. Existing sanctions are not sufficient to deter or prevent persons with a suspended or revoked license from driving. It is common for suspended drivers to resume driving immediately after being stopped, cited, and released by a police officer and to continue to drive while a criminal prosecution for suspended driving is pending. More than half of all suspended drivers charged with the crime of driving while suspended or revoked fail to appear for court hearings. Vehicle impoundment will provide an immediate consequence which will increase deterrence and reduce unlawful driving by preventing a suspended driver access to that vehicle. Vehicle impoundment will also provide an appropriate measure of accountability for

registered owners who permit suspended drivers to drive their vehicles. Impoundment of vehicles driven by suspended drivers has been shown to reduce future driving while suspended or revoked offenses for up to two years afterwards, and the recidivism rate for drivers whose cars were not impounded was one hundred percent higher than for drivers whose cars were impounded. In order to adequately protect public safety and to enforce the state's driver licensing laws, it is necessary to authorize the impoundment of any vehicle when it is found to be operated by a driver with a suspended or revoked license in violation of RCW 46.20.342 and 46.20.420. The impoundment of a vehicle operated in violation of RCW 46.20.342 or 46.20.420 is intended to be a civil in rem action against the vehicle in order to remove it from the public highways and reduce the risk posed to traffic safety by a vehicle accessible to a driver who is reasonably believed to have violated these laws." [1998 c 203 § 1.]

Suspension of driver's license for failure to respond to notice of traffic infraction: RCW 46.20.289.

46.55.110 Notice to legal and registered owners. (1)

When an unauthorized vehicle is impounded, the impounding towing operator shall notify the legal and registered owners of the impoundment of the unauthorized vehicle and the owners of any other items of personal property registered or titled with the department. The notification shall be sent by first-class mail within twenty-four hours after the impoundment to the last known registered and legal owners of the vehicle, and the owners of any other items of personal property registered or titled with the department, as provided by the law enforcement agency, and shall inform the owners of the identity of the person or agency authorizing the impound. The notification shall include the name of the impounding tow firm, its address, and telephone number. The notice shall also include the location, time of the impound, and by whose authority the vehicle was impounded. The notice shall also include the written notice of the right of redemption and opportunity for a hearing to contest the validity of the impoundment pursuant to RCW 46.55.120.

(2) In addition, if a suspended license impound has been ordered, the notice must state the length of the impound, the requirement of the posting of a security deposit to ensure payment of the costs of removal, towing, and storage, notification that if the security deposit is not posted the vehicle will immediately be processed and sold at auction as an abandoned vehicle, and the requirements set out in RCW 46.55.120(1)(b) regarding the payment of the costs of removal, towing, and storage as well as providing proof of satisfaction of any penalties, fines, or forfeitures before redemption. The notice must also state that the registered owner is ineligible to purchase the vehicle at the abandoned vehicle auction, if held.

(3) In the case of an abandoned vehicle, or other item of personal property registered or titled with the department, within twenty-four hours after receiving information on the owners from the department through the abandoned vehicle report, the tow truck operator shall send by certified mail, with return receipt requested, a notice of custody and sale to the legal and registered owners and of the penalties for the traffic infraction littering—abandoned vehicle.

(4) If the date on which a notice required by subsection (3) of this section is to be mailed falls upon a Saturday, Sunday, or a postal holiday, the notice may be mailed on the next day that is neither a Saturday, Sunday, nor a postal holiday.

(5) No notices need be sent to the legal or registered owners of an impounded vehicle or other item of personal

property registered or titled with the department, if the vehicle or personal property has been redeemed. [2002 c 279 § 11; 1999 c 398 § 6; 1998 c 203 § 3; 1995 c 360 § 6; 1989 c 111 § 10; 1987 c 311 § 9; 1985 c 377 § 11.]

Finding—1998 c 203: See note following RCW 46.55.105.

46.55.113 Removal by police officer. (Effective until July 1, 2011.) (1) Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.502, 46.61.504, 46.20.342, or 46.20.345, the vehicle is subject to summary impoundment, pursuant to the terms and conditions of an applicable local ordinance or state agency rule at the direction of a law enforcement officer.

(2) In addition, a police officer may take custody of a vehicle, at his or her discretion, and provide for its prompt removal to a place of safety under any of the following circumstances:

(a) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(b) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(c) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;

(d) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;

(e) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(f) Whenever a vehicle without a special license plate, placard, or decal indicating that the vehicle is being used to transport a person with disabilities under RCW 46.16.381 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;

(g) Upon determining that a person is operating a motor vehicle without a valid and, if required, a specially endorsed driver's license or with a license that has been expired for ninety days or more;

(h) When a vehicle is illegally occupying a truck, commercial loading zone, restricted parking zone, bus, loading, hooded-meter, taxi, street construction or maintenance, or other similar zone where, by order of the director of transportation or chiefs of police or fire or their designees, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at all times, if the zone has been established with signage for at least twenty-four hours and where the vehicle is interfering with the proper and intended use of the zone. Signage must give notice to the public that a vehicle will be removed if illegally parked in the zone;

(i) When a vehicle with an expired registration of more than forty-five days is parked on a public street.

(3) When an arrest is made for a violation of RCW 46.20.342, if the vehicle is a commercial vehicle and the driver of the vehicle is not the owner of the vehicle, before

the summary impoundment directed under subsection (1) of this section, the police officer shall attempt in a reasonable and timely manner to contact the owner of the vehicle and may release the vehicle to the owner if the owner is reasonably available, as long as the owner was not in the vehicle at the time of the stop and arrest and the owner has not received a prior release under this subsection or RCW 46.55.120(1)(a)(ii).

(4) Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator. [2007 c 242 § 1; 2007 c 86 § 1; 2005 c 390 § 5. Prior: 2003 c 178 § 1; 2003 c 177 § 1; 1998 c 203 § 4; 1997 c 66 § 7; 1996 c 89 § 1; 1994 c 275 § 32; 1987 c 311 § 10. Formerly RCW 46.61.565.]

Reviser's note: This section was amended by 2007 c 86 § 1 and by 2007 c 242 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—1998 c 203: See note following RCW 46.55.105.

Additional notes found at www.leg.wa.gov

46.55.113 Removal by police officer. (Effective July 1, 2011.) (1) Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.502, 46.61.504, 46.20.342, or 46.20.345, the vehicle is subject to summary impoundment, pursuant to the terms and conditions of an applicable local ordinance or state agency rule at the direction of a law enforcement officer.

(2) In addition, a police officer may take custody of a vehicle, at his or her discretion, and provide for its prompt removal to a place of safety under any of the following circumstances:

(a) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(b) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(c) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;

(d) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;

(e) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(f) Whenever a vehicle without a special license plate, placard, or decal indicating that the vehicle is being used to transport a person with disabilities under RCW 46.19.010 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;

(g) Upon determining that a person is operating a motor vehicle without a valid and, if required, a specially endorsed driver's license or with a license that has been expired for ninety days or more;

(h) When a vehicle is illegally occupying a truck, commercial loading zone, restricted parking zone, bus, loading,

hooded-meter, taxi, street construction or maintenance, or other similar zone where, by order of the director of transportation or chiefs of police or fire or their designees, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at all times, if the zone has been established with signage for at least twenty-four hours and where the vehicle is interfering with the proper and intended use of the zone. Signage must give notice to the public that a vehicle will be removed if illegally parked in the zone;

(i) When a vehicle with an expired registration of more than forty-five days is parked on a public street.

(3) When an arrest is made for a violation of RCW 46.20.342, if the vehicle is a commercial vehicle and the driver of the vehicle is not the owner of the vehicle, before the summary impoundment directed under subsection (1) of this section, the police officer shall attempt in a reasonable and timely manner to contact the owner of the vehicle and may release the vehicle to the owner if the owner is reasonably available, as long as the owner was not in the vehicle at the time of the stop and arrest and the owner has not received a prior release under this subsection or RCW 46.55.120(1)(a)(ii).

(4) Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator. [2010 c 161 § 1120. Prior: 2007 c 242 § 1; 2007 c 86 § 1; 2005 c 390 § 5; prior: 2003 c 178 § 1; 2003 c 177 § 1; 1998 c 203 § 4; 1997 c 66 § 7; 1996 c 89 § 1; 1994 c 275 § 32; 1987 c 311 § 10. Formerly RCW 46.61.565.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Finding—1998 c 203: See note following RCW 46.55.105.

Intent—1984 c 154: "The legislature intends to extend special parking privileges to persons with disabilities that substantially impair mobility." [1984 c 154 § 1.]

Additional notes found at www.leg.wa.gov

46.55.115 State patrol—Appointment of towing operators—Lien for costs—Appeal. The Washington state patrol, under its authority to remove vehicles from the highway, may remove the vehicles directly, through towing operators appointed by the state patrol and called on a rotational or other basis, through contracts with towing operators, or by a combination of these methods. When removal is to be accomplished through a towing operator on a noncontractual basis, the state patrol may appoint any towing operator for this purpose upon the application of the operator. Each appointment shall be contingent upon the submission of an application to the state patrol and the making of subsequent reports in such form and frequency and compliance with such standards of equipment, performance, pricing, and practices as may be required by rule of the state patrol.

An appointment may be rescinded by the state patrol upon evidence that the appointed towing operator is not complying with the laws or rules relating to the removal and storage of vehicles from the highway. The state patrol may not rescind an appointment merely because a registered tow truck operator negotiates a different rate for voluntary, owner-

requested towing than for involuntary towing under this chapter. The costs of removal and storage of vehicles under this section shall be paid by the owner or driver of the vehicle and shall be a lien upon the vehicle until paid, unless the removal is determined to be invalid.

Rules promulgated under this section shall be binding only upon those towing operators appointed by the state patrol for the purpose of performing towing services at the request of the Washington state patrol. Any person aggrieved by a decision of the state patrol made under this section may appeal the decision under chapter 34.05 RCW. [1993 c 121 § 2; 1987 c 330 § 744; 1979 ex.s. c 178 § 22; 1977 ex.s. c 167 § 5. Formerly RCW 46.61.567.]

Additional notes found at www.leg.wa.gov

46.55.117 Impounds under RCW 64.44.050. An impound under RCW 64.44.050 shall not be considered an impound under this chapter. A tow operator who contracts with a law enforcement agency for transporting a vehicle impounded under RCW 64.44.050 shall only remove the vehicle to a secure public facility, and is not required to store or dispose of the vehicle. The vehicle shall remain in the care, custody, and control of the law enforcement agency to be demolished, disposed of, or decontaminated as provided under RCW 64.44.050. The law enforcement agency shall pay for all costs incurred as a result of the towing if the vehicle owner does not pay within thirty days. The law enforcement agency may seek reimbursement from the owner. [2008 c 201 § 3.]

REDEMPTION RIGHTS AND HEARING PROCEDURES

46.55.120 Redemption of vehicles—Sale of unredemmed property—Improper impoundment. (1) Vehicles or other items of personal property registered or titled with the department that are impounded by registered tow truck operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or 9A.88.140 may be redeemed only under the following circumstances:

(a) Only the legal owner, the registered owner, a person authorized in writing by the registered owner or the vehicle's insurer, a person who is determined and verified by the operator to have the permission of the registered owner of the vehicle or other item of personal property registered or titled with the department, or one who has purchased a vehicle or item of personal property registered or titled with the department from the registered owner who produces proof of ownership or written authorization and signs a receipt therefor, may redeem an impounded vehicle or items of personal property registered or titled with the department. In addition, a vehicle impounded because the operator is in violation of RCW 46.20.342(1)(c) shall not be released until a person eligible to redeem it under this subsection (1)(a) satisfies the requirements of (e) of this subsection, including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency. If the department's records show that the operator has been convicted of a violation of RCW 46.20.342 or a similar local ordinance within the past five years, the vehicle may be held for up to thirty days at the written direction of the agency

ordering the vehicle impounded. A vehicle impounded because the operator is arrested for a violation of RCW 46.20.342 may be released only pursuant to a written order from the agency that ordered the vehicle impounded or from the court having jurisdiction. An agency shall issue a written order to release pursuant to a provision of an applicable state agency rule or local ordinance authorizing release on the basis of the following:

(i) Economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record; or

(ii) The owner of the vehicle was not the driver, the owner did not know that the driver's license was suspended or revoked, and the owner has not received a prior release under this subsection or RCW 46.55.113(3).

In order to avoid discriminatory application, other than for the reasons for release set forth in (a)(i) and (ii) of this subsection, an agency shall, under a provision of an applicable state agency rule or local ordinance, deny release in all other circumstances without discretion.

If a vehicle is impounded because the operator is in violation of RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty days at the written direction of the agency ordering the vehicle impounded. However, if the department's records show that the operator has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a similar local ordinance within the past five years, the vehicle may be held at the written direction of the agency ordering the vehicle impounded for up to sixty days, and for up to ninety days if the operator has two or more such prior offenses. If a vehicle is impounded because the operator is arrested for a violation of RCW 46.20.342, the vehicle may not be released until a person eligible to redeem it under this subsection (1)(a) satisfies the requirements of (e) of this subsection, including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency.

(b) If the vehicle is directed to be held for a suspended license impound, a person who desires to redeem the vehicle at the end of the period of impound shall within five days of the impound at the request of the tow truck operator pay a security deposit to the tow truck operator of not more than one-half of the applicable impound storage rate for each day of the proposed suspended license impound. The tow truck operator shall credit this amount against the final bill for removal, towing, and storage upon redemption. The tow truck operator may accept other sufficient security in lieu of the security deposit. If the person desiring to redeem the vehicle does not pay the security deposit or provide other security acceptable to the tow truck operator, the tow truck operator may process and sell at auction the vehicle as an abandoned vehicle within the normal time limits set out in RCW 46.55.130(1). The security deposit required by this section may be paid and must be accepted at any time up to twenty-four hours before the beginning of the auction to sell the vehicle as abandoned. The registered owner is not eligible to purchase the vehicle at the auction, and the tow truck operator shall sell the vehicle to the highest bidder who is not the registered owner.

(c) Notwithstanding (b) of this subsection, a rental car business may immediately redeem a rental vehicle it owns by

payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for a suspended license impound.

(d) Notwithstanding (b) of this subsection, a motor vehicle dealer or lender with a perfected security interest in the vehicle may redeem or lawfully repossess a vehicle immediately by payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for a suspended license impound. A motor vehicle dealer or lender with a perfected security interest in the vehicle may not knowingly and intentionally engage in collusion with a registered owner to repossess and then return or resell a vehicle to the registered owner in an attempt to avoid a suspended license impound. However, this provision does not preclude a vehicle dealer or a lender with a perfected security interest in the vehicle from repossessing the vehicle and then selling, leasing, or otherwise disposing of it in accordance with chapter 62A.9A RCW, including providing redemption rights to the debtor under RCW 62A.9A-623. If the debtor is the registered owner of the vehicle, the debtor's right to redeem the vehicle under chapter 62A.9A RCW is conditioned upon the debtor obtaining and providing proof from the impounding authority or court having jurisdiction that any fines, penalties, and forfeitures owed by the registered owner, as a result of the suspended license impound, have been paid, and proof of the payment must be tendered to the vehicle dealer or lender at the time the debtor tenders all other obligations required to redeem the vehicle. Vehicle dealers or lenders are not liable for damages if they rely in good faith on an order from the impounding agency or a court in releasing a vehicle held under a suspended license impound.

(e) The vehicle or other item of personal property registered or titled with the department shall be released upon the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such vehicle, with credit being given for the amount of any security deposit paid under (b) of this subsection. In addition, if a vehicle is impounded because the operator was arrested for a violation of RCW 46.20.342 or 46.20.345 and was being operated by the registered owner when it was impounded under local ordinance or agency rule, it must not be released to any person until the registered owner establishes with the agency that ordered the vehicle impounded or the court having jurisdiction that any penalties, fines, or forfeitures owed by him or her have been satisfied. Registered tow truck operators are not liable for damages if they rely in good faith on an order from the impounding agency or a court in releasing a vehicle held under a suspended license impound. Commercially reasonable tender shall include, without limitation, cash, major bank credit cards issued by financial institutions, or personal checks drawn on Washington state branches of financial institutions if accompanied by two pieces of valid identification, one of which may be required by the operator to have a photograph. If the towing firm cannot determine through the customer's bank or a check verification service that the presented check would be paid by the bank or guaranteed by the service, the towing firm may refuse to accept the check. Any person who stops payment on a personal check or credit card, or does not make restitution within ten

days from the date a check becomes insufficient due to lack of funds, to a towing firm that has provided a service pursuant to this section or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees.

(2)(a) The registered tow truck operator shall give to each person who seeks to redeem an impounded vehicle, or item of personal property registered or titled with the department, written notice of the right of redemption and opportunity for a hearing, which notice shall be accompanied by a form to be used for requesting a hearing, the name of the person or agency authorizing the impound, and a copy of the towing and storage invoice. The registered tow truck operator shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

(b) Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in the district or municipal court for the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. The district court has jurisdiction to determine the issues involving all impoundments including those authorized by the state or its agents. The municipal court has jurisdiction to determine the issues involving impoundments authorized by agents of the municipality. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the appropriate court within ten days of the date the opportunity was provided for in subsection (2)(a) of this section and more than five days before the date of the auction. At the time of the filing of the hearing request, the petitioner shall pay to the court clerk a filing fee in the same amount required for the filing of a suit in district court. If the hearing request is not received by the court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the court shall proceed to hear and determine the validity of the impoundment.

(3)(a) The court, within five days after the request for a hearing, shall notify the registered tow truck operator, the person requesting the hearing if not the owner, the registered and legal owners of the vehicle or other item of personal property registered or titled with the department, and the person or agency authorizing the impound in writing of the hearing date and time.

(b) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper. The court may consider a written report made under oath by the officer who authorized the impoundment in lieu of the officer's personal appearance at the hearing.

(c) At the conclusion of the hearing, the court shall determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the posted rates, and who is responsible for payment of the fees. The court may not adjust fees or charges that are in compliance with the posted or contracted rates.

(d) If the impoundment is found proper, the impoundment, towing, and storage fees as permitted under this chap-

ter together with court costs shall be assessed against the person or persons requesting the hearing, unless the operator did not have a signed and valid impoundment authorization from a private property owner or an authorized agent.

(e) If the impoundment is determined to be in violation of this chapter, then the registered and legal owners of the vehicle or other item of personal property registered or titled with the department shall bear no impoundment, towing, or storage fees, and any security shall be returned or discharged as appropriate, and the person or agency who authorized the impoundment shall be liable for any towing, storage, or other impoundment fees permitted under this chapter. The court shall enter judgment in favor of the registered tow truck operator against the person or agency authorizing the impound for the impoundment, towing, and storage fees paid. In addition, the court shall enter judgment in favor of the registered and legal owners of the vehicle, or other item of personal property registered or titled with the department, for the amount of the filing fee required by law for the impound hearing petition as well as reasonable damages for loss of the use of the vehicle during the time the same was impounded against the person or agency authorizing the impound. However, if an impoundment arising from an alleged violation of RCW 46.20.342 or 46.20.345 is determined to be in violation of this chapter, then the law enforcement officer directing the impoundment and the government employing the officer are not liable for damages if the officer relied in good faith and without gross negligence on the records of the department in ascertaining that the operator of the vehicle had a suspended or revoked driver's license. If any judgment entered is not paid within fifteen days of notice in writing of its entry, the court shall award reasonable attorneys' fees and costs against the defendant in any action to enforce the judgment. Notice of entry of judgment may be made by registered or certified mail, and proof of mailing may be made by affidavit of the party mailing the notice. Notice of the entry of the judgment shall read essentially as follows:

TO:
 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the Court located at in the sum of \$., in an action entitled, Case No. YOU ARE FURTHER NOTIFIED that attorneys fees and costs will be awarded against you under RCW . . . if the judgment is not paid within 15 days of the date of this notice.
 DATED this day of, (year)
 Signature
 Typed name and address
 of party mailing notice

(4) Any impounded abandoned vehicle or item of personal property registered or titled with the department that is not redeemed within fifteen days of mailing of the notice of custody and sale as required by RCW 46.55.110(3) shall be sold at public auction in accordance with all the provisions and subject to all the conditions of RCW 46.55.130. A vehicle or item of personal property registered or titled with the department may be redeemed at any time before the start of the auction upon payment of the applicable towing and storage fees. [2009 c 387 § 3; 2004 c 250 § 1; 2003 c 177 § 2; 2000 c 193 § 1. Prior: 1999 c 398 § 7; 1999 c 327 § 5; 1998

c 203 § 5; 1996 c 89 § 2; 1995 c 360 § 7; 1993 c 121 § 3; 1989 c 111 § 11; 1987 c 311 § 12; 1985 c 377 § 12.]

Findings—Intent—1999 c 327: See note following RCW 9A.88.130.

Finding—1998 c 203: See note following RCW 46.55.105.

46.55.130 Notice requirements—Public auction—Accumulation of storage charges. (1) If, after the expiration of fifteen days from the date of mailing of notice of custody and sale required in RCW 46.55.110(3) to the registered and legal owners, the vehicle remains unclaimed and has not been listed as a stolen vehicle, or a suspended license impound has been directed, but no security paid under RCW 46.55.120, then the registered tow truck operator having custody of the vehicle shall conduct a sale of the vehicle at public auction after having first published a notice of the date, place, and time of the auction, and a method to contact the tow truck operator conducting the auction such as a telephone number, electronic mail address, or web site, in a newspaper of general circulation in the county in which the vehicle is located not less than three days and no more than ten days before the date of the auction. For the purposes of this section, a newspaper of general circulation may be a commercial, widely circulated, free, classified advertisement circular not affiliated with the registered tow truck operator and the notice may be listed in a classification delineating "auctions" or similar language designed to attract potential bidders to the auction. The notice shall contain a notification that a public viewing period will be available before the auction and the length of the viewing period. The auction shall be held during daylight hours of a normal business day. The viewing period must be one hour if twenty-five or fewer vehicles are to be auctioned, two hours if more than twenty-five and fewer than fifty vehicles are to be auctioned, and three hours if fifty or more vehicles are to be auctioned.

(2) The following procedures are required in any public auction of such abandoned vehicles:

(a) The auction shall be held in such a manner that all persons present are given an equal time and opportunity to bid;

(b) All bidders must be present at the time of auction unless they have submitted to the registered tow truck operator, who may or may not choose to use the preauction bid method, a written bid on a specific vehicle. Written bids may be submitted up to five days before the auction and shall clearly state which vehicle is being bid upon, the amount of the bid, and who is submitting the bid;

(c) The open bid process, including all written bids, shall be used so that everyone knows the dollar value that must be exceeded;

(d) The highest two bids received shall be recorded in written form and shall include the name, address, and telephone number of each such bidder;

(e) In case the high bidder defaults, the next bidder has the right to purchase the vehicle for the amount of his or her bid;

(f) The successful bidder shall apply for title within fifteen days;

(g) The registered tow truck operator shall post a copy of the auction procedure at the bidding site. If the bidding site is different from the licensed office location, the operator shall

post a clearly visible sign at the office location that describes in detail where the auction will be held. At the bidding site a copy of the newspaper advertisement that lists the vehicles for sale shall be posted;

(h) All surplus moneys derived from the auction after satisfaction of the registered tow truck operator's lien shall be remitted within thirty days to the department for deposit in the state motor vehicle fund. A report identifying the vehicles resulting in any surplus shall accompany the remitted funds. If the director subsequently receives a valid claim from the registered vehicle owner of record as determined by the department within one year from the date of the auction, the surplus moneys shall be remitted to such owner;

(i) If an operator receives no bid, or if the operator is the successful bidder at auction, the operator shall, within forty-five days, sell the vehicle to a licensed vehicle wrecker, hulk hauler, or scrap processor by use of the abandoned vehicle report-affidavit of sale, or the operator shall apply for title to the vehicle.

(3) A tow truck operator may refuse to accept a bid at an abandoned vehicle auction under this section for any reason in the operator's posted operating procedures and for any of the following reasons: (a) The bidder is currently indebted to the operator; (b) the operator has knowledge that the bidder has previously abandoned vehicles purchased at auction; or (c) the bidder has purchased, at auction, more than four vehicles in the last calendar year without obtaining title to any or all of the vehicles. In no case may an operator hold a vehicle for longer than ninety days without holding an auction on the vehicle, except for vehicles that are under a police or judicial hold.

(4)(a) In no case may the accumulation of storage charges exceed fifteen days from the date of receipt of the information by the operator from the department as provided by RCW 46.55.110(3).

(b) The failure of the registered tow truck operator to comply with the time limits provided in this chapter limits the accumulation of storage charges to five days except where delay is unavoidable. Providing incorrect or incomplete identifying information to the department in the abandoned vehicle report shall be considered a failure to comply with these time limits if correct information is available. However, storage charges begin to accrue again on the date the correct and complete information is provided to the department by the registered tow truck operator. [2006 c 28 § 1; 2002 c 279 § 12; 2000 c 193 § 2; 1998 c 203 § 6; 1989 c 111 § 12; 1987 c 311 § 13; 1985 c 377 § 13.]

Finding—1998 c 203: See note following RCW 46.55.105.

46.55.140 Operator's lien, deficiency claim, liability. (Effective until July 1, 2011.) (1) A registered tow truck operator who has a valid and signed impoundment authorization has a lien upon the impounded vehicle for services provided in the towing and storage of the vehicle, unless the impoundment is determined to have been invalid. The lien does not apply to personal property in or upon the vehicle that is not permanently attached to or is not an integral part of the vehicle except for items of personal property registered or titled with the department. The registered tow truck operator also has a deficiency claim against the registered owner of the

vehicle for services provided in the towing and storage of the vehicle not to exceed the sum of five hundred dollars after deduction of the amount bid at auction, and for vehicles of over ten thousand pounds gross vehicle weight, the operator has a deficiency claim of one thousand dollars after deduction of the amount bid at auction, unless the impound is determined to be invalid. The limitation on towing and storage deficiency claims does not apply to an impound directed by a law enforcement officer. In no case may the cost of the auction or a buyer's fee be added to the amount charged for the vehicle at the auction, the vehicle's lien, or the overage due. A registered owner who has completed and filed with the department the seller's report as provided for by RCW 46.12.101 and has timely and properly filed the seller's report is relieved of liability under this section. The person named as the new owner of the vehicle on the timely and properly filed seller's report shall assume liability under this section.

(2) Any person who tows, removes, or otherwise disturbs any vehicle parked, stalled, or otherwise left on privately owned or controlled property, and any person owning or controlling the private property, or either of them, are liable to the owner or operator of a vehicle, or each of them, for consequential and incidental damages arising from any interference with the ownership or use of the vehicle which does not comply with the requirements of this chapter. [1995 c 360 § 8; 1992 c 200 § 1; 1991 c 20 § 2; 1989 c 111 § 13; 1987 c 311 § 14; 1985 c 377 § 14.]

46.55.140 Operator's lien, deficiency claim, liability. (Effective July 1, 2011.) (1) A registered tow truck operator who has a valid and signed impoundment authorization has a lien upon the impounded vehicle for services provided in the towing and storage of the vehicle, unless the impoundment is determined to have been invalid. The lien does not apply to personal property in or upon the vehicle that is not permanently attached to or is not an integral part of the vehicle except for items of personal property registered or titled with the department. The registered tow truck operator also has a deficiency claim against the registered owner of the vehicle for services provided in the towing and storage of the vehicle not to exceed the sum of five hundred dollars after deduction of the amount bid at auction, and for vehicles of over ten thousand pounds gross vehicle weight, the operator has a deficiency claim of one thousand dollars after deduction of the amount bid at auction, unless the impound is determined to be invalid. The limitation on towing and storage deficiency claims does not apply to an impound directed by a law enforcement officer. In no case may the cost of the auction or a buyer's fee be added to the amount charged for the vehicle at the auction, the vehicle's lien, or the overage due. A registered owner who has completed and filed with the department the report of sale as provided for in RCW 46.12.650 and has timely and properly filed the report of sale is relieved of liability under this section. The person named as the new owner of the vehicle on the timely and properly filed report of sale shall assume liability under this section.

(2) Any person who tows, removes, or otherwise disturbs any vehicle parked, stalled, or otherwise left on privately owned or controlled property, and any person owning or controlling the private property, or either of them, are liable to the owner or operator of a vehicle, or each of them, for con-

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sequential and incidental damages arising from any interference with the ownership or use of the vehicle which does not comply with the requirements of this chapter. [2010 c 161 § 1121; 1995 c 360 § 8; 1992 c 200 § 1; 1991 c 20 § 2; 1989 c 111 § 13; 1987 c 311 § 14; 1985 c 377 § 14.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

RECORDS, INSPECTIONS, AND ENFORCEMENT

46.55.150 Vehicle transaction file. The registered tow truck operator shall keep a transaction file on each vehicle. The transaction file shall contain as a minimum those of the following items that are required at the time the vehicle is redeemed or becomes abandoned and is sold at a public auction:

(1) A signed impoundment authorization as required by RCW 46.55.080;

(2) A record of the twenty-four hour written impound notice to a law enforcement agency;

(3) A copy of the impoundment notification to registered and legal owners, sent within twenty-four hours of impoundment, that advises the owners of the address of the impounding firm, a twenty-four hour telephone number, and the name of the person or agency under whose authority the vehicle was impounded;

(4) A copy of the abandoned vehicle report that was sent to and returned by the department;

(5) A copy and proof of mailing of the notice of custody and sale sent by the registered tow truck operator to the owners advising them they have fifteen days to redeem the vehicle before it is sold at public auction;

(6) A copy of the published notice of public auction;

(7) A copy of the affidavit of sale showing the sales date, purchaser, amount of the lien, and sale price;

(8) A record of the two highest bid offers on the vehicle, with the names, addresses, and telephone numbers of the two bidders;

(9) A copy of the notice of opportunity for hearing given to those who redeem vehicles;

(10) An itemized invoice of charges against the vehicle.

The transaction file shall be kept for a minimum of three years. [1989 c 111 § 14; 1987 c 311 § 15; 1985 c 377 § 15.]

46.55.160 Availability of records, equipment, and facilities for audit and inspection. Records, equipment, and facilities of a registered tow truck operator shall be available during normal business hours for audit or inspection by the department of licensing, the Washington state patrol, or any law enforcement agency having jurisdiction. [1985 c 377 § 16.]

46.55.170 Complaints, where forwarded. (1) All law enforcement agencies or local licensing agencies that receive complaints involving registered tow truck operators shall forward the complaints, along with any supporting documents including all results from local investigations, to the department.

(2) Complaints involving deficiencies of equipment shall be forwarded by the department to the state patrol. [1987 c 330 § 741; 1985 c 377 § 17.]

Additional notes found at www.leg.wa.gov

46.55.180 Presiding officer at licensing hearing. The director or the chief of the state patrol may use a hearing officer or administrative law judge for presiding over a hearing regarding licensing provisions under this chapter or rules adopted under it. [1989 c 111 § 15; 1987 c 330 § 742; 1985 c 377 § 18.]

Additional notes found at www.leg.wa.gov

46.55.190 Rules. The director, in cooperation with the chief of the Washington state patrol, shall adopt rules that carry out the provisions and intent of this chapter. [1985 c 377 § 19.]

46.55.200 Penalties for certain acts or omissions. A registered tow truck operator's license may be denied, suspended, or revoked, or the licensee may be ordered to pay a monetary penalty of a civil nature, not to exceed one thousand dollars per violation, or the licensee may be subjected to any combination of license and monetary penalty, whenever the director has reason to believe the licensee has committed, or is at the time committing, a violation of this chapter or rules adopted under it or any other statute or rule relating to the title or disposition of vehicles or vehicle hulks, including but not limited to:

(1) Towing any abandoned vehicle without first obtaining and having in the operator's possession at all times while transporting it, appropriate evidence of ownership or an impound authorization properly executed by the private person or public official having control over the property on which the unauthorized vehicle was found;

(2) Forging the signature of the registered or legal owner on a certificate of title, or forging the signature of any authorized person on documents pertaining to unauthorized or abandoned vehicles or automobile hulks;

(3) Failing to comply with the statutes and rules relating to the processing and sale of abandoned vehicles;

(4) Failing to accept bids on any abandoned vehicle offered at public sale;

(5) Failing to transmit to the state surplus funds derived from the sale of an abandoned vehicle;

(6) Selling, disposing of, or having in his or her possession, without notifying law enforcement officials, a vehicle that he or she knows or has reason to know has been stolen or illegally appropriated without the consent of the owner;

(7) Failing to comply with the statutes and rules relating to the transfer of ownership of vehicles or other procedures after public sale; or

(8) Failing to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after the assessment becomes final.

All orders by the director made under this chapter are subject to the Administrative Procedure Act, chapter 34.05 RCW. [2010 c 8 § 9063; 1989 c 111 § 16; 1985 c 377 § 20.]

46.55.210 Cease and desist order. Whenever it appears to the director that any registered tow truck operator or a person offering towing services has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule adopted hereunder, the director may issue an order directing the operator or person to cease and desist from continuing the act or practice. Reasonable notice of and opportunity for a hearing shall be given. The director may issue a temporary order pending a hearing. The temporary order shall remain in effect until ten days after the hearing is held and shall become final if the person to whom notice is addressed does not request a hearing within fifteen days after the receipt of notice. [1987 c 311 § 17; 1985 c 377 § 21.]

46.55.220 Refusal to issue license, grounds for. If an application for a license to conduct business as a registered tow truck operator is filed by any person whose license has previously been canceled for cause by the department, or if the department is of the opinion that the application is not filed in good faith or that the application is filed by some person as a subterfuge for the real person in interest whose license has previously been canceled for cause, the department, after a hearing, of which the applicant has been given twenty days' notice in writing and at which the applicant may appear in person or by counsel and present testimony, may refuse to issue such a person a license to conduct business as a registered tow truck operator. [1987 c 311 § 18; 1985 c 377 § 22.]

JUNK VEHICLE DISPOSITION

46.55.230 Junk vehicles—Removal, disposal, sale—Penalties—Cleanup restitution payment. (1)(a) Notwithstanding any other provision of law, any law enforcement officer having jurisdiction, or any employee or officer of a jurisdictional health department acting pursuant to RCW 70.95.240, or any person authorized by the director shall inspect and may authorize the disposal of an abandoned junk vehicle. The person making the inspection shall record the make and vehicle identification number or license number of the vehicle if available, and shall also verify that the approximate value of the junk vehicle is equivalent only to the approximate value of the parts.

(b) A tow truck operator may authorize the disposal of an abandoned junk vehicle if the vehicle has been abandoned two or more times, the registered ownership information has not changed since the first abandonment, and the registered owner is also the legal owner.

(2) The law enforcement officer or department representative shall provide information on the vehicle's registered and legal owner to the landowner.

(3) Upon receiving information on the vehicle's registered and legal owner, the landowner shall mail a notice to the registered and legal owners shown on the records of the department. The notification shall describe the redemption procedure and the right to arrange for the removal of the vehicle.

(4) If the vehicle remains unclaimed more than fifteen days after the landowner has mailed notification to the registered and legal owner, the landowner may dispose of the

vehicle or sign an affidavit of sale to be used as a title document.

(5) If no information on the vehicle's registered and legal owner is found in the records of the department, the landowner may immediately dispose of the vehicle or sign an affidavit of sale to be used as a title document.

(6) It is a gross misdemeanor for a person to abandon a junk vehicle on property. If a junk vehicle is abandoned, the vehicle's registered owner shall also pay a cleanup restitution payment equal to twice the costs incurred in the removal of the junk vehicle. The court shall distribute one-half of the restitution payment to the landowner of the property upon which the junk vehicle is located, and one-half of the restitution payment to the law enforcement agency or jurisdictional health department investigating the incident.

(7) For the purposes of this section, the term "landowner" includes a legal owner of private property, a person with possession or control of private property, or a public official having jurisdiction over public property.

(8) A person complying in good faith with the requirements of this section is immune from any liability arising out of an action taken or omission made in the compliance. [2002 c 279 § 13; 2001 c 139 § 3; 2000 c 154 § 4; 1991 c 292 § 2; 1987 c 311 § 19; 1985 c 377 § 23.]

Severability—2000 c 154: See note following RCW 70.93.030.

LOCAL REGULATION

46.55.240 Local ordinances—Requirements. (Effective until July 1, 2011.) (1) A city, town, or county that adopts an ordinance or resolution concerning unauthorized, abandoned, or impounded vehicles shall include the applicable provisions of this chapter.

(a) A city, town, or county may, by ordinance, authorize other impound situations that may arise locally upon the public right-of-way or other publicly owned or controlled property.

(b) A city, town, or county ordinance shall contain language that establishes a written form of authorization to impound, which may include a law enforcement notice of infraction or citation, clearly denoting the agency's authorization to impound.

(c) A city, town, or county may, by ordinance, provide for release of an impounded vehicle by means of a promissory note in lieu of immediate payment, if at the time of redemption the legal or registered owner requests a hearing on the validity of the impoundment. If the municipal ordinance directs the release of an impounded vehicle before the payment of the impoundment charges, the municipality is responsible for the payment of those charges to the registered tow truck operator within thirty days of the hearing date.

(d) The hearing specified in RCW 46.55.120(2) and in this section may be conducted by an administrative hearing officer instead of in the district court. A decision made by an administrative hearing officer may be appealed to the district court for final judgment.

(2) A city, town, or county may adopt an ordinance establishing procedures for the abatement and removal as public nuisances of junk vehicles or parts thereof from private property. Costs of removal may be assessed against the registered owner of the vehicle if the identity of the owner

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can be determined, unless the owner in the transfer of ownership of the vehicle has complied with *RCW 46.12.101, or the costs may be assessed against the owner of the property on which the vehicle is stored. A city, town, or county may also provide for the payment to the tow truck operator or wrecker as a part of a neighborhood revitalization program.

(3) Ordinances pertaining to public nuisances shall contain:

(a) A provision requiring notice to the last registered owner of record and the property owner of record that a hearing may be requested and that if no hearing is requested, the vehicle will be removed;

(b) A provision requiring that if a request for a hearing is received, a notice giving the time, location, and date of the hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership;

(c) A provision that the ordinance shall not apply to (i) a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property or (ii) a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130;

(d) A provision that the owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his or her reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he or she has not subsequently acquiesced in its presence, then the local agency shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner;

(e) A provision that after notice has been given of the intent of the city, town, or county to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or part thereof shall be removed at the request of a law enforcement officer with notice to the Washington state patrol and the department of licensing that the vehicle has been wrecked. The city, town, or county may operate such a disposal site when its governing body determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of such vehicles or parts, or may transfer such vehicle or parts to another governmental body provided such disposal shall be only as scrap.

(4) A registered disposer under contract to a city or county for the impounding of vehicles shall comply with any administrative regulations adopted by the city or county on the handling and disposing of vehicles. [2010 c 8 § 9064; 1994 c 176 § 2; 1991 c 292 § 3; 1989 c 111 § 17; 1987 c 311 § 20; 1985 c 377 § 24.]

*Reviser's note: RCW 46.12.101 was recodified as RCW 46.12.650 pursuant to 2010 c 161 § 1211, effective July 1, 2011.

46.55.240 Local ordinances—Requirements. (*Effective July 1, 2011.*) (1) A city, town, or county that adopts an ordinance or resolution concerning unauthorized, abandoned, or impounded vehicles shall include the applicable provisions of this chapter.

(a) A city, town, or county may, by ordinance, authorize other impound situations that may arise locally upon the public right-of-way or other publicly owned or controlled property.

(b) A city, town, or county ordinance shall contain language that establishes a written form of authorization to impound, which may include a law enforcement notice of infraction or citation, clearly denoting the agency's authorization to impound.

(c) A city, town, or county may, by ordinance, provide for release of an impounded vehicle by means of a promissory note in lieu of immediate payment, if at the time of redemption the legal or registered owner requests a hearing on the validity of the impoundment. If the municipal ordinance directs the release of an impounded vehicle before the payment of the impoundment charges, the municipality is responsible for the payment of those charges to the registered tow truck operator within thirty days of the hearing date.

(d) The hearing specified in RCW 46.55.120(2) and in this section may be conducted by an administrative hearings officer instead of in the district court. A decision made by an administrative hearing officer may be appealed to the district court for final judgment.

(2) A city, town, or county may adopt an ordinance establishing procedures for the abatement and removal as public nuisances of junk vehicles or parts thereof from private property. Costs of removal may be assessed against the registered owner of the vehicle if the identity of the owner can be determined, unless the owner in the transfer of ownership of the vehicle has complied with RCW 46.12.650, or the costs may be assessed against the owner of the property on which the vehicle is stored. A city, town, or county may also provide for the payment to the tow truck operator or wrecker as a part of a neighborhood revitalization program.

(3) Ordinances pertaining to public nuisances shall contain:

(a) A provision requiring notice to the last registered owner of record and the property owner of record that a hearing may be requested and that if no hearing is requested, the vehicle will be removed;

(b) A provision requiring that if a request for a hearing is received, a notice giving the time, location, and date of the hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership;

(c) A provision that the ordinance shall not apply to (i) a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property or (ii) a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed

dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130;

(d) A provision that the owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his or her reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he or she has not subsequently acquiesced in its presence, then the local agency shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner;

(e) A provision that after notice has been given of the intent of the city, town, or county to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or part thereof shall be removed at the request of a law enforcement officer with notice to the Washington state patrol and the department of licensing that the vehicle has been wrecked. The city, town, or county may operate such a disposal site when its governing body determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of such vehicles or parts, or may transfer such vehicle or parts to another governmental body provided such disposal shall be only as scrap.

(4) A registered disposer under contract to a city or county for the impounding of vehicles shall comply with any administrative regulations adopted by the city or county on the handling and disposing of vehicles. [2010 c 161 § 1122; 2010 c 8 § 9064; 1994 c 176 § 2; 1991 c 292 § 3; 1989 c 111 § 17; 1987 c 311 § 20; 1985 c 377 § 24.]

Reviser's note: This section was amended by 2010 c 8 § 9064 and by 2010 c 161 § 1122, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

VEHICLE IMMOBILIZATION

46.55.300 Vehicle immobilization. (1) A property owner shall not immobilize any vehicle owned by a person other than the property owner.

(2) This section does not apply to property owned by the state or any unit of local government.

(3) A violation of this section is a gross misdemeanor. [2005 c 88 § 1.]

MISCELLANEOUS

46.55.900 Severability—1985 c 377. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 377 § 26.]

46.55.901 Headings not part of law—1985 c 377. Headings and captions used in this act are not any part of the law. [1985 c 377 § 27.]

46.55.902 Effective date—1985 c 377. This act shall take effect on January 1, 1986. [1985 c 377 § 31.]

46.55.910 Chapter not applicable to certain activities of department of transportation. This chapter does not apply to the state department of transportation to the extent that it may remove vehicles that are traffic hazards from bridges and the mountain passes without prior authorization. If such a vehicle is removed, the department shall immediately notify the appropriate local law enforcement agency, and the vehicle shall be processed in accordance with RCW 46.55.110. [1989 c 111 § 18.]

**Chapter 46.61 RCW
RULES OF THE ROAD**

Sections

OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

- 46.61.005 Chapter refers to vehicles upon highways—Exceptions.
- 46.61.015 Obedience to police officers, flaggers, or firefighters—Penalty.
- 46.61.020 Refusal to give information to or cooperate with officer—Penalty.
- 46.61.021 Duty to obey law enforcement officer—Authority of officer.
- 46.61.022 Failure to obey officer—Penalty.
- 46.61.024 Attempting to elude police vehicle—Defense—License revocation.
- 46.61.025 Persons riding animals or driving animal-drawn vehicles.
- 46.61.030 Persons working on highway right-of-way—Exceptions.
- 46.61.035 Authorized emergency vehicles.

TRAFFIC SIGNS, SIGNALS, AND MARKINGS

- 46.61.050 Obedience to and required traffic control devices.
- 46.61.055 Traffic control signal legend.
- 46.61.060 Pedestrian control signals.
- 46.61.065 Flashing signals.
- 46.61.070 Lane-direction-control signals.
- 46.61.072 Special traffic control signals—Legend.
- 46.61.075 Display of unauthorized signs, signals, or markings.
- 46.61.080 Interference with official traffic-control devices or railroad signs or signals.
- 46.61.085 Traffic control signals or devices upon city streets forming part of state highways—Approval by department of transportation.

DRIVING ON RIGHT SIDE OF ROADWAY—
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OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

46.61.005 Chapter refers to vehicles upon highways—Exceptions. The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

(1) Where a different place is specifically referred to in a given section.

(2) The provisions of RCW 46.52.010 through 46.52.090, 46.61.500 through 46.61.525, and 46.61.5249 shall apply upon highways and elsewhere throughout the state. [1997 c 66 § 13; 1990 c 291 § 4; 1965 ex.s. c 155 § 1.]

46.61.015 Obedience to police officers, flaggers, or firefighters—Penalty. (1) No person shall willfully fail or refuse to comply with any lawful order or direction of any duly authorized flagger or any police officer or firefighter invested by law with authority to direct, control, or regulate traffic.

(2) A violation of this section is a misdemeanor. [2003 c 53 § 244; 2000 c 239 § 4; 1995 c 50 § 1; 1975 c 62 § 17; 1965 ex.s. c 155 § 3.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Captions not law—2000 c 239: See note following RCW 49.17.350.

Additional notes found at www.leg.wa.gov

46.61.020 Refusal to give information to or cooperate with officer—Penalty. (1) It is unlawful for any person while operating or in charge of any vehicle to refuse when requested by a police officer to give his or her name and address and the name and address of the owner of such vehicle, or for such person to give a false name and address, and it is likewise unlawful for any such person to refuse or neglect to stop when signaled to stop by any police officer or

to refuse upon demand of such police officer to produce his or her certificate of license registration of such vehicle, his or her insurance identification card, or his or her vehicle driver's license or to refuse to permit such officer to take any such license, card, or certificate for the purpose of examination thereof or to refuse to permit the examination of any equipment of such vehicle or the weighing of such vehicle or to refuse or neglect to produce the certificate of license registration of such vehicle, insurance card, or his or her vehicle driver's license when requested by any court. Any police officer shall on request produce evidence of his or her authorization as such.

(2) A violation of this section is a misdemeanor. [2003 c 53 § 245; 1995 c 50 § 2; 1989 c 353 § 6; 1967 c 32 § 65; 1961 c 12 § 46.56.190. Prior: 1937 c 189 § 126; RRS § 6360-126; 1927 c 309 § 38; RRS § 6362-38. Formerly RCW 46.56.190.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

46.61.021 Duty to obey law enforcement officer—Authority of officer. (1) Any person requested or signaled to stop by a law enforcement officer for a traffic infraction has a duty to stop.

(2) Whenever any person is stopped for a traffic infraction, the officer may detain that person for a reasonable period of time necessary to identify the person, check for outstanding warrants, check the status of the person's license, insurance identification card, and the vehicle's registration, and complete and issue a notice of traffic infraction.

(3) Any person requested to identify himself or herself to a law enforcement officer pursuant to an investigation of a traffic infraction has a duty to identify himself or herself and give his or her current address. [2006 c 270 § 1; 1997 1st sp.s. c 1 § 1; 1989 c 353 § 7; 1979 ex.s. c 136 § 4.]

Additional notes found at www.leg.wa.gov

46.61.022 Failure to obey officer—Penalty. Any person who wilfully fails to stop when requested or signaled to do so by a person reasonably identifiable as a law enforcement officer or to comply with RCW 46.61.021(3), is guilty of a misdemeanor. [1979 ex.s. c 136 § 5.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Additional notes found at www.leg.wa.gov

46.61.024 Attempting to elude police vehicle—Defense—License revocation. (1) Any driver of a motor vehicle who wilfully fails or refuses to immediately bring his or her vehicle to a stop and who drives his or her vehicle in a reckless manner while attempting to elude a pursuing police vehicle, after being given a visual or audible signal to bring the vehicle to a stop, shall be guilty of a class C felony. The signal given by the police officer may be by hand, voice, emergency light, or siren. The officer giving such a signal shall be in uniform and the vehicle shall be equipped with lights and sirens.

(2010 Ed.)

(2) It is an affirmative defense to this section which must be established by a preponderance of the evidence that: (a) A reasonable person would not believe that the signal to stop was given by a police officer; and (b) driving after the signal to stop was reasonable under the circumstances.

(3) The license or permit to drive or any nonresident driving privilege of a person convicted of a violation of this section shall be revoked by the department of licensing. [2010 c 8 § 9065; 2003 c 101 § 1; 1983 c 80 § 1; 1982 1st ex.s. c 47 § 25; 1979 ex.s. c 75 § 1.]

Additional notes found at www.leg.wa.gov

46.61.025 Persons riding animals or driving animal-drawn vehicles. Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter except those provisions of this chapter which by their very nature can have no application. [1965 ex.s. c 155 § 4.]

46.61.030 Persons working on highway right-of-way—Exceptions. Unless specifically made applicable, the provisions of this chapter except those contained in RCW 46.61.500 through 46.61.520 shall not apply to persons, motor vehicles and other equipment while engaged in work within the right-of-way of any highway but shall apply to such persons and vehicles when traveling to or from such work. [1969 c 76 § 1; 1965 ex.s. c 155 § 5.]

46.61.035 Authorized emergency vehicles. (1) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may:

(a) Park or stand, irrespective of the provisions of this chapter;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the maximum speed limits so long as he or she does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of visual signals meeting the requirements of RCW 46.37.190, except that: (a) An authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle; (b) authorized emergency vehicles shall use audible signals when necessary to warn others of the emergency nature of the situation but in no case shall they be required to use audible signals while parked or standing.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his or

her reckless disregard for the safety of others. [2010 c 8 § 9066; 1969 c 23 § 1; 1965 ex.s. c 155 § 6.]

TRAFFIC SIGNS, SIGNALS, AND MARKINGS

46.61.050 Obedience to and required traffic control devices. (1) The driver of any vehicle, every bicyclist, and every pedestrian shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exception granted the driver of an authorized emergency vehicle in this chapter.

(2) No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible or visible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

(3) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(4) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence. [1975 c 62 § 18; 1965 ex.s. c 155 § 7.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Bicycle awareness program: RCW 43.43.390.

Additional notes found at www.leg.wa.gov

46.61.055 Traffic control signal legend. Whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word or legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication

(a) Vehicle operators facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. Vehicle operators turning right or left shall stop to allow other vehicles lawfully within the intersection control area to complete their movements. Vehicle operators turning right or left shall also stop for pedestrians who are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Vehicle operators facing a green arrow signal, shown alone or in combination with another indication, may enter the intersection control area only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Vehicle operators shall stop to allow other vehicles lawfully within the intersection control area to complete their movements. Vehicle operators shall also stop for pedestrians who are lawfully

within the intersection control area as required by RCW 46.61.235(1).

(c) Unless otherwise directed by a pedestrian control signal, as provided in RCW 46.61.060 as now or hereafter amended, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication

(a) Vehicle operators facing a steady circular yellow or yellow arrow signal are thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. Vehicle operators shall stop for pedestrians who are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian control signal as provided in RCW 46.61.060 shall not enter the roadway.

(3) Steady red indication

(a) Vehicle operators facing a steady circular red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection control area and shall remain standing until an indication to proceed is shown. However, the vehicle operators facing a steady circular red signal may, after stopping proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians who are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Unless otherwise directed by a pedestrian control signal as provided in RCW 46.61.060 as now or hereafter amended, pedestrians facing a steady circular red signal alone shall not enter the roadway.

(c) Vehicle operators facing a steady red arrow indication may not enter the intersection control area to make the movement indicated by such arrow, and unless entering the intersection control area to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line, but if none, before entering a crosswalk on the near side of the intersection control area, or if none, then before entering the intersection control area and shall remain standing until an indication to make the movement indicated by such arrow is shown. However, the vehicle operators facing a steady red arrow indication may, after stopping proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way street or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain

stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians who are lawfully within the intersection control area as required by RCW 46.61.235(1).

(d) Unless otherwise directed by a pedestrian signal, pedestrians facing a steady red arrow signal indication shall not enter the roadway.

(4) If an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal. [1993 c 153 § 2; 1990 c 241 § 2; 1975 c 62 § 19; 1965 ex.s. c 155 § 8.]

Additional notes found at www.leg.wa.gov

46.61.060 Pedestrian control signals. Whenever pedestrian control signals exhibiting the words "Walk" or the walking person symbol or "Don't Walk" or the hand symbol are operating, the signals shall indicate as follows:

(1) WALK or walking person symbol—Pedestrians facing such signal may cross the roadway in the direction of the signal. Vehicle operators shall stop for pedestrians who are lawfully moving within the intersection control area on such signal as required by RCW 46.61.235(1).

(2) Steady or flashing DON'T WALK or hand symbol—Pedestrians facing such signal shall not enter the roadway. Vehicle operators shall stop for pedestrians who have begun to cross the roadway before the display of either signal as required by RCW 46.61.235(1).

(3) Pedestrian control signals having the "Wait" legend in use on August 6, 1965, shall be deemed authorized signals and shall indicate the same as the "Don't Walk" legend. Whenever such pedestrian control signals are replaced the legend "Wait" shall be replaced by the legend "Don't Walk" or the hand symbol. [1993 c 153 § 3; 1990 c 241 § 3; 1975 c 62 § 20; 1965 ex.s. c 155 § 9.]

Additional notes found at www.leg.wa.gov

46.61.065 Flashing signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(a) FLASHING RED (STOP SIGNAL). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, but if none, before entering a marked crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) FLASHING YELLOW (CAUTION SIGNAL). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in RCW 46.61.340. [1975 c 62 § 21; 1965 ex.s. c 155 § 10.]

Additional notes found at www.leg.wa.gov

46.61.070 Lane-direction-control signals. When lane-direction-control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane over which a green signal is shown, but shall not enter or travel in any lane over which a red signal is shown. [1965 ex.s. c 155 § 11.]

46.61.072 Special traffic control signals—Legend. Whenever special traffic control signals exhibit a downward green arrow, a yellow X, or a red X indication, such signal indication shall have the following meaning:

(1) A steady downward green arrow means that a driver is permitted to drive in the lane over which the arrow signal is located.

(2) A steady yellow X or flashing red X means that a driver should prepare to vacate, in a safe manner, the lane over which the signal is located because a lane control change is being made, and to avoid occupying that lane when a steady red X is displayed.

(3) A flashing yellow X means that a driver is permitted to use a lane over which the signal is located for a left turn, using proper caution.

(4) A steady red X means that a driver shall not drive in the lane over which the signal is located, and that this indication shall modify accordingly the meaning of all other traffic controls present. The driver shall obey all other traffic controls and follow normal safe driving practices. [1975 c 62 § 49.]

Additional notes found at www.leg.wa.gov

46.61.075 Display of unauthorized signs, signals, or markings. (1) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal.

(2) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(3) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(4) Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice. [1965 ex.s. c 155 § 12.]

46.61.080 Interference with official traffic-control devices or railroad signs or signals. No person shall, with-

out lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof. [1965 ex.s. c 155 § 13.]

Interference with traffic-control signals or railroad signs or signals: RCW 47.36.130.

46.61.085 Traffic control signals or devices upon city streets forming part of state highways—Approval by department of transportation. No traffic control signal or device may be erected or maintained upon any city street designated as forming a part of the route of a primary state highway or secondary state highway unless first approved by the state department of transportation. [1984 c 7 § 62; 1965 ex.s. c 155 § 14.]

Local authorities to provide stop signs at intersections with increased speed highways: RCW 46.61.435.

Additional notes found at www.leg.wa.gov

DRIVING ON RIGHT SIDE OF ROADWAY— OVERTAKING AND PASSING—USE OF ROADWAY

46.61.100 Keep right except when passing, etc. (1)

Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(b) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

(c) Upon a roadway divided into three marked lanes and providing for two-way movement traffic under the rules applicable thereon;

(d) Upon a street or highway restricted to one-way traffic; or

(e) Upon a highway having three lanes or less, when approaching a stationary authorized emergency vehicle, tow truck or other vehicle providing roadside assistance while operating warning lights with three hundred sixty degree visibility, or police vehicle as described under *RCW 46.61.212(2).

(2) Upon all roadways having two or more lanes for traffic moving in the same direction, all vehicles shall be driven in the right-hand lane then available for traffic, except (a) when overtaking and passing another vehicle proceeding in the same direction, (b) when traveling at a speed greater than the traffic flow, (c) when moving left to allow traffic to merge, or (d) when preparing for a left turn at an intersection, exit, or into a private road or driveway when such left turn is legally permitted. On any such roadway, a vehicle or combination over ten thousand pounds shall be driven only in the right-hand lane except under the conditions enumerated in (a) through (d) of this subsection.

(3) No vehicle towing a trailer or no vehicle or combination over ten thousand pounds may be driven in the left-hand lane of a limited access roadway having three or more lanes for traffic moving in one direction except when preparing for

a left turn at an intersection, exit, or into a private road or driveway when a left turn is legally permitted. This subsection does not apply to a vehicle using a high occupancy vehicle lane. A high occupancy vehicle lane is not considered the left-hand lane of a roadway. The department of transportation, in consultation with the Washington state patrol, shall adopt rules specifying (a) those circumstances where it is permissible for other vehicles to use the left lane in case of emergency or to facilitate the orderly flow of traffic, and (b) those segments of limited access roadway to be exempt from this subsection due to the operational characteristics of the roadway.

(4) It is a traffic infraction to drive continuously in the left lane of a multilane roadway when it impedes the flow of other traffic.

(5) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, a vehicle shall not be driven to the left of the center line of the roadway except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (1)(b) of this section. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway. [2007 c 83 § 2; 1997 c 253 § 1; 1986 c 93 § 2; 1972 ex.s. c 33 § 1; 1969 ex.s. c 281 § 46; 1967 ex.s. c 145 § 58; 1965 ex.s. c 155 § 15.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

***Reviser's note:** RCW 46.61.212 was amended by 2010 c 252 § 1, changing subsection (2) to subsection (1)(d)(ii), effective January 1, 2011.

Legislative intent—1986 c 93: "It is the intent of the legislature, in this 1985 [1986] amendment of RCW 46.61.100, that the left-hand lane on any state highway with two or more lanes in the same direction be used primarily as a passing lane." [1986 c 93 § 1.]

Information on proper use of left-hand lane: RCW 28A.220.050, 46.20.095, 46.82.430, 47.36.260.

46.61.105 Passing vehicles proceeding in opposite directions. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible. [1975 c 62 § 22; 1965 ex.s. c 155 § 16.]

Additional notes found at www.leg.wa.gov

46.61.110 Overtaking on the left. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

(1) The driver of a vehicle overtaking other traffic proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken traffic.

(2) The driver of a vehicle approaching a pedestrian or bicycle that is on the roadway or on the right-hand shoulder or bicycle lane of the roadway shall pass to the left at a safe distance to clearly avoid coming into contact with the pedestrian or bicyclist, and shall not again drive to the right side of

the roadway until safely clear of the overtaken pedestrian or bicyclist.

(3) Except when overtaking and passing on the right is permitted, overtaken traffic shall give way to the right in favor of an overtaking vehicle on audible signal and shall not increase speed until completely passed by the overtaking vehicle. [2005 c 396 § 1; 1965 ex.s. c 155 § 17.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.115 When overtaking on the right is permitted.

(1) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(2) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the roadway. [1975 c 62 § 23; 1965 ex.s. c 155 § 18.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.120 Limitations on overtaking on the left. No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing other traffic proceeding in the same direction unless authorized by the provisions of RCW 46.61.100 through 46.61.160 and 46.61.212 and unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any traffic approaching from the opposite direction or any traffic overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet of any approaching traffic. [2007 c 83 § 3; 2005 c 396 § 2; 1965 ex.s. c 155 § 19.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.125 Further limitations on driving to left of center of roadway. (1) No vehicle shall be driven on the left side of the roadway under the following conditions:

(a) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event other traffic might approach from the opposite direction;

(b) When approaching within one hundred feet of or traversing any intersection or railroad grade crossing;

(c) When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct or tunnel;

(d) When a bicycle or pedestrian is within view of the driver and is approaching from the opposite direction, or is present, in the roadway, shoulder, or bicycle lane within a distance unsafe to the bicyclist or pedestrian due to the width or condition of the roadway, shoulder, or bicycle lane.

(2010 Ed.)

(2) The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in RCW 46.61.100(1)(b), nor to the driver of a vehicle turning left into or from an alley, private road or driveway. [2005 c 396 § 3; 1972 ex.s. c 33 § 2; 1965 ex.s. c 155 § 20.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.126 Pedestrians and bicyclists—Legal duties.

Nothing in RCW 46.61.110, 46.61.120, or 46.61.125 relieves pedestrians and bicyclists of their legal duties while traveling on public highways. [2005 c 396 § 4.]

46.61.130 No-passing zones. (1) The state department of transportation and the local authorities are authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to an ordinarily observant person every driver of a vehicle shall obey the directions thereof.

(2) Where signs or markings are in place to define a no-passing zone as set forth in subsection (1) of this section, no driver may at any time drive on the left side of the roadway within the no-passing zone or on the left side of any pavement striping designed to mark the no-passing zone throughout its length.

(3) This section does not apply under the conditions described in RCW 46.61.100(1)(b), nor to the driver of a vehicle turning left into or from an alley, private road, or driveway. [1984 c 7 § 63; 1972 ex.s. c 33 § 3; 1965 ex.s. c 155 § 21.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.135 One-way roadways and rotary traffic islands. (1) The state department of transportation and the local authorities with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in one direction at all or such times as shall be indicated by official traffic control devices.

(2) Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by official traffic control devices.

(3) A vehicle passing around a rotary traffic island shall be driven only to the right of such island. [1984 c 7 § 64; 1975 c 62 § 24; 1965 ex.s. c 155 § 22.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.140 Driving on roadways laned for traffic.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from

such lane until the driver has first ascertained that such movement can be made with safety.

(2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.

(3) Official traffic-control devices may be erected directing slow moving or other specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.

(4) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device. [1965 ex.s. c 155 § 23.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.145 Following too closely. (1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(2) The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

(3) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions. [1965 ex.s. c 155 § 24.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.150 Driving on divided highways. Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section or by a median island not less than eighteen inches wide formed either by solid yellow pavement markings or by a yellow crosshatching between two solid yellow lines so installed as to control vehicular traffic, every vehicle shall be driven only upon the right-hand roadway unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle shall be driven over, across or within any such dividing space, barrier or section, or median island, except through an opening in such physical barrier or dividing section or space

or median island, or at a crossover or intersection established by public authority. [1972 ex.s. c 33 § 4; 1965 ex.s. c 155 § 25.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.155 Restricted access. No person shall drive a vehicle onto or from any limited access roadway except at such entrances and exits as are established by public authority. [1965 ex.s. c 155 § 26.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.160 Restrictions on limited-access highway—Use by bicyclists. The department of transportation may by order, and local authorities may by ordinance or resolution, with respect to any limited access highway under their respective jurisdictions prohibit the use of any such highway by funeral processions, or by parades, pedestrians, bicycles or other nonmotorized traffic, or by any person operating a motor-driven cycle. Bicyclists may use the right shoulder of limited-access highways except where prohibited. The department of transportation may by order, and local authorities may by ordinance or resolution, with respect to any limited-access highway under their respective jurisdictions prohibit the use of the shoulders of any such highway by bicycles within urban areas or upon other sections of the highway where such use is deemed to be unsafe.

The department of transportation or the local authority adopting any such prohibitory regulation shall erect and maintain official traffic control devices on the limited access roadway on which such regulations are applicable, and when so erected no person may disobey the restrictions stated on such devices. [1982 c 55 § 5; 1975 c 62 § 25; 1965 ex.s. c 155 § 27.]

Additional notes found at www.leg.wa.gov

46.61.165 High occupancy vehicle lanes. The state department of transportation and the local authorities are authorized to reserve all or any portion of any highway under their respective jurisdictions, including any designated lane or ramp, for the exclusive or preferential use of public transportation vehicles or private motor vehicles carrying no fewer than a specified number of passengers when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources. Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all times or at specified times of day or on specified days. Violation of a restriction of highway usage prescribed by the appropriate authority under this section is a traffic infraction. [1999 c 206 § 1; 1998 c 245 § 90; 1991 sp.s. c 15 § 67; 1984 c 7 § 65; 1974 ex.s. c 133 § 2.]

Limited access facilities: RCW 47.52.025.

Additional notes found at www.leg.wa.gov

RIGHT-OF-WAY

46.61.180 Vehicle approaching intersection. (1) When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver

of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(2) The right-of-way rule declared in subsection (1) of this section is modified at arterial highways and otherwise as stated in this chapter. [1975 c 62 § 26; 1965 ex.s. c 155 § 28.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.183 Nonfunctioning signal lights. Except when directed to proceed by a flagger, police officer, or firefighter, the driver of a vehicle approaching an intersection controlled by a traffic control signal that is temporarily without power on all approaches or is not displaying any green, red, or yellow indication to the approach the vehicle is on, shall consider the intersection to be an all-way stop. After stopping, the driver shall yield the right-of-way in accordance with RCW 46.61.180(1) and 46.61.185. [1999 c 200 § 1.]

46.61.185 Vehicle turning left. The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. [1965 ex.s. c 155 § 29.]

46.61.190 Vehicle entering stop or yield intersection.

(1) Preferential right-of-way may be indicated by stop signs or yield signs as authorized in RCW 47.36.110.

(2) Except when directed to proceed by a duly authorized flagger, or a police officer, or a firefighter vested by law with authority to direct, control, or regulate traffic, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering a marked crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the roadway, and after having stopped shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.

(3) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering a marked crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the roadway, and then after slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways: PROVIDED, That if such a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of the driver's failure to yield right-of-way. [2000 c 239 § 5; 1975 c 62 § 27; 1965 ex.s. c 155 § 30.]

(2010 Ed.)

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Captions not law—2000 c 239: See note following RCW 49.17.350.

Stop signs, "Yield" signs—Duties of persons using highway: RCW 47.36.110.

Additional notes found at www.leg.wa.gov

46.61.195 Arterial highways designated—Stopping on entering. All state highways are hereby declared to be arterial highways as respects all other public highways or private ways, except that the state department of transportation has the authority to designate any county road or city street as an arterial having preference over the traffic on the state highway if traffic conditions will be improved by such action.

Those city streets designated by the state department of transportation as forming a part of the routes of state highways through incorporated cities and towns are declared to be arterial highways as respects all other city streets or private ways.

The governing authorities of incorporated cities and towns may designate any street as an arterial having preference over the traffic on a state highway if the change is first approved in writing by the state department of transportation. The local authorities making such a change in arterial designation shall do so by proper ordinance or resolution and shall erect or cause to be erected and maintained standard stop signs, or "Yield" signs, to accomplish this change in arterial designation.

The operator of any vehicle entering upon any arterial highway from any other public highway or private way shall come to a complete stop before entering the arterial highway when stop signs are erected as provided by law. [1984 c 7 § 66; 1963 ex.s. c 3 § 48; 1961 c 12 § 46.60.330. Prior: 1955 c 146 § 5; 1947 c 200 § 14; 1937 c 189 § 105; Rem. Supp. 1947 § 6360-105. Formerly RCW 46.60.330.]

City streets subject to increased speed, designation as arterials: RCW 46.61.435.

Stop signs, "Yield" signs—Duties of persons using highway: RCW 47.36.110.

Additional notes found at www.leg.wa.gov

46.61.200 Stop intersections other than arterial may be designated. In addition to the points of intersection of any public highway with any arterial public highway that is constituted by law or by any proper authorities of this state or any city or town of this state, the state department of transportation with respect to state highways, and the proper authorities with respect to any other public highways, have the power to determine and designate any particular intersection, or any particular highways, roads, or streets or portions thereof, at any intersection with which vehicles shall be required to stop before entering such intersection. Upon the determination and designation of such points at which vehicles will be required to come to a stop before entering the intersection, the proper authorities so determining and designating shall cause to be posted and maintained proper signs of the standard design adopted by the state department of transportation indicating that the intersection has been so determined and designated and that vehicles entering it are required to stop. It is unlawful for any person operating any vehicle when entering any intersection determined, designated, and bearing the required sign to fail and neglect to bring the vehicle to a com-

plete stop before entering the intersection. [1984 c 7 § 67; 1961 c 12 § 46.60.340. Prior: 1937 c 189 § 106; RRS § 6360-106; 1927 c 284 § 1; RRS § 6362-41a. Formerly RCW 46.60.340.]

Additional notes found at www.leg.wa.gov

46.61.202 Stopping when traffic obstructed. No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic control signal indications to proceed. [2010 c 8 § 9067; 1975 c 62 § 48.]

Additional notes found at www.leg.wa.gov

46.61.205 Vehicle entering highway from private road or driveway. The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right-of-way to all vehicles lawfully approaching on said highway. [1990 c 250 § 88; 1965 ex.s. c 155 § 31.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.210 Operation of vehicles on approach of emergency vehicles. (1) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of RCW 46.37.190, or of a police vehicle properly and lawfully making use of an audible signal only the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(2) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway. [1965 ex.s. c 155 § 32.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.212 Approaching stationary emergency vehicles, tow trucks, and police vehicles. (Effective until January 1, 2011.) The driver of any motor vehicle, upon approaching a stationary authorized emergency vehicle that is making use of audible and/or visual signals meeting the requirements of RCW 46.37.190, a tow truck that is making use of visual red lights meeting the requirements of RCW 46.37.196, other vehicles providing roadside assistance that are making use of warning lights with three hundred sixty degree visibility, or a police vehicle properly and lawfully displaying a flashing, blinking, or alternating emergency light or lights, shall:

(1) On a highway having four or more lanes, at least two of which are intended for traffic proceeding in the same direction as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change or

moving away from the lane or shoulder occupied by the stationary authorized emergency vehicle or police vehicle;

(2) On a highway having less than four lanes, proceed with caution, reduce the speed of the vehicle, and, if reasonable, with due regard for safety and traffic conditions, and under the rules of this chapter, yield the right-of-way by passing to the left at a safe distance and simultaneously yield the right-of-way to all vehicles traveling in the proper direction upon the highway; or

(3) If changing lanes or moving away would be unreasonable or unsafe, proceed with due caution and reduce the speed of the vehicle. [2007 c 83 § 1; 2005 c 413 § 1.]

46.61.212 Approaching emergency zones—Penalty—Violation. (Effective January 1, 2011.) (1) The driver of any motor vehicle, upon approaching an emergency zone, which is defined as the adjacent lanes of the roadway two hundred feet before and after (a) a stationary authorized emergency vehicle that is making use of audible and/or visual signals meeting the requirements of RCW 46.37.190, (b) a tow truck that is making use of visual red lights meeting the requirements of RCW 46.37.196, (c) other vehicles providing roadside assistance that are making use of warning lights with three hundred sixty degree visibility, or (d) a police vehicle properly and lawfully displaying a flashing, blinking, or alternating emergency light or lights, shall:

(i) On a highway having four or more lanes, at least two of which are intended for traffic proceeding in the same direction as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change or moving away from the lane or shoulder occupied by the stationary authorized emergency vehicle or police vehicle;

(ii) On a highway having less than four lanes, proceed with caution, reduce the speed of the vehicle, and, if reasonable, with due regard for safety and traffic conditions, and under the rules of this chapter, yield the right-of-way by passing to the left at a safe distance and simultaneously yield the right-of-way to all vehicles traveling in the proper direction upon the highway; or

(iii) If changing lanes or moving away would be unreasonable or unsafe, proceed with due caution and reduce the speed of the vehicle.

(2) A person may not drive a vehicle in an emergency zone at a speed greater than the posted speed limit.

(3) A person found to be in violation of this section, or any infraction relating to speed restrictions in an emergency zone, must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. This penalty may not be waived, reduced, or suspended.

(4) A person who drives a vehicle in an emergency zone in such a manner as to endanger or be likely to endanger any emergency zone worker or property is guilty of reckless endangerment of emergency zone workers. A violation of this subsection is a gross misdemeanor punishable under chapter 9A.20 RCW.

(5) The department shall suspend for sixty days the driver's license, permit to drive, or nonresident driving privilege of a person convicted of reckless endangerment of emergency zone workers. [2010 c 252 § 1; 2007 c 83 § 1; 2005 c 413 § 1.]

Effective date—2010 c 252: "This act takes effect January 1, 2011." [2010 c 252 § 6.]

Emergency zone education and outreach—2010 c 252: "(1) Within existing resources, the state patrol and the department of transportation shall conduct education and outreach efforts regarding emergency zones, including drivers' obligations in emergency zones and the penalties for violating these obligations, for at least ninety days after January 1, 2011. The education and outreach efforts must include the use of department of transportation variable message signs.

(2) This section expires June 30, 2011." [2010 c 252 § 2.]

46.61.215 Highway construction and maintenance.

(1) The driver of a vehicle shall yield the right-of-way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by official traffic control devices.

(2) The driver of a vehicle shall yield the right-of-way to any authorized vehicle obviously and actually engaged in work upon a highway whenever such vehicle displays flashing lights meeting the requirements of RCW 46.37.300. [1975 c 62 § 40.]

Additional notes found at www.leg.wa.gov

46.61.220 Transit vehicles. (1) The driver of a vehicle shall yield the right-of-way to a transit vehicle traveling in the same direction that has signalled and is reentering the traffic flow.

(2) Nothing in this section shall operate to relieve the driver of a transit vehicle from the duty to drive with due regard for the safety of all persons using the roadway. [1993 c 401 § 1.]

PEDESTRIANS' RIGHTS AND DUTIES

46.61.230 Pedestrians subject to traffic regulations.

Pedestrians shall be subject to traffic-control signals at intersections as provided in RCW 46.61.060, and at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter. [1965 ex.s. c 155 § 33.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.235 Crosswalks. (1) The operator of an approaching vehicle shall stop and remain stopped to allow a pedestrian or bicycle to cross the roadway within an unmarked or marked crosswalk when the pedestrian or bicycle is upon or within one lane of the half of the roadway upon which the vehicle is traveling or onto which it is turning. For purposes of this section "half of the roadway" means all traffic lanes carrying traffic in one direction of travel, and includes the entire width of a one-way roadway.

(2) No pedestrian or bicycle shall suddenly leave a curb or other place of safety and walk, run, or otherwise move into the path of a vehicle which is so close that it is impossible for the driver to stop.

(3) Subsection (1) of this section does not apply under the conditions stated in RCW 46.61.240(2).

(4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian or bicycle to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(2010 Ed.)

(5)(a) If a person is found to have committed an infraction under this section within a school, playground, or crosswalk speed zone created under RCW 46.61.440, the person must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. The penalty may not be waived, reduced, or suspended.

(b) Fifty percent of the moneys collected under this subsection must be deposited into the school zone safety account. [2010 c 242 § 1; 2000 c 85 § 1; 1993 c 153 § 1; 1990 c 241 § 4; 1965 ex.s. c 155 § 34.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Effective date—2010 c 242: See note following RCW 46.61.275.

46.61.240 Crossing at other than crosswalks. (1)

Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(2) Where curb ramps exist at or adjacent to intersections or at marked crosswalks in other locations, disabled persons may enter the roadway from the curb ramps and cross the roadway within or as closely as practicable to the crosswalk. All other pedestrian rights and duties as defined elsewhere in this chapter remain applicable.

(3) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(4) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(5) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

(6) No pedestrian shall cross a roadway at an unmarked crosswalk where an official sign prohibits such crossing. [1990 c 241 § 5; 1965 ex.s. c 155 § 35.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.245 Drivers to exercise care. (1) Notwithstanding the foregoing provisions of this chapter every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person upon a roadway.

(2)(a) If a person is found to have committed an infraction under this section within a school, playground, or crosswalk speed zone created under RCW 46.61.440, the person must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. The penalty may not be waived, reduced, or suspended.

(b) Fifty percent of the moneys collected under this subsection must be deposited into the school zone safety account. [2010 c 242 § 2; 1965 ex.s. c 155 § 36.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Effective date—2010 c 242: See note following RCW 46.61.275.

Blind pedestrians: Chapter 70.84 RCW.

46.61.250 Pedestrians on roadways. (1) Where sidewalks are provided it is unlawful for any pedestrian to walk or otherwise move along and upon an adjacent roadway. Where sidewalks are provided but wheelchair access is not available, disabled persons who require such access may walk or otherwise move along and upon an adjacent roadway until they reach an access point in the sidewalk.

(2) Where sidewalks are not provided any pedestrian walking or otherwise moving along and upon a highway shall, when practicable, walk or move only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction and upon meeting an oncoming vehicle shall move clear of the roadway. [1990 c 241 § 6; 1965 ex.s. c 155 § 37.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.255 Pedestrians soliciting rides or business. (1) No person shall stand in or on a public roadway or alongside thereof at any place where a motor vehicle cannot safely stop off the main traveled portion thereof for the purpose of soliciting a ride for himself or herself or for another from the occupant of any vehicle.

(2) It shall be unlawful for any person to solicit a ride for himself or herself or another from within the right-of-way of any limited access facility except in such areas where permission to do so is given and posted by the highway authority of the state, county, city, or town having jurisdiction over the highway.

(3) The provisions of subsections (1) and (2) above shall not be construed to prevent a person upon a public highway from soliciting, or a driver of a vehicle from giving a ride where an emergency actually exists, nor to prevent a person from signaling or requesting transportation from a passenger carrier for the purpose of becoming a passenger thereon for hire.

(4) No person shall stand in a roadway for the purpose of soliciting employment or business from the occupant of any vehicle.

(5) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

(6)(a) Except as provided in (b) of this subsection, the state preempts the field of the regulation of hitchhiking in any form, and no county, city, or town shall take any action in conflict with the provisions of this section.

(b) A county, city, or town may regulate or prohibit hitchhiking in an area in which it has determined that prostitution is occurring and that regulating or prohibiting hitchhiking will help to reduce prostitution in the area. [2010 c 8 § 9068; 1989 c 288 § 1; 1972 ex.s. c 38 § 1; 1965 ex.s. c 155 § 38.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.260 Driving through safety zone prohibited. No vehicle shall at any time be driven through or within a safety zone. [1965 ex.s. c 155 § 39.]

46.61.261 Sidewalks, crosswalks—Pedestrians, bicycles. (1) The driver of a vehicle shall yield the right-of-way

to any pedestrian or bicycle on a sidewalk. The rider of a bicycle shall yield the right-of-way to a pedestrian on a sidewalk or crosswalk.

(2)(a) If a person is found to have committed an infraction under this section within a school, playground, or crosswalk speed zone created under RCW 46.61.440, the person must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. The penalty may not be waived, reduced, or suspended.

(b) Fifty percent of the moneys collected under this subsection must be deposited into the school zone safety account. [2010 c 242 § 3; 2000 c 85 § 2; 1975 c 62 § 41.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Effective date—2010 c 242: See note following RCW 46.61.275.

Additional notes found at www.leg.wa.gov

46.61.264 Pedestrians yield to emergency vehicles. (1) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of RCW 46.37.380 subsection (4) and visual signals meeting the requirements of RCW 46.37.190, or of a police vehicle meeting the requirements of RCW 46.61.035 subsection (3), every pedestrian shall yield the right-of-way to the authorized emergency vehicle.

(2) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian. [1975 c 62 § 42.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.266 Pedestrians under the influence of alcohol or drugs. A law enforcement officer may offer to transport a pedestrian who appears to be under the influence of alcohol or any drug and who is walking or moving along or within the right-of-way of a public roadway, unless the pedestrian is to be taken into protective custody under RCW 70.96A.120.

The law enforcement officer offering to transport an intoxicated pedestrian under this section shall:

(1) Transport the intoxicated pedestrian to a safe place; or

(2) Release the intoxicated pedestrian to a competent person.

The law enforcement officer shall take no action if the pedestrian refuses this assistance. No suit or action may be commenced or prosecuted against the law enforcement officer, law enforcement agency, the state of Washington, or any political subdivision of the state for any act resulting from the refusal of the pedestrian to accept this assistance. [1990 c 241 § 7; 1987 c 11 § 1; 1975 c 62 § 43.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.269 Passing beyond bridge or grade crossing barrier prohibited. (1) No pedestrian shall enter or remain upon any bridge or approach thereto beyond a bridge signal gate, or barrier indicating a bridge is closed to through traffic, after a bridge operation signal indication has been given.

(2) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed. [1975 c 62 § 44.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.275 Reporting of certain speed zone violations—Subsequent law enforcement investigation. (1) A crossing guard who is eighteen years of age or older and observes a violation of RCW 46.61.235(5), 46.61.245(2), or 46.61.261(2) may prepare a written report on a form provided by the state patrol or another law enforcement agency indicating that a violation has occurred. A crossing guard or school official may deliver the report to a law enforcement officer of the state, county, or municipality in which the violation occurred, but not more than seventy-two hours after the violation occurred. The crossing guard must include in the report the time and location at which the violation occurred, the vehicle license plate number, and a description of the vehicle involved in the violation.

(2) The law enforcement officer may initiate an investigation of the reported violation after receiving the report described in subsection (1) of this section by contacting the owner of the motor vehicle involved in the reported violation and requesting the owner to supply information identifying the driver. If, after an investigation, the law enforcement officer is able to identify the driver and has reasonable cause to believe a violation of RCW 46.61.235(5), 46.61.245(2), or 46.61.261(2) has occurred, the law enforcement officer shall prepare a notice of traffic infraction and have it served upon the driver of the vehicle. [2010 c 242 § 5.]

Effective date—2010 c 242: "This act takes effect July 1, 2010." [2010 c 242 § 6.]

TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING

46.61.290 Required position and method of turning at intersections. The driver of a vehicle intending to turn shall do so as follows:

(1) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle. Whenever practicable the left turn shall be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as the vehicle on the roadway being entered.

(3) Two-way left turn lanes.

(a) The department of transportation and local authorities in their respective jurisdictions may designate a two-way left turn lane on a roadway. A two-way left turn lane is near the center of the roadway set aside for use by vehicles making left turns in either direction from or into the roadway.

(b) Two-way left turn lanes shall be designated by distinctive uniform roadway markings. The department of transportation shall determine and prescribe standards and speci-

(2010 Ed.)

cations governing type, length, width, and positioning of the distinctive permanent markings. The standards and specifications developed shall be filed with the code reviser in accordance with the procedures set forth in the administrative procedure act, chapter 34.05 RCW. On and after July 1, 1971, permanent markings designating a two-way left turn lane shall conform to such standards and specifications.

(c) Upon a roadway where a center lane has been provided by distinctive pavement markings for the use of vehicles turning left from either direction, no vehicles may turn left from any other lane. A vehicle shall not be driven in this center lane for the purpose of overtaking or passing another vehicle proceeding in the same direction. No vehicle may travel further than three hundred feet within the lane. A signal, either electric or manual, for indicating a left turn movement, shall be made at least one hundred feet before the actual left turn movement is made.

(4) The department of transportation and local authorities in their respective jurisdictions may cause official traffic-control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles, and when the devices are so placed no driver of a vehicle may turn a vehicle other than as directed and required by the devices. [1997 c 202 § 1. Prior: 1984 c 12 § 1; 1984 c 7 § 68; 1975 c 62 § 28; 1969 ex.s. c 281 § 61; 1965 ex.s. c 155 § 40.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.295 "U" turns. (1) The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.

(2) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet. [1975 c 62 § 29; 1965 ex.s. c 155 § 41.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Limited access highways: RCW 47.52.120.

Additional notes found at www.leg.wa.gov

46.61.300 Starting parked vehicle. No person shall start a vehicle which is stopped, standing or parked unless and until such movement can be made with reasonable safety. [1965 ex.s. c 155 § 42.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.305 When signals required—Improper use prohibited. (1) No person shall turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety nor without giving an appropriate signal in the manner hereinafter provided.

(2) A signal of intention to turn or move right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning.

(3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the

manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(4) The signals provided for in RCW 46.61.310 subsection (2), shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section. [1975 c 62 § 30; 1965 ex.s. c 155 § 43.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.310 Signals by hand and arm or signal lamps.

(1) Any stop or turn signal when required herein shall be given either by means of the hand and arm or by signal lamps, except as otherwise provided in subsection (2) hereof.

(2) Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet. The latter measurements shall apply to any single vehicle, also to any combination of vehicles. [1965 ex.s. c 155 § 44.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.315 Method of giving hand and arm signals.

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

- (1) Left turn. Hand and arm extended horizontally.
- (2) Right turn. Hand and arm extended upward.
- (3) Stop or decrease speed. Hand and arm extended downward. [1965 ex.s. c 155 § 45.]

SPECIAL STOPS REQUIRED

46.61.340 Approaching train signal. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad, and shall not proceed until the crossing can be made safely. The foregoing requirements shall apply when:

- (a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
 - (b) A crossing gate is lowered or when a human flagger gives or continues to give a signal of the approach or passage of a railroad train;
 - (c) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
- (2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. [2000 c 239 § 6; 1965 ex.s. c 155 § 46.]

Captions not law—2000 c 239: See note following RCW 49.17.350.

46.61.345 All vehicles must stop at certain railroad grade crossings. The state department of transportation and local authorities within their respective jurisdictions are authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs at those crossings. When such stop signs are erected the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of the railroad and shall proceed only upon exercising due care. [1984 c 7 § 69; 1965 ex.s. c 155 § 47.]

Additional notes found at www.leg.wa.gov

46.61.350 Certain vehicles must stop at all railroad grade crossings—Exceptions (as amended by 2010 c 8). (1) The driver of any motor vehicle carrying passengers for hire, other than a passenger car, or of any school bus or private carrier bus carrying any school child or other passenger, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he or she can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and the driver shall not shift gears while crossing the track or tracks.

- (2) This section shall not apply at:
- (a) Any railroad grade crossing at which traffic is controlled by a police officer or a duly authorized ((flagman)) **flagger**;
 - (b) Any railroad grade crossing at which traffic is regulated by a traffic control signal;
 - (c) Any railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train;
 - (d) Any railroad grade crossing at which an official traffic control device as designated by the utilities and transportation commission pursuant to RCW 81.53.060 gives notice that the stopping requirement imposed by this section does not apply. [2010 c 8 § 9069; 1977 c 78 § 1; 1975 c 62 § 31; 1970 ex.s. c 100 § 7; 1965 ex.s. c 155 § 48.]

46.61.350 Certain vehicles must stop at all railroad grade crossings—Exemptions—Definition (as amended by 2010 c 15). ~~((1)) The driver of any motor vehicle carrying passengers for hire, other than a passenger car, or of any school bus or private carrier bus carrying any school child or other passenger, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and the driver shall not shift gears while crossing the track or tracks.~~

- (2) This section shall not apply at:
- (a) Any railroad grade crossing at which traffic is controlled by a police officer or a duly authorized flagman;
 - (b) Any railroad grade crossing at which traffic is regulated by a traffic control signal;
 - (c) Any railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train;
 - (d) Any railroad grade crossing at which an official traffic control device as designated by the utilities and transportation commission pursuant to RCW 81.53.060 gives notice that the stopping requirement imposed by this section does not apply.))

(1)(a) The driver of any of the following vehicles must stop before the stop line, if present, and otherwise within fifty feet but not less than fifteen feet from the nearest rail at a railroad grade crossing unless exempt under subsection (3) of this section:

(i) A school bus or private carrier bus carrying any school child or other passenger:

(ii) A commercial motor vehicle transporting passengers;

(iii) A cargo tank, whether loaded or empty, used for transporting any hazardous material as defined in the hazardous materials regulations of the United States department of transportation in 49 C.F.R. Parts 107 through 180 as it existed on June 10, 2010, or such subsequent date as may be provided by the state patrol by rule, consistent with the purposes of this section. For the purposes of this section, a cargo tank is any commercial motor vehicle designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis;

(iv) A cargo tank, whether loaded or empty, transporting a commodity under exemption in accordance with United States department of transportation in 49 C.F.R. Part 107, Subpart B as it existed on June 10, 2010, or such subsequent date as may be provided by the state patrol by rule, consistent with the purposes of this section;

(v) A cargo tank transporting a commodity that at the time of loading has a temperature above its flashpoint as determined by the United States department of transportation in 49 C.F.R. Sec. 173.120 as it existed on June 10, 2010, or such subsequent date as may be provided by the state patrol by rule, consistent with the purposes of this section; or

(vi) A commercial motor vehicle that is required to be marked or placarded with any one of the following classifications by the United States department of transportation in 49 C.F.R. Part 172 as it existed on June 10, 2010, or such subsequent date as may be provided by the state patrol by rule, consistent with the purposes of this section:

(A) Division 1.1, Division 1.2, Division 1.3, or Division 1.4;

(B) Division 2.1, Division 2.2, Division 2.2 oxygen, Division 2.3 poison gas, or Division 2.3 chlorine;

(C) Division 4.1 or Division 4.3;

(D) Division 5.1 or Division 5.2;

(E) Division 6.1 poison;

(F) Class 3 combustible liquid or Class 3 flammable;

(G) Class 7;

(H) Class 8.

(b) While stopped, the driver must listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train. The driver may not proceed until he or she can do so safely.

(2) After stopping at a railroad grade crossing and upon proceeding when it is safe to do so, the driver must cross only in a gear that permits the vehicle to traverse the crossing without changing gears. The driver may not shift gears while crossing the track or tracks.

(3) This section does not apply at any railroad grade crossing where:

(a) Traffic is controlled by a police officer or flagger.

(b) A functioning traffic control signal is transmitting a green light.

(c) The tracks are used exclusively for a streetcar or industrial switching purposes.

(d) The utilities and transportation commission has approved the installation of an "exempt" sign in accordance with the procedures and standards under RCW 81.53.060.

(e) The crossing is abandoned and is marked with a sign indicating it is out-of-service.

(f) The state patrol has, by rule, identified a crossing where stopping is not required.

(g) The superintendent of public instruction has, by rule, identified a circumstance under which a school bus or private carrier bus carrying any school child or other passenger is not required to stop.

(4) For the purpose of this section, "commercial motor vehicle" means: Any vehicle with a manufacturer's seating capacity for eight or more passengers, including the driver, that transports passengers for hire; any private carrier bus; any vehicle used to transport property that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight of 4,536 kg (10,001 pounds) or more; and any vehicle used in the transportation of hazardous materials as defined in RCW 46.25.010. [2010 c 15 § 1; 1977 c 78 § 1; 1975 c 62 § 31; 1970 ex.s. c 100 § 7; 1965 ex.s. c 155 § 48.]

Reviser's note: RCW 46.61.350 was amended twice during the 2010 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Additional notes found at www.leg.wa.gov

46.61.355 Moving heavy equipment at railroad grade crossings—Notice of intended crossing. (1) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(2) Notice of any such intended crossing shall be given to the station agent of such railroad located nearest the intended crossing sufficiently in advance to allow such railroad a reasonable time to prescribe proper protection for such crossing.

(3) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(4) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagger or otherwise of the immediate approach of a railroad train or car. If a flagger is provided by the railroad, movement over the crossing shall be under the flagger's direction. [2000 c 239 § 7; 1975 c 62 § 32; 1965 ex.s. c 155 § 49.]

Captions not law—2000 c 239: See note following RCW 49.17.350.

Additional notes found at www.leg.wa.gov

46.61.365 Emerging from alley, driveway, or building. The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway. [1965 ex.s. c 155 § 51.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.370 Overtaking or meeting school bus—Duties of bus driver. (1) The driver of a vehicle upon overtaking or meeting from either direction any school bus which has stopped on the roadway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus when there is in operation on said school bus a visual signal as specified in RCW 46.37.190 and said driver shall not proceed until such school bus resumes motion or the visual signals are no longer activated.

(2) The driver of a vehicle upon a highway divided into separate roadways as provided in RCW 46.61.150 need not stop upon meeting a school bus which is proceeding in the opposite direction and is stopped for the purpose of receiving or discharging school children.

(3) The driver of a vehicle upon a highway with three or more marked traffic lanes need not stop upon meeting a school bus which is proceeding in the opposite direction and

is stopped for the purpose of receiving or discharging school children.

(4) The driver of a school bus shall actuate the visual signals required by RCW 46.37.190 only when such bus is stopped on the roadway for the purpose of receiving or discharging school children.

(5) The driver of a school bus may stop completely off the roadway for the purpose of receiving or discharging school children only when the school children do not have to cross the roadway. The school bus driver shall actuate the hazard warning lamps as defined in RCW 46.37.215 before loading or unloading school children at such stops.

(6) A person found to have committed an infraction of subsection (1) of this section shall be assessed a monetary penalty equal to twice the total penalty assessed under RCW 46.63.110. This penalty may not be waived, reduced, or suspended. Fifty percent of the money so collected shall be deposited into the school zone safety account in the custody of the state treasurer and disbursed in accordance with *RCW 46.61.440(3). [1997 c 80 § 1; 1990 c 241 § 8; 1965 ex.s. c 155 § 52.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

***Reviser's note:** RCW 46.61.440 was amended by 2003 c 192 § 1, changing subsection (3) to subsection (4). RCW 46.61.440 was subsequently amended by 2010 c 242 § 4, changing subsection (4) to subsection (5).

Bus routes: RCW 28A.160.115.

46.61.371 School bus stop sign violators—Identification by vehicle owner. If a law enforcement officer investigating a violation of RCW 46.61.370 has reasonable cause to believe that a violation has occurred, the officer may request the owner of the motor vehicle to supply information identifying the driver of the vehicle at the time the violation occurred. When requested, the owner of the motor vehicle shall identify the driver to the best of the owner's ability. The owner of the vehicle is not required to supply identification information to the law enforcement officer if the owner believes the information is self-incriminating. [1992 c 39 § 1.]

46.61.372 School bus stop sign violators—Report by bus driver—Law enforcement investigation. (1) The driver of a school bus who observes a violation of RCW 46.61.370 may prepare a written report on a form provided by the state patrol or another law enforcement agency indicating that a violation has occurred. The driver of the school bus or a school official may deliver the report to a law enforcement officer of the state, county, or municipality in which the violation occurred but not more than seventy-two hours after the violation occurred. The driver shall include in the report the time and location at which the violation occurred, the vehicle license plate number, and a description of the vehicle involved in the violation.

(2) The law enforcement officer shall initiate an investigation of the reported violation within ten working days after receiving the report described in subsection (1) of this section by contacting the owner of the motor vehicle involved in the reported violation and requesting the owner to supply information identifying the driver. Failure to investigate within the ten working day period does not prohibit further investigation

or prosecution. If, after an investigation, the law enforcement officer is able to identify the driver and has reasonable cause to believe a violation of RCW 46.61.370 has occurred, the law enforcement officer shall prepare a notice of traffic infraction and have it served upon the driver of the vehicle. [1992 c 39 § 2.]

46.61.375 Overtaking or meeting private carrier bus—Duties of bus driver. (1) The driver of a vehicle upon overtaking or meeting from either direction any private carrier bus which has stopped on the roadway for the purpose of receiving or discharging any passenger shall stop the vehicle before reaching such private carrier bus when there is in operation on said bus a visual signal as specified in RCW 46.37.190 and said driver shall not proceed until such bus resumes motion or the visual signals are no longer activated.

(2) The driver of a vehicle upon a highway divided into separate roadways as provided in RCW 46.61.150 need not stop upon meeting a private carrier bus which is proceeding in the opposite direction and is stopped for the purpose of receiving or discharging passengers.

(3) The driver of a vehicle upon a highway with three or more lanes need not stop upon meeting a private carrier bus which is proceeding in the opposite direction and is stopped for the purpose of receiving or discharging passengers.

(4) The driver of a private carrier bus shall actuate the visual signals required by RCW 46.37.190 only when such bus is stopped on the roadway for the purpose of receiving or discharging passengers.

(5) The driver of a private carrier bus may stop a private carrier bus completely off the roadway for the purpose of receiving or discharging passengers only when the passengers do not have to cross the roadway. The private carrier bus driver shall actuate the hazard warning lamps as defined in RCW 46.37.215 before loading or unloading passengers at such stops. [1990 c 241 § 9; 1970 ex.s. c 100 § 8.]

46.61.380 Rules for design, marking, and mode of operating school buses. (1) The state superintendent of public instruction shall adopt and enforce rules not inconsistent with the law of this state to govern the design, marking, and mode of operation of all school buses owned and operated by any school district or privately owned and operated under contract or otherwise with any school district in this state for the transportation of school children.

(2) School districts shall not be prohibited from placing or displaying a flag of the United States on a school bus when it does not interfere with the vehicle's safe operation. The state superintendent of public instruction shall adopt and enforce rules not inconsistent with the law of this state to govern the size, placement, and display of the flag of the United States on all school buses referenced in subsection (1) of this section.

(3) Rules shall by reference be made a part of any such contract or other agreement with the school district. Every school district, its officers and employees, and every person employed under contract or otherwise by a school district is subject to such rules. It is unlawful for any officer or employee of any school district or for any person operating any school bus under contract with any school district to vio-

late any of the provisions of such rules. [2002 c 29 § 1; 1995 c 269 § 2501; 1984 c 7 § 70; 1961 c 12 § 46.48.150. Prior: 1937 c 189 § 131; RRS § 6360-131. Formerly RCW 46.48.150.]

School buses

generally: *Chapter 28A.160 RCW.*

signs: *RCW 46.37.193.*

stop signal and lamps: *RCW 46.37.190.*

Additional notes found at www.leg.wa.gov

46.61.385 School patrol—Appointment—Authority—Finance—Insurance. The superintendent of public instruction, through the superintendent of schools of any school district, or other officer or board performing like functions with respect to the schools of any other educational administrative district, may cause to be appointed voluntary adult recruits as supervisors and, from the student body of any public or private school or institution of learning, students, who shall be known as members of the "school patrol" and who shall serve without compensation and at the pleasure of the authority making the appointment.

The members of such school patrol shall wear an appropriate designation or insignia identifying them as members of the school patrol when in performance of their duties, and they may display "stop" or other proper traffic directional signs or signals at school crossings or other points where school children are crossing or about to cross a public highway, but members of the school patrol and their supervisors shall be subordinate to and obey the orders of any peace officer present and having jurisdiction.

School districts, at their discretion, may hire sufficient numbers of adults to serve as supervisors. Such adults shall be subordinate to and obey the orders of any peace officer present and having jurisdiction.

Any school district having a school patrol may purchase uniforms and other appropriate insignia, traffic signs and other appropriate materials, all to be used by members of such school patrol while in performance of their duties, and may pay for the same out of the general fund of the district.

It shall be unlawful for the operator of any vehicle to fail to stop his or her vehicle when directed to do so by a school patrol sign or signal displayed by a member of the school patrol engaged in the performance of his or her duty and wearing or displaying appropriate insignia, and it shall further be unlawful for the operator of a vehicle to disregard any other reasonable directions of a member of the school patrol when acting in performance of his or her duties as such.

School districts may expend funds from the general fund of the district to pay premiums for life and accident policies covering the members of the school patrol in their district while engaged in the performance of their school patrol duties.

Members of the school patrol shall be considered as employees for the purposes of RCW 28A.400.370. [2010 c 8 § 9070; 1990 c 33 § 585; 1974 ex.s. c 47 § 1; 1961 c 12 § 46.48.160. Prior: 1953 c 278 § 1; 1937 c 189 § 130; RRS § 6360-130; 1927 c 309 § 42; RRS § 6362-42. Formerly RCW 46.48.160.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

(2010 Ed.)

SPEED RESTRICTIONS

46.61.400 Basic rule and maximum limits. (1) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(2) Except when a special hazard exists that requires lower speed for compliance with subsection (1) of this section, the limits specified in this section or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits.

- (a) Twenty-five miles per hour on city and town streets;
- (b) Fifty miles per hour on county roads;
- (c) Sixty miles per hour on state highways.

The maximum speed limits set forth in this section may be altered as authorized in RCW 46.61.405, 46.61.410, and 46.61.415.

(3) The driver of every vehicle shall, consistent with the requirements of subsection (1) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions. [1965 ex.s. c 155 § 54; 1963 c 16 § 1. Formerly RCW 46.48.011.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.405 Decreases by secretary of transportation. Whenever the secretary of transportation shall determine upon the basis of an engineering and traffic investigation that any maximum speed hereinbefore set forth is greater than is reasonable or safe with respect to a state highway under the conditions found to exist at any intersection or upon any other part of the state highway system or at state ferry terminals, or that a general reduction of any maximum speed set forth in RCW 46.61.400 is necessary in order to comply with a national maximum speed limit, the secretary may determine and declare a reasonable and safe lower maximum limit or a lower maximum limit which will comply with a national maximum speed limit, for any state highway, the entire state highway system, or any portion thereof, which shall be effective when appropriate signs giving notice thereof are erected. The secretary may also fix and regulate the speed of vehicles on any state highway within the maximum speed limit allowed by this chapter for special occasions including, but not limited to, local parades and other special events. Any such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon the said signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective (a) [(1)] when posted upon appropriate fixed or variable signs or (b) [(2)] if a maximum limit is established for

auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of RCW 46.61.410, as now or hereafter amended. [1987 c 397 § 3; 1977 ex.s. c 151 § 34; 1974 ex.s. c 103 § 1; 1970 ex.s. c 100 § 2; 1967 c 25 § 1; 1963 c 16 § 2. Formerly RCW 46.48.012.]

Intent—1987 c 397: See note following RCW 46.61.410.

Additional notes found at www.leg.wa.gov

46.61.410 Increases by secretary of transportation—Maximum speed limit for trucks—Auto stages—Signs and notices. (1)(a) Subject to subsection (2) of this section the secretary may increase the maximum speed limit on any highway or portion thereof to not more than seventy miles per hour in accordance with the design speed thereof (taking into account all safety elements included therein), or whenever the secretary determines upon the basis of an engineering and traffic investigation that such greater speed is reasonable and safe under the circumstances existing on such part of the highway.

(b) The greater maximum limit established under (a) of this subsection shall be effective when appropriate signs giving notice thereof are erected, or if a maximum limit is established for auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of this section.

(c) Such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon said signs or in the case of auto stages, as indicated in said written notice; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs or if a maximum limit is established for auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of this section.

(2) The maximum speed limit for vehicles over ten thousand pounds gross weight and vehicles in combination except auto stages shall not exceed sixty miles per hour and may be established at a lower limit by the secretary as provided in RCW 46.61.405.

(3) The word "trucks" used by the department on signs giving notice of maximum speed limits means vehicles over ten thousand pounds gross weight and all vehicles in combination except auto stages.

(4) Whenever the secretary establishes maximum speed limits for auto stages lower than the maximum limits for automobiles, the secretary shall cause to be mailed notice thereof to each auto transportation company holding a certificate of public convenience and necessity issued by the Washington utilities and transportation commission. The notice shall be mailed to the chief place of business within the state of Washington of each auto transportation company or if none then its chief place of business without the state of Washington. [1996 c 52 § 1; 1987 c 397 § 4; 1977 ex.s. c 151 § 35; 1974 ex.s. c 103 § 2; 1970 ex.s. c 100 § 1; 1969 ex.s. c

12 § 1; 1965 ex.s. c 155 § 55; 1963 c 16 § 3. Formerly RCW 46.48.013.]

Intent—1987 c 397: "It is the intent of the legislature to increase the speed limit to sixty-five miles per hour on those portions of the rural interstate highway system where the increase would be safe and reasonable and is allowed by federal law. It is also the intent of the legislature that the sixty-five miles per hour speed limit be strictly enforced." [1987 c 397 § 1.]

Additional notes found at www.leg.wa.gov

46.61.415 When local authorities may alter maximum limits. (1) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted under RCW 46.61.400 or 46.61.440 is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which

- (a) Decreases the limit at intersections; or
- (b) Increases the limit but not to more than sixty miles per hour; or
- (c) Decreases the limit but not to less than twenty miles per hour.

(2) Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under RCW 46.61.400(2) but shall not exceed sixty miles per hour.

(3) The secretary of transportation is authorized to establish speed limits on county roads and city and town streets as shall be necessary to conform with any federal requirements which are a prescribed condition for the allocation of federal funds to the state.

(4) Any altered limit established as hereinbefore authorized shall be effective when appropriate signs giving notice thereof are erected. Such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon such signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs.

(5) Any alteration of maximum limits on state highways within incorporated cities or towns by local authorities shall not be effective until such alteration has been approved by the secretary of transportation. [1977 ex.s. c 151 § 36; 1974 ex.s. c 103 § 3; 1963 c 16 § 4. Formerly RCW 46.48.014.]

Additional notes found at www.leg.wa.gov

46.61.419 Private roads—Speed enforcement. State, local, or county law enforcement personnel may enforce speeding violations under RCW 46.61.400 on private roads within a community organized under chapter 64.38 RCW if:

(1) A majority of the homeowner's association's board of directors votes to authorize the issuance of speeding infractions on its private roads, and declares a speed limit not lower than twenty miles per hour;

(2) A written agreement regarding the speeding enforcement is signed by the homeowner's association president and

the chief law enforcement official of the city or county within whose jurisdiction the private road is located;

(3) The homeowner's association has provided written notice to all of the homeowners describing the new authority to issue speeding infractions; and

(4) Signs have been posted declaring the speed limit at all vehicle entrances to the community. [2003 c 193 § 1.]

46.61.425 Minimum speed regulation—Passing slow moving vehicle. (1) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law: PROVIDED, That a person following a vehicle driving at less than the legal maximum speed and desiring to pass such vehicle may exceed the speed limit, subject to the provisions of RCW 46.61.120 on highways having only one lane of traffic in each direction, at only such a speed and for only such a distance as is necessary to complete the pass with a reasonable margin of safety.

(2) Whenever the secretary of transportation or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway unreasonably impede the normal movement of traffic, the secretary or such local authority may determine and declare a minimum speed limit thereat which shall be effective when appropriate signs giving notice thereof are erected. No person shall drive a vehicle slower than such minimum speed limit except when necessary for safe operation or in compliance with law. [1977 ex.s. c 151 § 37; 1969 c 135 § 1; 1967 c 25 § 2; 1963 c 16 § 6. Formerly RCW 46.48.015.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.427 Slow-moving vehicle to pull off roadway. On a two-lane highway where passing is unsafe because of traffic in the opposite direction or other conditions, a slow moving vehicle, behind which five or more vehicles are formed in a line, shall turn off the roadway wherever sufficient area for a safe turn-out exists, in order to permit the vehicles following to proceed. As used in this section a slow moving vehicle is one which is proceeding at a rate of speed less than the normal flow of traffic at the particular time and place. [1973 c 88 § 1.]

46.61.428 Slow-moving vehicle driving on shoulders, when. (1) The state department of transportation and local authorities are authorized to determine those portions of any two-lane highways under their respective jurisdictions on which drivers of slow-moving vehicles may safely drive onto improved shoulders for the purpose of allowing overtaking vehicles to pass and may by appropriate signs indicate the beginning and end of such zones.

(2) Where signs are in place to define a driving-on-shoulder zone as set forth in subsection (1) of this section, the driver of a slow-moving vehicle may drive onto and along the shoulder within the zone but only for the purpose of allowing overtaking vehicles to pass and then shall return to the roadway.

(2010 Ed.)

(3) Signs erected to define a driving-on-shoulder zone take precedence over pavement markings for the purpose of allowing the movements described in subsection (2) of this section. [1984 c 7 § 71; 1977 ex.s. c 39 § 1.]

Additional notes found at www.leg.wa.gov

46.61.430 Authority of secretary of transportation to fix speed limits on limited access facilities exclusive—Local regulations. Notwithstanding any law to the contrary or inconsistent herewith, the secretary of transportation shall have the power and the duty to fix and regulate the speed of vehicles within the maximum speed limit allowed by law for state highways, designated as limited access facilities, regardless of whether a portion of said highway is within the corporate limits of a city or town. No governing body or authority of such city or town or other political subdivision may have the power to pass or enforce any ordinance, rule, or regulation requiring a different rate of speed, and all such ordinances, rules, and regulations contrary to or inconsistent therewith now in force are void and of no effect. [1977 ex.s. c 151 § 38; 1974 ex.s. c 103 § 4; 1961 c 12 § 46.48.041. Prior: 1955 c 177 § 5. Formerly RCW 46.48.041.]

Additional notes found at www.leg.wa.gov

46.61.435 Local authorities to provide "stop" or "yield" signs at intersections with increased speed highways—Designated as arterials. The governing body or authority of any such city or town or political subdivision shall place and maintain upon each and every highway intersecting a highway where an increased speed is permitted, as provided in this chapter, appropriate stop or yield signs, sufficient to be read at any time by any person upon approaching and entering the highway upon which such increased speed is permitted and such city street or such portion thereof as is subject to the increased speed shall be an arterial highway. [1975 c 62 § 33; 1961 c 12 § 46.48.046. Prior: 1951 c 28 § 4; prior: 1937 c 189 § 66, part; RRS § 6360-66, part; 1927 c 309 § 5, part; 1921 c 96 § 41, part; 1919 c 59 § 13, part; 1917 c 155 § 20, part; 1915 c 142 § 34, part; RRS § 6362-5, part. Formerly RCW 46.48.046.]

Designation of city streets as arterials, stopping on entering: RCW 46.61.195.

Traffic control signals or devices upon city streets forming part of state highways: RCW 46.61.085.

Additional notes found at www.leg.wa.gov

46.61.440 Maximum speed limit when passing school or playground crosswalks—Penalty, disposition of proceeds. (1) Subject to RCW 46.61.400(1), and except in those instances where a lower maximum lawful speed is provided by this chapter or otherwise, it shall be unlawful for the operator of any vehicle to operate the same at a speed in excess of twenty miles per hour when operating any vehicle upon a highway either inside or outside an incorporated city or town when passing any marked school or playground crosswalk when such marked crosswalk is fully posted with standard school speed limit signs or standard playground speed limit signs. The speed zone at the crosswalk shall extend three hundred feet in either direction from the marked crosswalk.

(2) A county or incorporated city or town may create a school or playground speed zone on a highway bordering a marked school or playground, in which zone it is unlawful for a person to operate a vehicle at a speed in excess of twenty miles per hour. The school or playground speed zone may extend three hundred feet from the border of the school or playground property; however, the speed zone may only include area consistent with active school or playground use.

(3) A person found to have committed any infraction relating to speed restrictions within a school or playground speed zone shall be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. This penalty may not be waived, reduced, or suspended.

(4) School districts may erect signs that comply with the uniform state standards adopted and designated by the department of transportation under RCW 47.36.030, informing motorists of the increased monetary penalties assessed for violations of RCW 46.61.235, 46.61.245, or 46.61.261 within a school, playground, or crosswalk speed zone created under subsection (1) or (2) of this section.

(5) The school zone safety account is created in the custody of the state treasurer. Fifty percent of the moneys collected under subsection (3) of this section and the moneys collected under RCW 46.61.235(5), 46.61.245(2), or 46.61.261(2) shall be deposited into the account. Expenditures from the account may be used only by the Washington traffic safety commission solely to fund projects in local communities to improve school zone safety, pupil transportation safety, and student safety in school bus loading and unloading areas. Only the director of the traffic safety commission or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures until July 1, 1999, after which date moneys in the account may be spent only after appropriation. [2010 c 242 § 4; 2003 c 192 § 1; 1997 c 80 § 2; 1996 c 114 § 1; 1975 c 62 § 34; 1963 c 16 § 5; 1961 c 12 § 46.48.023. Prior: 1951 c 28 § 9; 1949 c 196 § 6, part; 1947 c 200 § 8, part; 1937 c 189 § 64, part; Rem. Supp. 1949 § 6360-64, part; 1927 c 309 § 3, part; 1923 c 181 § 6, part; 1921 c 96 § 27, part; 1917 c 155 § 16, part; 1915 c 142 § 24, part; RRS § 6362-3, part; 1909 c 249 § 279, part; Rem. & Bal. § 2531, part. Formerly RCW 46.48.023.]

Effective date—2010 c 242: See note following RCW 46.61.275.

Additional notes found at www.leg.wa.gov

46.61.445 Due care required. Compliance with speed requirements of this chapter under the circumstances hereinabove set forth shall not relieve the operator of any vehicle from the further exercise of due care and caution as further circumstances shall require. [1961 c 12 § 46.48.025. Prior: 1951 c 28 § 11; 1949 c 196 § 6, part; 1947 c 200 § 8, part; 1937 c 189 § 64, part; Rem. Supp. 1949 § 6360-64, part; 1927 c 309 § 3, part; 1923 c 181 § 6, part; 1921 c 96 § 27, part; 1917 c 155 § 16, part; 1915 c 142 § 24, part; RRS § 6362-3, part; 1909 c 249 § 279, part; Rem. & Bal. 2531, part. Formerly RCW 46.48.025.]

Duty to use due care: RCW 46.61.400(1).

[Title 46 RCW—page 328]

46.61.450 Maximum speed, weight, or size in traversing bridges, elevated structures, tunnels, underpasses—Posting limits. It shall be unlawful for any person to operate a vehicle or any combination of vehicles over any bridge or other elevated structure or through any tunnel or underpass constituting a part of any public highway at a rate of speed or with a gross weight or of a size which is greater at any time than the maximum speed or maximum weight or size which can be maintained or carried with safety over any such bridge or structure or through any such tunnel or underpass when such bridge, structure, tunnel, or underpass is sign posted as hereinafter provided. The secretary of transportation, if it be a bridge, structure, tunnel, or underpass upon a state highway, or the governing body or authorities of any county, city, or town, if it be upon roads or streets under their jurisdiction, may restrict the speed which may be maintained or the gross weight or size which may be operated upon or over any such bridge or elevated structure or through any such tunnel or underpass with safety thereto. The secretary or the governing body or authorities of any county, city, or town having jurisdiction shall determine and declare the maximum speed or maximum gross weight or size which such bridge, elevated structure, tunnel, or underpass can withstand or accommodate and shall cause suitable signs stating such maximum speed or maximum gross weight, or size, or either, to be erected and maintained on the right hand side of such highway, road, or street and at a distance of not less than one hundred feet from each end of such bridge, structure, tunnel, or underpass and on the approach thereto: PROVIDED, That in the event that any such bridge, elevated structure, tunnel, or underpass is upon a city street designated by the department of transportation as forming a part of the route of any state highway through any such incorporated city or town the determination of any maximum speed or maximum gross weight or size which such bridge, elevated structure, tunnel, or underpass can withstand or accommodate shall not be enforceable at any speed, weight, or size less than the maximum allowed by law, unless with the approval in writing of the secretary. Upon the trial of any person charged with a violation of this section, proof of either violation of maximum speed or maximum weight, or size, or either, and the distance and location of such signs as are required, shall constitute conclusive evidence of the maximum speed or maximum weight, or size, or either, which can be maintained or carried with safety over such bridge or elevated structure or through such tunnel or underpass. [2006 c 334 § 20; 1977 ex.s. c 151 § 39; 1961 c 12 § 46.48.080. Prior: 1937 c 189 § 70; RRS § 6360-70. Formerly RCW 46.48.080.]

Effective date—2006 c 334: See note following RCW 47.01.051.

Additional notes found at www.leg.wa.gov

46.61.455 Vehicles with solid or hollow cushion tires. Except for vehicles equipped with temporary-use spare tires that meet federal standards, it shall be unlawful to operate any vehicle equipped or partly equipped with solid rubber tires or hollow center cushion tires, or to operate any combination of vehicles any part of which is equipped or partly equipped with solid rubber tires or hollow center cushion tires, so long as solid rubber tires or hollow center cushion tires may be used under the provisions of this title, upon any public highway of this state at a greater rate of speed than ten

miles per hour: PROVIDED, That the temporary-use spare tires are installed and used in accordance with the manufacturer's instructions. [1990 c 105 § 3; 1961 c 12 § 46.48.110. Prior: 1947 c 200 § 11; 1937 c 189 § 73; Rem. Supp. 1947 § 6360-73. Formerly RCW 46.48.110.]

46.61.460 Special speed limitation on motor-driven cycle. No person shall operate any motor-driven cycle at any time mentioned in RCW 46.37.020 at a speed greater than thirty-five miles per hour unless such motor-driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of three hundred feet ahead. [1965 ex.s. c 155 § 57.]

46.61.465 Exceeding speed limit evidence of reckless driving. The unlawful operation of a vehicle in excess of the maximum lawful speeds provided in this chapter at the point of operation and under the circumstances described shall be prima facie evidence of the operation of a motor vehicle in a reckless manner by the operator thereof. [1961 c 12 § 46.48.026. Prior: 1951 c 28 § 12; 1949 c 196 § 6, part; 1947 c 200 § 8, part; 1937 c 189 § 64, part; Rem. Supp. 1949 § 6360-64, part; 1927 c 309 § 3, part; 1923 c 181 § 6, part; 1921 c 96 § 27, part; 1917 c 155 § 16, part; 1915 c 142 § 24, part; RRS § 6362-3, part; 1909 c 249 § 279, part; Rem. & Bal. §2531, part. Formerly RCW 46.48.026.]

46.61.470 Speed traps defined, certain types permitted—Measured courses, speed measuring devices, timing from aircraft. (1) No evidence as to the speed of any vehicle operated upon a public highway by any person arrested for violation of any of the laws of this state regarding speed or of any orders, rules, or regulations of any city or town or other political subdivision relating thereto shall be admitted in evidence in any court at a subsequent trial of such person in case such evidence relates to or is based upon the maintenance or use of a speed trap except as provided in subsection (2) of this section. A "speed trap," within the meaning of this section, is a particular section of or distance on any public highway, the length of which has been or is measured off or otherwise designated or determined, and the limits of which are within the vision of any officer or officers who calculate the speed of a vehicle passing through such speed trap by using the lapsed time during which such vehicle travels between the entrance and exit of such speed trap.

(2) Evidence shall be admissible against any person arrested or issued a notice of a traffic infraction for violation of any of the laws of this state or of any orders, rules, or regulations of any city or town or other political subdivision regarding speed if the same is determined by a particular section of or distance on a public highway, the length of which has been accurately measured off or otherwise designated or determined and either: (a) The limits of which are controlled by a mechanical, electrical, or other device capable of measuring or recording the speed of a vehicle passing within such limits; or (b) a timing device is operated from an aircraft, which timing device when used to measure the elapsed time of a vehicle passing over such a particular section of or distance upon a public highway indicates the speed of a vehicle.

(2010 Ed.)

(3) The exceptions of subsection (2) of this section are limited to devices or observations with a maximum error of not to exceed five percent using the lapsed time during which such vehicle travels between such limits, and such limits shall not be closer than one-fourth mile. [1981 c 105 § 1; 1961 c 12 § 46.48.120. Prior: 1937 c 189 § 74; RRS § 6360-74; 1927 c 309 § 7; RRS § 6362-7. Formerly RCW 46.48.120.]

46.61.480 Determination of maximum speed on non-limited access state highways within tribal reservation boundaries. (1) Tribal authorities, within their reservation boundaries, may determine based on an engineering and traffic investigation that the maximum speed permitted under RCW 46.61.400 or 46.61.405 is greater or less than is reasonable or safe under the conditions found to exist upon a non-limited access state highway or part of a nonlimited access state highway. Then, the tribal authority may determine and declare a reasonable and safe maximum limit thereon which:

- (a) Decreases the limit at intersections;
- (b) Increases the limit, not exceeding sixty miles per hour; or
- (c) Decreases the limit, not lower than twenty miles per hour.

(2) Any alteration by tribal authorities of maximum limits on a nonlimited access state highway is not effective until the alteration has been approved by the secretary of transportation and appropriate signs giving notice of the alteration have been posted. In the case of an alteration by tribal authorities of maximum limits on a nonlimited access state highway that is also part of a city or town street or county road within tribal reservation boundaries, the alteration is not effective until that alteration has also been approved by the applicable local authority. [2009 c 383 § 1.]

RECKLESS DRIVING,
DRIVING UNDER THE INFLUENCE,
VEHICULAR HOMICIDE AND ASSAULT

46.61.500 Reckless driving—Penalty. (1) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Violation of the provisions of this section is a gross misdemeanor punishable by imprisonment of not more than one year and by a fine of not more than five thousand dollars.

(2) The license or permit to drive or any nonresident privilege of any person convicted of reckless driving shall be suspended by the department for not less than thirty days. [1990 c 291 § 1; 1979 ex.s. c 136 § 85; 1967 c 32 § 67; 1965 ex.s. c 155 § 59.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Arrest of person involved in reckless driving: RCW 10.31.100.

Criminal history and driving record: RCW 46.61.513.

Embracing another while driving as reckless driving: RCW 46.61.665.

Excess speed as prima facie evidence of reckless driving: RCW 46.61.465.

Racing of vehicles on public highways, reckless driving: RCW 46.61.530.

Revocation of license, reckless driving: RCW 46.20.285.

Additional notes found at www.leg.wa.gov

46.61.502 Driving under the influence. (1) A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if: (a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or (b) the person has ever previously been convicted of (i) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), (ii) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or (iii) an out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection. [2008 c 282 § 20; 2006 c 73 § 1; 1998 c 213 § 3; 1994 c 275 § 2; 1993 c 328 § 1; 1987 c 373 § 2; 1986 c 153 § 2; 1979 ex.s. c 176 § 1.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Effective date—2006 c 73: "This act takes effect July 1, 2007." [2006 c 73 § 19.]

Legislative finding, purpose—1987 c 373: "The legislature finds the existing statutes that establish the criteria for determining when a person is guilty of driving a motor vehicle under the influence of intoxicating liquor or drugs are constitutional and do not require any additional criteria to ensure their legality. The purpose of this act is to provide an additional method of defining the crime of driving while intoxicated. This act is not an acknowl-

edgement that the existing breath alcohol standard is legally improper or invalid." [1987 c 373 § 1.]

Business operation of vessel or vehicle while intoxicated: RCW 9.91.020.

Criminal history and driving record: RCW 46.61.513.

Operating aircraft recklessly or under influence of intoxicants or drugs: RCW 47.68.220.

Use of vessel in reckless manner or while under influence of alcohol or drugs prohibited: RCW 79A.60.040.

Additional notes found at www.leg.wa.gov

46.61.503 Driver under twenty-one consuming alcohol—Penalties. (1) Notwithstanding any other provision of this title, a person is guilty of driving or being in physical control of a motor vehicle after consuming alcohol if the person operates or is in physical control of a motor vehicle within this state and the person:

(a) Is under the age of twenty-one;

(b) Has, within two hours after operating or being in physical control of the motor vehicle, an alcohol concentration of at least 0.02 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's breath or blood made under RCW 46.61.506.

(2) It is an affirmative defense to a violation of subsection (1) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving or being in physical control and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be in violation of subsection (1) of this section within two hours after driving or being in physical control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the earlier of: (a) Seven days prior to trial; or (b) the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(3) Analyses of blood or breath samples obtained more than two hours after the alleged driving or being in physical control may be used as evidence that within two hours of the alleged driving or being in physical control, a person had an alcohol concentration in violation of subsection (1) of this section.

(4) A violation of this section is a misdemeanor. [1998 c 213 § 4; 1998 c 207 § 5; 1998 c 41 § 8; 1995 c 332 § 2; 1994 c 275 § 10. Formerly RCW 46.20.309.]

Reviser's note: This section was amended by 1998 c 41 § 8, 1998 c 207 § 5, and by 1998 c 213 § 4, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Construction—Effective date—1998 c 41: See notes following RCW 46.20.265.

Additional notes found at www.leg.wa.gov

46.61.504 Physical control of vehicle under the influence. (1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if: (a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or (b) the person has ever previously been convicted of (i) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), (ii) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or (iii) an out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection. [2008 c 282 § 21; 2006 c 73 § 2; 1998 c 213 § 5; 1994 c 275 § 3; 1993 c 328 § 2; 1987 c 373 § 3; 1986 c 153 § 3; 1979 ex.s. c 176 § 2.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Effective date—2006 c 73: See note following RCW 46.61.502.

Legislative finding, purpose—Severability—1987 c 373: See notes following RCW 46.61.502.

Criminal history and driving record: RCW 46.61.513.

Additional notes found at www.leg.wa.gov

46.61.5054 Alcohol violators—Additional fee—Distribution. (1)(a) In addition to penalties set forth in *RCW 46.61.5051 through 46.61.5053 until September 1, 1995, and RCW 46.61.5055 thereafter, a one hundred twenty-five dollar fee shall be assessed to a person who is either convicted,

sentenced to a lesser charge, or given deferred prosecution, as a result of an arrest for violating RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for the purpose of funding the Washington state toxicology laboratory and the Washington state patrol for grants and activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs.

(b) Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay.

(c) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall assess the one hundred twenty-five dollar fee under (a) of this subsection. Upon a verified petition by a minor assessed the fee, the court may suspend payment of all or part of the fee if it finds that the minor does not have the ability to pay the fee.

(2) The fee assessed under subsection (1) of this section shall be collected by the clerk of the court and distributed as follows:

(a) Forty percent shall be subject to distribution under RCW **3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

(b) The remainder of the fee shall be forwarded to the state treasurer who shall, through June 30, 1997, deposit: Fifty percent in the death investigations' account to be used solely for funding the state toxicology laboratory blood or breath testing programs; and fifty percent in the state patrol highway account to be used solely for funding activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs. Effective July 1, 1997, the remainder of the fee shall be forwarded to the state treasurer who shall deposit: Fifteen percent in the death investigations' account to be used solely for funding the state toxicology laboratory blood or breath testing programs; and eighty-five percent in the state patrol highway account to be used solely for funding activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs.

(3) This section applies to any offense committed on or after July 1, 1993. [1995 c 398 § 15; 1995 c 332 § 13; 1994 c 275 § 7.]

Reviser's note: *(1) RCW 46.61.5051, 46.61.5052, and 46.61.5053 were repealed by 1995 c 332 § 21, effective September 1, 1995.

***(2) RCW 3.46.120 was repealed by 2008 c 227 § 12, effective July 1, 2008.

(3) This section was amended by 1995 c 332 § 13 and by 1995 c 398 § 15, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

46.61.5055 Alcohol violators—Penalty schedule. (Effective until January 1, 2011.) (1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW

46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW

46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year and sixty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year and ninety days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year and one hundred twenty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year and one hundred fifty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(4) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if: (a) The person has four or more prior offenses within ten years; or (b) the person has ever previously been convicted of: (i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug; (ii) a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug; or (iii) an out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection.

(2010 Ed.)

(5)(a) The court shall require any person convicted of an alcohol-related violation of RCW 46.61.502 or 46.61.504 to apply for an ignition interlock driver's license from the department under RCW 46.20.385 and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) The installation of an ignition interlock device is not necessary on vehicles owned by a person's employer and driven as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer during working hours.

(c) An ignition interlock device imposed under this section shall be calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more.

(d) The court may waive the requirement that a person obtain an ignition interlock driver's license and operate only vehicles equipped with a functioning ignition interlock device if the court makes a specific finding in writing that the devices are not reasonably available in the local area, that the person does not operate a vehicle, or the person is not eligible to receive an ignition interlock driver's license under RCW 46.20.385.

(e) When the requirement that a person obtain an ignition interlock driver's license and operate only vehicles equipped with a functioning ignition interlock device is waived by the court, the court shall order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person shall pay for the cost of the monitoring. The county or municipality where the penalty is being imposed shall determine the cost.

(f) The period of time for which ignition interlock use or alcohol monitoring is required will be as follows:

(i) For a person who has not previously been restricted under this section, a period of one year;

(ii) For a person who has previously been restricted under (f)(i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under (f)(ii) of this subsection, a period of ten years.

(6) If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) In any case in which the installation and use of an interlock or other device is not mandatory under RCW 46.20.720 or other law, order the use of such a device for not less than sixty days following the restoration of the person's license, permit, or nonresident driving privileges; and

(b) In any case in which the installation and use of such a device is otherwise mandatory, order the use of such a device for an additional sixty days.

(7) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers.

(8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11)(a) In addition to any nonsuspendable and nondeferable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a

period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-five days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-five days.

(13) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail

administrator subject to the standards and limitations set forth in *RCW 9.94A.728(4).

(14) For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years of the arrest for the current offense; and

(c) "Within ten years" means that the arrest for a prior offense occurred within ten years of the arrest for the current offense. [2008 c 282 § 14; 2007 c 474 § 1; 2006 c 73 § 3; 2004 c 95 § 13; 2003 c 103 § 1. Prior: 1999 c 324 § 5; 1999 c 274 § 6; 1999 c 5 § 1; prior: 1998 c 215 § 1; 1998 c 214 § 1; 1998 c 211 § 1; 1998 c 210 § 4; 1998 c 207 § 1; 1998 c 206 § 1; prior: 1997 c 229 § 11; 1997 c 66 § 14; 1996 c 307 § 3; 1995 1st sp.s. c 17 § 2; 1995 c 332 § 5.]

*Reviser's note: RCW 9.94A.728 was amended by 2009 c 455 § 2, changing subsection (4) to subsection (3).

Effective date—2008 c 282: See note following RCW 46.20.308.

Effective date—2007 c 474: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007." [2007 c 474 § 2.]

Effective date—2006 c 73: See note following RCW 46.61.502.

Short title—Finding—Intent—Effective date—1998 c 210: See notes following RCW 46.20.720.

Additional notes found at www.leg.wa.gov

46.61.5055 Alcohol violators—Penalty schedule. (*Effective January 1, 2011.*) (1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(2010 Ed.)

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year and sixty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year and ninety days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW

46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year and one hundred twenty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year and one hundred fifty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(4) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if: (a) The person has four or more prior offenses within ten years; or (b) the person has ever previously been convicted of: (i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug; (ii) a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug; or (iii)

an out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection.

(5)(a) The court shall require any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(c) An ignition interlock device imposed under this section shall be calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more.

(d) The court may waive the requirement that a person apply for an ignition interlock driver's license if the court makes a specific finding in writing that:

(i) The person lives out-of-state and the devices are not reasonably available in the person's local area;

(ii) The person does not operate a vehicle; or

(iii) The person is not eligible to receive an ignition interlock driver's license under RCW 46.20.385 because the person is not a resident of Washington, is a habitual traffic offender, has already applied for or is already in possession of an ignition interlock driver's license, has never had a driver's license, has been certified under chapter 74.20A RCW as noncompliant with a child support order, or is subject to any other condition or circumstance that makes the person ineligible to obtain an ignition interlock driver's license.

(e) If a court finds that a person is not eligible to receive an ignition interlock driver's license under this section, the court is not required to make any further subsequent inquiry or determination as to the person's eligibility.

(f) If the court orders that a person refrain from consuming any alcohol and requires the person to apply for an ignition interlock driver's license, and the person states that he or she does not operate a motor vehicle or the person is ineligible to obtain an ignition interlock driver's license, the court shall order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person shall pay for the cost of the monitoring. The county or municipality where the penalty is being imposed shall determine the cost.

(g) The period of time for which ignition interlock use or alcohol monitoring is required will be as follows:

(i) For a person who has not previously been restricted under this section, a period of one year;

(ii) For a person who has previously been restricted under (g)(i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under (g)(ii) of this subsection, a period of ten years.

(6) If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) In any case in which the installation and use of an interlock or other device is not mandatory under RCW 46.20.720 or other law, order the use of such a device for not less than sixty days following the restoration of the person's license, permit, or nonresident driving privileges; and

(b) In any case in which the installation and use of such a device is otherwise mandatory, order the use of such a device for an additional sixty days.

(7) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers.

(8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11)(a) In addition to any nonsuspendable and nondeferable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-five days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-five days.

(13) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(3).

(14) For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years before or after the arrest for the current offense; and

(c) "Within ten years" means that the arrest for a prior offense occurred within ten years before or after the arrest for the current offense. [2010 c 269 § 4; 2008 c 282 § 14; 2007 c 474 § 1; 2006 c 73 § 3; 2004 c 95 § 13; 2003 c 103 § 1. Prior: 1999 c 324 § 5; 1999 c 274 § 6; 1999 c 5 § 1; prior: 1998 c 215 § 1; 1998 c 214 § 1; 1998 c 211 § 1; 1998 c 210 § 4; 1998 c 207 § 1; 1998 c 206 § 1; prior: 1997 c 229 § 11; 1997 c 66 § 14; 1996 c 307 § 3; 1995 1st sp.s. c 17 § 2; 1995 c 332 § 5.]

Effective date—2010 c 269: See note following RCW 46.20.385.

Effective date—2008 c 282: See note following RCW 46.20.308.

Effective date—2007 c 474: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007." [2007 c 474 § 2.]

Effective date—2006 c 73: See note following RCW 46.61.502.

Short title—Finding—Intent—Effective date—1998 c 210: See notes following RCW 46.20.720.

Additional notes found at www.leg.wa.gov

46.61.5056 Alcohol violators—Information school—Evaluation and treatment. (1) A person subject to alcohol assessment and treatment under RCW 46.61.5055 shall be required by the court to complete a course in an alcohol information school approved by the department of social and health services or to complete more intensive treatment in a program approved by the department of social and health services, as determined by the court. The court shall notify the department of licensing whenever it orders a person to complete a course or treatment program under this section.

(2) A diagnostic evaluation and treatment recommendation shall be prepared under the direction of the court by an alcoholism agency approved by the department of social and health services or a qualified probation department approved by the department of social and health services. A copy of the report shall be forwarded to the department of licensing. Based on the diagnostic evaluation, the court shall determine whether the person shall be required to complete a course in an alcohol information school approved by the department of social and health services or more intensive treatment in a program approved by the department of social and health services.

(3) Standards for approval for alcohol treatment programs shall be prescribed by the department of social and health services. The department of social and health services shall periodically review the costs of alcohol information schools and treatment programs.

(4) Any agency that provides treatment ordered under RCW 46.61.5055, shall immediately report to the appropriate probation department where applicable, otherwise to the court, and to the department of licensing any noncompliance by a person with the conditions of his or her ordered treatment. The court shall notify the department of licensing and the department of social and health services of any failure by an agency to so report noncompliance. Any agency with knowledge of noncompliance that fails to so report shall be fined two hundred fifty dollars by the department of social and health services. Upon three such failures by an agency within one year, the department of social and health services shall revoke the agency's approval under this section.

(2010 Ed.)

(5) The department of licensing and the department of social and health services may adopt such rules as are necessary to carry out this section. [1995 c 332 § 14; 1994 c 275 § 9.]

Additional notes found at www.leg.wa.gov

46.61.50571 Alcohol violators—Mandatory appearances. (1) A defendant who is charged with an offense involving driving while under the influence as defined in RCW 46.61.502, driving under age twenty-one after consuming alcohol as defined in RCW 46.61.503, or being in physical control of a vehicle while under the influence as defined in RCW 46.61.504, shall be required to appear in person before a judicial officer within one judicial day after the arrest if the defendant is served with a citation or complaint at the time of the arrest. A court may by local court rule waive the requirement for appearance within one judicial day if it provides for the appearance at the earliest practicable day following arrest and establishes the method for identifying that day in the rule.

(2) A defendant who is charged with an offense involving driving while under the influence as defined in RCW 46.61.502, driving under age twenty-one after consuming alcohol as defined in RCW 46.61.503, or being in physical control of a vehicle while under the influence as defined in RCW 46.61.504, and who is not served with a citation or complaint at the time of the incident, shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

(3) At the time of an appearance required by this section, the court shall determine the necessity of imposing conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment.

(4) Appearances required by this section are mandatory and may not be waived. [2000 c 52 § 1; 1999 c 114 § 1; 1998 c 214 § 5.]

Additional notes found at www.leg.wa.gov

46.61.5058 Alcohol violators—Vehicle seizure and forfeiture. (1) Upon the arrest of a person or upon the filing of a complaint, citation, or information in a court of competent jurisdiction, based upon probable cause to believe that a person has violated RCW 46.61.502 or 46.61.504 or any similar municipal ordinance, if such person has a prior offense within seven years as defined in RCW 46.61.5055, and where the person has been provided written notice that any transfer, sale, or encumbrance of such person's interest in the vehicle over which that person was actually driving or had physical control when the violation occurred, is unlawful pending either acquittal, dismissal, sixty days after conviction, or other termination of the charge, such person shall be prohibited from encumbering, selling, or transferring his or her interest in such vehicle, except as otherwise provided in (a), (b), and (c) of this subsection, until either acquittal, dismissal, sixty days after conviction, or other termination of the charge. The prohibition against transfer of title shall not be

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stayed pending the determination of an appeal from the conviction.

(a) A vehicle encumbered by a bona fide security interest may be transferred to the secured party or to a person designated by the secured party;

(b) A leased or rented vehicle may be transferred to the lessor, rental agency, or to a person designated by the lessor or rental agency; and

(c) A vehicle may be transferred to a third party or a vehicle dealer who is a bona fide purchaser or may be subject to a bona fide security interest in the vehicle unless it is established that (i) in the case of a purchase by a third party or vehicle dealer, such party or dealer had actual notice that the vehicle was subject to the prohibition prior to the purchase, or (ii) in the case of a security interest, the holder of the security interest had actual notice that the vehicle was subject to the prohibition prior to the encumbrance of title.

(2) On conviction for a violation of either RCW 46.61.502 or 46.61.504 or any similar municipal ordinance where the person convicted has a prior offense within seven years as defined in RCW 46.61.5055, the motor vehicle the person was driving or over which the person had actual physical control at the time of the offense, if the person has a financial interest in the vehicle, is subject to seizure and forfeiture pursuant to this section.

(3) A vehicle subject to forfeiture under this chapter may be seized by a law enforcement officer of this state upon process issued by a court of competent jurisdiction. Seizure of a vehicle may be made without process if the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based upon this section.

(4) Seizure under subsection (3) of this section automatically commences proceedings for forfeiture. The law enforcement agency under whose authority the seizure was made shall cause notice of the seizure and intended forfeiture of the seized vehicle to be served within fifteen days after the seizure on the owner of the vehicle seized, on the person in charge of the vehicle, and on any person having a known right or interest in the vehicle, including a community property interest. The notice of seizure may be served by any method authorized by law or court rule, including but not limited to service by certified mail with return receipt requested. Service by mail is complete upon mailing within the fifteen-day period after the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected on a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(5) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the vehicle is deemed forfeited.

(6) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing

agency is a state agency as defined in RCW 34.12.020, the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the vehicle is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the vehicle involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the legal owner or the person claiming to have the lawful right to possession of the vehicle. The seizing law enforcement agency shall promptly return the vehicle to the claimant upon a determination by the administrative law judge or court that the claimant is the present legal owner under Title 46 RCW or is lawfully entitled to possession of the vehicle.

(7) When a vehicle is forfeited under this chapter the seizing law enforcement agency may sell the vehicle, retain it for official use, or upon application by a law enforcement agency of this state release the vehicle to that agency for the exclusive use of enforcing this title; provided, however, that the agency shall first satisfy any bona fide security interest to which the vehicle is subject under subsection (1)(a) or (c) of this section.

(8) When a vehicle is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the vehicle, the disposition of the vehicle, the value of the vehicle at the time of seizure, and the amount of proceeds realized from disposition of the vehicle.

(9) Each seizing agency shall retain records of forfeited vehicles for at least seven years.

(10) Each seizing agency shall file a report including a copy of the records of forfeited vehicles with the state treasurer each calendar quarter.

(11) The quarterly report need not include a record of a forfeited vehicle that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(12) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of vehicles forfeited during the preceding calendar year. Money remitted shall be deposited in the state general fund.

(13) The net proceeds of a forfeited vehicle is the value of the forfeitable interest in the vehicle after deducting the cost of satisfying a bona fide security interest to which the vehicle is subject at the time of seizure; and in the case of a sold vehicle, after deducting the cost of sale, including rea-

sonable fees or commissions paid to independent selling agents.

(14) The value of a sold forfeited vehicle is the sale price. The value of a retained forfeited vehicle is the fair market value of the vehicle at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing. A seizing agency may, but need not, use an independent qualified appraiser to determine the value of retained vehicles. If an appraiser is used, the value of the vehicle appraised is net of the cost of the appraisal. [2009 c 479 § 38; 1998 c 207 § 2; 1995 c 332 § 6; 1994 c 139 § 1.]

Effective date—2009 c 479: See note following RCW 2.56.030.

Additional notes found at www.leg.wa.gov

46.61.506 Persons under influence of intoxicating liquor or drug—Evidence—Tests—Information concerning tests. (1) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or any drug, if the person's alcohol concentration is less than 0.08, it is evidence that may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor or any drug.

(2) The breath analysis shall be based upon grams of alcohol per two hundred ten liters of breath. The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor or any drug.

(3) Analysis of the person's blood or breath to be considered valid under the provisions of this section or RCW 46.61.502 or 46.61.504 shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose. The state toxicologist is directed to approve satisfactory techniques or methods, to supervise the examination of individuals to ascertain their qualifications and competence to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the state toxicologist.

(4)(a) A breath test performed by any instrument approved by the state toxicologist shall be admissible at trial or in an administrative proceeding if the prosecution or department produces prima facie evidence of the following:

(i) The person who performed the test was authorized to perform such test by the state toxicologist;

(ii) The person being tested did not vomit or have anything to eat, drink, or smoke for at least fifteen minutes prior to administration of the test;

(iii) The person being tested did not have any foreign substances, not to include dental work, fixed or removable, in his or her mouth at the beginning of the fifteen-minute observation period;

(iv) Prior to the start of the test, the temperature of any liquid simulator solution utilized as an external standard, as measured by a thermometer approved of by the state toxicologist was thirty-four degrees centigrade plus or minus 0.3 degrees centigrade;

(v) The internal standard test resulted in the message "verified";

(vi) The two breath samples agree to within plus or minus ten percent of their mean to be determined by the method approved by the state toxicologist;

(vii) The result of the test of the liquid simulator solution external standard or dry gas external standard result did lie between .072 to .088 inclusive; and

(viii) All blank tests gave results of .000.

(b) For purposes of this section, "prima facie evidence" is evidence of sufficient circumstances that would support a logical and reasonable inference of the facts sought to be proved. In assessing whether there is sufficient evidence of the foundational facts, the court or administrative tribunal is to assume the truth of the prosecution's or department's evidence and all reasonable inferences from it in a light most favorable to the prosecution or department.

(c) Nothing in this section shall be deemed to prevent the subject of the test from challenging the reliability or accuracy of the test, the reliability or functioning of the instrument, or any maintenance procedures. Such challenges, however, shall not preclude the admissibility of the test once the prosecution or department has made a prima facie showing of the requirements contained in (a) of this subsection. Instead, such challenges may be considered by the trier of fact in determining what weight to give to the test result.

(5) When a blood test is administered under the provisions of RCW 46.20.308, the withdrawal of blood for the purpose of determining its alcoholic or drug content may be performed only by a physician, a registered nurse, a licensed practical nurse, a nursing assistant as defined in chapter 18.88A RCW, a physician assistant as defined in chapter 18.71A RCW, a first responder as defined in chapter 18.73 RCW, an emergency medical technician as defined in chapter 18.73 RCW, a health care assistant as defined in chapter 18.135 RCW, or any technician trained in withdrawing blood. This limitation shall not apply to the taking of breath specimens.

(6) The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing administer one or more tests in addition to any administered at the direction of a law enforcement officer. The test will be admissible if the person establishes the general acceptability of the testing technique or method. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(7) Upon the request of the person who shall submit to a test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or her or his or her attorney. [2010 c 53 § 1; 2004 c 68 § 4; 1998 c 213 § 6; 1995 c 332 § 18; 1994 c 275 § 26; 1987 c 373 § 4; 1986 c 153 § 4; 1979 ex.s. c 176 § 5; 1975 1st ex.s. c 287 § 1; 1969 c 1 § 3 (Initiative Measure No. 242, approved November 5, 1968).]

Rules of court: *Evidence of Breathalyzer, BAC Verifier, simulator solution tests—CrRLJ 6.13.*

Finding—Intent—2004 c 68: See note following RCW 46.20.308.

Legislative finding, purpose—Severability—1987 c 373: See notes following RCW 46.61.502.

Arrest of driver under influence of intoxicating liquor or drugs: RCW 10.31.100.

Additional notes found at www.leg.wa.gov

46.61.507 Arrest upon drug or alcohol-related driving offense—Child protective services notified if child is present and operator is child’s parent, guardian, or custodian. A law enforcement officer shall promptly notify child protective services whenever a child is present in a vehicle being driven by his or her parent, guardian, or legal custodian and that person is being arrested for a drug or alcohol-related driving offense. This section does not require law enforcement to take custody of the child unless there is no other responsible person, or an agency having the right to physical custody of the child that can be contacted, or the officer has reasonable grounds to believe the child should be taken into custody pursuant to RCW 13.34.050 or 26.44.050. For purposes of this section, "child" means any person under thirteen years of age. [2010 c 214 § 1.]

Reviser’s note: The same language was codified under RCW 26.44.250 pursuant to 2010 c 214 § 2.

46.61.508 Liability of medical personnel withdrawing blood. No physician, registered nurse, qualified technician, or hospital, or duly licensed clinical laboratory employing or utilizing services of such physician, registered nurse, or qualified technician, shall incur any civil or criminal liability as a result of the act of withdrawing blood from any person when directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of RCW 46.20.308, as now or hereafter amended: PROVIDED, That nothing in this section shall relieve any physician, registered nurse, qualified technician, or hospital or duly licensed clinical laboratory from civil liability arising from the use of improper procedures or failing to exercise the required standard of care. [1977 ex.s. c 143 § 1.]

46.61.513 Criminal history and driving record. (1) Immediately before the court defers prosecution under RCW 10.05.020, dismisses a charge, or orders a sentence for any offense listed in subsection (2) of this section, the court and prosecutor shall verify the defendant’s criminal history and driving record. The order shall include specific findings as to the criminal history and driving record. For purposes of this section, the criminal history shall include all previous convictions and orders of deferred prosecution, as reported through the judicial information system or otherwise available to the court or prosecutor, current to within the period specified in subsection (3) of this section before the date of the order. For purposes of this section, the driving record shall include all information reported to the court by the department of licensing.

(2) The offenses to which this section applies are violations of: (a) RCW 46.61.502 or an equivalent local ordinance; (b) RCW 46.61.504 or an equivalent local ordinance; (c) RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug; (d) RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug; and (e) RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW

46.61.502 or 46.61.504 or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

(3) The periods applicable to previous convictions and orders of deferred prosecution are: (a) One working day, in the case of previous actions of courts that fully participate in the state judicial information system; and (b) seven calendar days, in the case of previous actions of courts that do not fully participate in the judicial information system. For purposes of this subsection, "fully participate" means regularly providing records to and receiving records from the system by electronic means on a daily basis. [1998 c 211 § 5.]

Additional notes found at www.leg.wa.gov

46.61.5151 Sentences—Intermittent fulfillment—Restrictions. A sentencing court may allow a person convicted of a nonfelony violation of RCW 46.61.502 or 46.61.504 to fulfill the terms of the sentence provided in RCW 46.61.5055 in nonconsecutive or intermittent time periods. However, any mandatory minimum sentence under RCW 46.61.5055 shall be served consecutively unless suspended or deferred as otherwise provided by law. [2006 c 73 § 18; 1995 c 332 § 15; 1994 c 275 § 39; 1983 c 165 § 33.]

Effective date—2006 c 73: See note following RCW 46.61.502.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.61.5152 Attendance at program focusing on victims. In addition to penalties that may be imposed under RCW 46.61.5055, the court may require a person who is convicted of a nonfelony violation of RCW 46.61.502 or 46.61.504 or who enters a deferred prosecution program under RCW 10.05.020 based on a nonfelony violation of RCW 46.61.502 or 46.61.504, to attend an educational program focusing on the emotional, physical, and financial suffering of victims who were injured by persons convicted of driving while under the influence of intoxicants. [2006 c 73 § 17; 1998 c 41 § 9; 1994 c 275 § 40; 1992 c 64 § 1.]

Effective date—2006 c 73: See note following RCW 46.61.502.

Intent—Construction—Effective date—1998 c 41: See notes following RCW 46.20.265.

Additional notes found at www.leg.wa.gov

46.61.516 Qualified probation department defined. A qualified probation department means a probation department for a district or municipal court that has a sufficient number of qualified alcohol assessment officers who meet the requirements of a qualified alcoholism counselor as provided by rule of the department of social and health services, except that the required hours of supervised work experience in an alcoholism agency may be satisfied by completing an equivalent number of hours of supervised work doing alcohol assessments within a probation department. [1983 c 150 § 2.]

46.61.517 Refusal of test—Admissibility as evidence. The refusal of a person to submit to a test of the alcohol or drug concentration in the person’s blood or breath under RCW 46.20.308 is admissible into evidence at a subsequent criminal trial. [2001 c 142 § 1; 1987 c 373 § 5; 1986 c 64 § 2; 1985 c 352 § 21; 1983 c 165 § 27.]

Legislative finding, purpose—Severability—1987 c 373: See notes following RCW 46.61.502.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.61.519 Alcoholic beverages—Drinking or open container in vehicle on highway—Exceptions. (1) It is a traffic infraction to drink any alcoholic beverage in a motor vehicle when the vehicle is upon a highway.

(2) It is a traffic infraction for a person to have in his or her possession while in a motor vehicle upon a highway, a bottle, can, or other receptacle containing an alcoholic beverage if the container has been opened or a seal broken or the contents partially removed.

(3) It is a traffic infraction for the registered owner of a motor vehicle, or the driver if the registered owner is not then present in the vehicle, to keep in a motor vehicle when the vehicle is upon a highway, a bottle, can, or other receptacle containing an alcoholic beverage which has been opened or a seal broken or the contents partially removed, unless the container is kept in the trunk of the vehicle or in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle does not have a trunk. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers.

(4) This section does not apply to a public conveyance that has been commercially chartered for group use or to the living quarters of a motor home or camper or, except as otherwise provided by RCW 66.44.250 or local law, to any passenger for compensation in a for-hire vehicle licensed under city, county, or state law, or to a privately owned vehicle operated by a person possessing a valid operator's license endorsed for the appropriate classification under chapter 46.25 RCW in the course of his or her usual employment transporting passengers at the employer's direction: PROVIDED, That nothing in this subsection shall be construed to authorize possession or consumption of an alcoholic beverage by the operator of any vehicle while upon a highway. [2010 c 8 § 9071; 1989 c 178 § 26; 1984 c 274 § 1; 1983 c 165 § 28.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Ignition interlocks, biological, technical devices: RCW 46.20.710 through 46.20.750.

Additional notes found at www.leg.wa.gov

46.61.5191 Local ordinances not prohibited. Nothing in RCW 46.61.519 or RCW 46.61.5191 prohibits any city or town from enacting a local ordinance that proscribes the acts proscribed by those sections and that provides penalties equal to or greater than the penalties provided in those sections. [1984 c 274 § 2.]

46.61.5195 Disguising alcoholic beverage container. (1) It is a traffic infraction to incorrectly label the original container of an alcoholic beverage and to then violate RCW 46.61.519.

(2) It is a traffic infraction to place an alcoholic beverage in a container specifically labeled by the manufacturer of the (2010 Ed.)

container as containing a nonalcoholic beverage and to then violate RCW 46.61.519. [1984 c 274 § 3.]

Ignition interlocks, biological, technical devices: RCW 46.20.710 through 46.20.750.

46.61.520 Vehicular homicide—Penalty. (1) When the death of any person ensues within three years as a proximate result of injury proximately caused by the driving of any vehicle by any person, the driver is guilty of vehicular homicide if the driver was operating a motor vehicle:

(a) While under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502; or

(b) In a reckless manner; or

(c) With disregard for the safety of others.

(2) Vehicular homicide is a class A felony punishable under chapter 9A.20 RCW, except that, for a conviction under subsection (1)(a) of this section, an additional two years shall be added to the sentence for each prior offense as defined in RCW 46.61.5055. [1998 c 211 § 2; 1996 c 199 § 7; 1991 c 348 § 1; 1983 c 164 § 1; 1975 1st ex.s. c 287 § 3; 1973 2nd ex.s. c 38 § 2; 1970 ex.s. c 49 § 5; 1965 ex.s. c 155 § 63; 1961 c 12 § 46.56.040. Prior: 1937 c 189 § 120; RRS § 6360-120. Formerly RCW 46.56.040.]

Criminal history and driving record: RCW 46.61.513.

Ignition interlocks, biological, technical devices: RCW 46.20.710 through 46.20.750.

Suspension or revocation of license upon conviction of vehicular homicide or assault: RCW 46.20.285, 46.20.291.

Additional notes found at www.leg.wa.gov

46.61.522 Vehicular assault—Penalty. (1) A person is guilty of vehicular assault if he or she operates or drives any vehicle:

(a) In a reckless manner and causes substantial bodily harm to another; or

(b) While under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, and causes substantial bodily harm to another; or

(c) With disregard for the safety of others and causes substantial bodily harm to another.

(2) Vehicular assault is a class B felony punishable under chapter 9A.20 RCW.

(3) As used in this section, "substantial bodily harm" has the same meaning as in RCW 9A.04.110. [2001 c 300 § 1; 1996 c 199 § 8; 1983 c 164 § 2.]

Criminal history and driving record: RCW 46.61.513.

Ignition interlocks, biological, technical devices: RCW 46.20.710 through 46.20.750.

Additional notes found at www.leg.wa.gov

46.61.524 Vehicular homicide, assault—Revocation of driving privilege—Eligibility for reinstatement. As provided for under RCW 46.20.285, the department shall revoke the license, permit to drive, or a nonresident privilege of a person convicted of vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522. The department shall determine the eligibility of a person convicted of vehicular homicide under RCW 46.61.520(1)(a) or vehicular assault under RCW 46.61.522(1)(b) to receive a license based upon the report provided by the designated alcoholism treatment facility or probation department design-

nated pursuant to RCW 9.94A.703(4)(b), and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified. [2008 c 231 § 46; 2006 c 73 § 16; 2001 c 64 § 7; 2000 c 28 § 40; 1991 c 348 § 2.]

Intent—Application—Application of repealers—Effective date—2008 c 231: See notes following RCW 9.94A.701.

Severability—2008 c 231: See note following RCW 9.94A.500.

Effective date—2006 c 73: See note following RCW 46.61.502.

Technical correction bill—2000 c 28: See note following RCW 9.94A.015.

Headings and captions not law—Effective date—Severability—2000 c 28: See RCW 9.94A.920, 9.94A.921, and 9.94A.922.

Additional notes found at www.leg.wa.gov

46.61.5249 Negligent driving—First degree. (1)(a) A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or an illegal drug.

(b) It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed an illegal drug that must be proved by the defendant by a preponderance of the evidence, that the driver has a valid prescription for the drug consumed, and has been consuming it according to the prescription directions and warnings.

(c) Negligent driving in the first degree is a misdemeanor.

(2) For the purposes of this section:

(a) "Negligent" means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

(b) "Exhibiting the effects of having consumed liquor" means that a person has the odor of liquor on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, and either:

(i) Is in possession of or in close proximity to a container that has or recently had liquor in it; or

(ii) Is shown by other evidence to have recently consumed liquor.

(c) "Exhibiting the effects of having consumed an illegal drug" means that a person by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed an illegal drug and either:

(i) Is in possession of an illegal drug; or

(ii) Is shown by other evidence to have recently consumed an illegal drug.

(d) "Illegal drug" means a controlled substance under chapter 69.50 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings, or a legend drug under chapter 69.41 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings.

(3) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding

that it may also be the basis for prosecution under this section. [1997 c 66 § 4.]

Criminal history and driving record: RCW 46.61.513.

46.61.525 Negligent driving—Second degree. (1)(a) A person is guilty of negligent driving in the second degree if, under circumstances not constituting negligent driving in the first degree, he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property.

(b) It is an affirmative defense to negligent driving in the second degree that must be proved by the defendant by a preponderance of the evidence, that the driver was operating the motor vehicle on private property with the consent of the owner in a manner consistent with the owner's consent.

(c) Negligent driving in the second degree is a traffic infraction and is subject to a penalty of two hundred fifty dollars.

(2) For the purposes of this section, "negligent" means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

(3) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section. [1997 c 66 § 5; 1996 c 307 § 1; 1979 ex.s. c 136 § 86; 1967 c 32 § 69; 1961 c 12 § 46.56.030. Prior: 1939 c 154 § 1; RRS § 6360-118 1/2. Formerly RCW 46.56.030.]

Rules of court: *Negligent driving cases—CrRLJ 3.2.*

Arrest of person involved in negligent driving: RCW 10.31.100.

Use of vessel in reckless manner or while under influence of alcohol or drugs prohibited: RCW 79A.60.040.

Additional notes found at www.leg.wa.gov

46.61.527 Roadway construction zones. (1) The secretary of transportation shall adopt standards and specifications for the use of traffic control devices in roadway construction zones on state highways. A roadway construction zone is an area where construction, repair, or maintenance work is being conducted by public employees or private contractors, on or adjacent to any public roadway. For the purpose of the pilot program referenced in section 218(2), chapter 470, Laws of 2009, during the 2009-2011 fiscal biennium, a roadway construction zone includes areas where public employees or private contractors are not present but where a driving condition exists that would make it unsafe to drive at higher speeds, such as, when the department is redirecting or realigning lanes on or adjacent to any public roadway pursuant to ongoing construction.

(2) No person may drive a vehicle in a roadway construction zone at a speed greater than that allowed by traffic control devices.

(3) A person found to have committed any infraction relating to speed restrictions in a roadway construction zone shall be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. This penalty may not be waived, reduced, or suspended.

(4) A person who drives a vehicle in a roadway construction zone in such a manner as to endanger or be likely to endanger any persons or property, or who removes, evades, or intentionally strikes a traffic safety or control device is guilty of reckless endangerment of roadway workers. A violation of this subsection is a gross misdemeanor punishable under chapter 9A.20 RCW.

(5) The department shall suspend for sixty days the license or permit to drive or a nonresident driving privilege of a person convicted of reckless endangerment of roadway workers. [2009 c 470 § 713; 1994 c 141 § 1.]

Effective date—2009 c 470: See note following RCW 46.68.170.

Additional notes found at www.leg.wa.gov

46.61.530 Racing of vehicles on highways—Reckless driving—Exception. No person or persons may race any motor vehicle or motor vehicles upon any public highway of this state. Any person or persons who wilfully compare or contest relative speeds by operation of one or more motor vehicles shall be guilty of racing, which shall constitute reckless driving under RCW 46.61.500, whether or not such speed is in excess of the maximum speed prescribed by law: PROVIDED HOWEVER, That any comparison or contest of the accuracy with which motor vehicles may be operated in terms of relative speeds not in excess of the posted maximum speed does not constitute racing. [1979 ex.s. c 136 § 87; 1961 c 12 § 46.48.050. Prior: 1937 c 189 § 67; RRS § 6360-67; 1921 c 96 § 32; 1915 c 142 § 25; RRS § 6344. Formerly RCW 46.48.050.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Arrest of person involved in racing of vehicles: RCW 10.31.100.

Additional notes found at www.leg.wa.gov

46.61.535 Advertising of unlawful speed—Reckless driving. It shall be unlawful for any manufacturer, dealer, distributor, or any person, firm, or corporation to publish or advertise or offer for publication or advertisement, or to consent or cause to be published or advertised, the time consumed or speed attained by a vehicle between given points or over given or designated distances upon any public highways of this state when such published or advertised time consumed or speed attained shall indicate an average rate of speed between given points or over a given or designated distance in excess of the maximum rate of speed allowed between such points or at a rate of speed which would constitute reckless driving between such points. Violation of any of the provisions of this section shall be prima facie evidence of reckless driving and shall subject such person, firm, or corporation to the penalties in such cases provided. [1979 ex.s. c 136 § 88; 1961 c 12 § 46.48.060. Prior: 1937 c 189 § 68; RRS § 6360-68. Formerly RCW 46.48.060.]

Additional notes found at www.leg.wa.gov

46.61.540 "Drugs," what included. The word "drugs", as used in RCW 46.61.500 through 46.61.535, shall include but not be limited to those drugs and substances regulated by chapters 69.41 and 69.50 RCW. [1975 1st ex.s. c 287 § 5.]

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STOPPING, STANDING, AND PARKING

46.61.560 Stopping, standing, or parking outside business or residence districts. (1) Outside of incorporated cities and towns no person may stop, park, or leave standing any vehicle, whether attended or unattended, upon the roadway.

(2) Subsection (1) of this section and RCW 46.61.570 and 46.61.575 do not apply to the driver of any vehicle that is disabled in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position. The driver shall nonetheless arrange for the prompt removal of the vehicle as required by RCW 46.61.590.

(3) Subsection (1) of this section does not apply to the driver of a public transit vehicle who temporarily stops the vehicle upon the roadway for the purpose of and while actually engaged in receiving or discharging passengers at a marked transit vehicle stop zone approved by the state department of transportation or a county upon highways under their respective jurisdictions. However, public transportation service providers, including private, nonprofit transportation providers regulated under chapter 81.66 RCW, may allow the driver of a transit vehicle to stop upon the roadway momentarily to receive or discharge passengers at an unmarked stop zone only under the following circumstances: (a) The driver stops the vehicle in a safe and practicable position; (b) the driver activates four-way flashing lights; and (c) the driver stops at a portion of the highway with an unobstructed view, for an adequate distance so as to not create a hazard, for other drivers.

(4) Subsection (1) of this section and RCW 46.61.570 and 46.61.575 do not apply to the driver of a solid waste collection company or recycling company vehicle who temporarily stops the vehicle as close as practical to the right edge of the right-hand shoulder of the roadway or right edge of the roadway if no shoulder exists for the purpose of and while actually engaged in the collection of solid waste or recyclables, or both, under chapters 81.77, 35.21, and 35A.21 RCW or by contract under RCW 36.58.040. [2009 c 274 § 1; 1991 c 319 § 408; 1984 c 7 § 72; 1979 ex.s. c 178 § 20; 1977 c 24 § 2; 1965 ex.s. c 155 § 64.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Limited access highways: RCW 47.52.120.

Unattended motor vehicles: RCW 46.61.600.

Additional notes found at www.leg.wa.gov

46.61.570 Stopping, standing, or parking prohibited in specified places—Reserving portion of highway prohibited. (1) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:

- (a) Stop, stand, or park a vehicle:
 - (i) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - (ii) On a sidewalk or street planting strip;
 - (iii) Within an intersection;
 - (iv) On a crosswalk;

(v) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless official signs or markings indicate a different no-parking area opposite the ends of a safety zone;

(vi) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(vii) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(viii) On any railroad tracks;

(ix) In the area between roadways of a divided highway including crossovers; or

(x) At any place where official signs prohibit stopping.

(b) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(i) In front of a public or private driveway or within five feet of the end of the curb radius leading thereto;

(ii) Within fifteen feet of a fire hydrant;

(iii) Within twenty feet of a crosswalk;

(iv) Within thirty feet upon the approach to any flashing signal, stop sign, yield sign, or traffic control signal located at the side of a roadway;

(v) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance when properly signposted; or

(vi) At any place where official signs prohibit standing.

(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:

(i) Within fifty feet of the nearest rail of a railroad crossing; or

(ii) At any place where official signs prohibit parking.

(2) Parking or standing shall be permitted in the manner provided by law at all other places except a time limit may be imposed or parking restricted at other places but such limitation and restriction shall be by city ordinance or county resolution or order of the secretary of transportation upon highways under their respective jurisdictions.

(3) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as is unlawful.

(4) It shall be unlawful for any person to reserve or attempt to reserve any portion of a highway for the purpose of stopping, standing, or parking to the exclusion of any other like person, nor shall any person be granted such right. [1977 ex.s. c 151 § 40; 1975 c 62 § 35; 1965 ex.s. c 155 § 66.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Limited access highways: RCW 47.52.120.

Additional notes found at www.leg.wa.gov

46.61.575 Additional parking regulations. (1) Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within twelve inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.

(2) Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.

(3) Local authorities may by ordinance or resolution permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway unless the secretary of transportation has determined by order that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(4) The secretary with respect to highways under his or her jurisdiction may place official traffic control devices prohibiting, limiting, or restricting the stopping, standing, or parking of vehicles on any highway where the secretary has determined by order, such stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic thereon. No person shall stop, stand, or park any vehicle in violation of the restrictions indicated by such devices. [1977 ex.s. c 151 § 41; 1975 c 62 § 36; 1965 ex.s. c 155 § 67.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.577 Regulations governing parking facilities.

The secretary of transportation may adopt regulations governing the use and control of park and ride lots and other parking facilities operated by the department of transportation, including time limits for the parking of vehicles. [1981 c 185 § 1.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.581 Parking spaces for persons with disabilities—Indication, access—Failure, penalty. (Effective until July 1, 2011.) A parking space or stall for a person with a disability shall be indicated by a vertical sign with the international symbol of access, whose colors are white on a blue background, described under RCW 70.92.120. The sign may include additional language such as, but not limited to, an indication of the amount of the monetary penalty defined in RCW 46.16.381 for parking in the space without a valid permit.

Failure of the person owning or controlling the property where required parking spaces are located to erect and maintain the sign is a class 2 civil infraction under chapter 7.80 RCW for each parking space that should be so designated. The person owning or controlling the property where the required parking spaces are located shall ensure that the parking spaces are not blocked or made inaccessible, and failure to do so is a class 2 civil infraction. [2005 c 390 § 1; 1998 c 294 § 2; 1988 c 74 § 1; 1984 c 154 § 4.]

Intent—Application—Severability—1984 c 154: See notes following RCW 46.16.381.

Accessible parking spaces required: RCW 70.92.140.

Special parking for persons with disabilities—Unauthorized use: RCW 46.16.381.

46.61.581 Parking spaces for persons with disabilities—Indication, access—Failure, penalty. (Effective July 1, 2011.) A parking space or stall for a person with a disability shall be indicated by a vertical sign with the international symbol of access, whose colors are white on a blue background, described under RCW 70.92.120. The sign may include additional language such as, but not limited to, an indication of the amount of the monetary penalty defined in RCW 46.19.050 for parking in the space without a valid permit.

Failure of the person owning or controlling the property where required parking spaces are located to erect and maintain the sign is a class 2 civil infraction under chapter 7.80 RCW for each parking space that should be so designated. The person owning or controlling the property where the required parking spaces are located shall ensure that the parking spaces are not blocked or made inaccessible, and failure to do so is a class 2 civil infraction. [2010 c 161 § 1123; 2005 c 390 § 1; 1998 c 294 § 2; 1988 c 74 § 1; 1984 c 154 § 4.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Intent—Application—Severability—1984 c 154: See notes following RCW 46.55.113.

Accessible parking spaces required: RCW 70.92.140.

Special parking for persons with disabilities—Unauthorized use: RCW 46.19.050.

46.61.582 Free parking for persons with disabilities. (Effective until July 1, 2011.) Any person who meets the criteria for special parking privileges under RCW 46.16.381 shall be allowed free of charge to park a vehicle being used to transport that person for unlimited periods of time in parking zones or areas including zones or areas with parking meters which are otherwise restricted as to the length of time parking is permitted. This section does not apply to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. The person shall obtain and display a special placard or license plate under RCW 46.16.381 to be eligible for the privileges under this section. [1991 c 339 § 25; 1984 c 154 § 5.]

Intent—Application—Severability—1984 c 154: See notes following RCW 46.16.381.

46.61.582 Free parking for persons with disabilities. (Effective July 1, 2011.) Any person who meets the criteria for special parking privileges under RCW 46.19.010 shall be allowed free of charge to park a vehicle being used to transport that person for unlimited periods of time in parking zones or areas including zones or areas with parking meters which are otherwise restricted as to the length of time parking is permitted. This section does not apply to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. The person shall obtain and display a special placard or license plate under RCW 46.19.010 to be eligible for

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the privileges under this section. [2010 c 161 § 1124; 1991 c 339 § 25; 1984 c 154 § 5.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Intent—Application—Severability—1984 c 154: See notes following RCW 46.55.113.

46.61.583 Special plate or card issued by another jurisdiction. A special license plate or card issued by another state or country that indicates an occupant of the vehicle is disabled, entitles the vehicle on or in which it is displayed and being used to transport the disabled person to the same overtime parking privileges granted under this chapter to a vehicle with a similar special license plate or card issued by this state. [1991 c 339 § 26; 1984 c 51 § 2.]

46.61.585 Winter recreational parking areas—Special permit required. Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall park a vehicle in an area designated by an official sign that it is a winter recreational parking area unless such vehicle displays, in accordance with regulations adopted by the parks and recreation commission, a special winter recreational area parking permit or permits. [1990 c 49 § 4; 1975 1st ex.s. c 209 § 5.]

Winter recreational parking areas: RCW 79A.05.225 through 79A.05.255.

Additional notes found at www.leg.wa.gov

46.61.587 Winter recreational parking areas—Penalty. Any violation of RCW 79A.05.240 or 46.61.585 or any rule adopted by the parks and recreation commission to enforce the provisions thereof is a civil infraction as provided in chapter 7.84 RCW. [1999 c 249 § 501; 1984 c 258 § 329; 1977 c 57 § 1; 1975 1st ex.s. c 209 § 6.]

Rules of court: Monetary penalty schedule—IRLJ 6.2.

Intent—1984 c 258: See note following RCW 3.34.130.

Additional notes found at www.leg.wa.gov

46.61.590 Unattended motor vehicle—Removal from highway. It is unlawful for the operator of a vehicle to leave the vehicle unattended within the limits of any highway unless the operator of the vehicle arranges for the prompt removal of the vehicle. [1979 ex.s. c 178 § 1.]

Towing and impoundment: Chapter 46.55 RCW.

Additional notes found at www.leg.wa.gov

MISCELLANEOUS RULES

46.61.600 Unattended motor vehicle. (1) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key and effectively setting the brake thereon and, when standing upon any perceptible grade, turning the front wheels to the curb or side of the highway.

(2) The most recent driver of a motor vehicle which the driver has left standing unattended, who learns that the vehicle has become set in motion and has struck another vehicle

or property, or has caused injury to any person, shall comply with the requirements of:

(a) RCW 46.52.010 if his or her vehicle strikes an unattended vehicle or property adjacent to a public highway; or

(b) RCW 46.52.020 if his or her vehicle causes damage to an attended vehicle or other property or injury to any person.

(3) Any person failing to comply with subsection (2)(b) of this section shall be subject to the sanctions set forth in RCW 46.52.020. [2010 c 8 § 9072; 1980 c 97 § 2; 1965 ex.s. c 155 § 68.]

Additional notes found at www.leg.wa.gov

46.61.605 Limitations on backing. (1) The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.

(2) The driver of a vehicle shall not back the same upon any shoulder or roadway of any limited access highway. [1965 ex.s. c 155 § 69.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.606 Driving on sidewalk prohibited—Exception. No person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway. [1975 c 62 § 45.]

Additional notes found at www.leg.wa.gov

46.61.608 Operating motorcycles on roadways laned for traffic. (1) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.

(2) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(3) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(4) Motorcycles shall not be operated more than two abreast in a single lane.

(5) Subsections (2) and (3) of this section shall not apply to police officers in the performance of their official duties. [1975 c 62 § 46.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.610 Riding on motorcycles. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator. However, the motorcycle must contain foot pegs or be equipped with an additional bucket seat and seat belt meeting standards prescribed under 49 C.F.R. Part 571 for each person such motorcycle is designed to carry. [2009 c 275 § 7; 1975 c 62 § 37; 1967 c 232 § 5; 1965 ex.s. c 155 § 70.]

[Title 46 RCW—page 348]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Equipment regulations for motorcycles, motor-driven cycles, mopeds, or electric-assisted bicycles: RCW 46.37.530, 46.37.535.

Mopeds: RCW 46.16.630, 46.61.710, 46.61.720.

Additional notes found at www.leg.wa.gov

46.61.611 Motorcycles—Maximum height for handlebars. No person shall operate on a public highway a motorcycle in which the handlebars or grips are more than thirty inches higher than the seat or saddle for the operator. [1999 c 275 § 1; 1967 c 232 § 6.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.612 Riding on motorcycles—Position of feet. No person shall ride a motorcycle in a position where both feet are placed on the same side of the motorcycle. [1967 c 232 § 7.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.613 Motorcycles—Temporary suspension of restrictions for parades or public demonstrations. The provisions of RCW 46.37.530 and 46.61.610 through 46.61.612 may be temporarily suspended by the chief of the Washington state patrol, or his or her designee, with respect to the operation of motorcycles within their respective jurisdictions in connection with a parade or public demonstration. [2010 c 8 § 9073; 1967 c 232 § 8.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.614 Riding on motorcycles—Clinging to other vehicles. No person riding upon a motorcycle shall attach himself or herself or the motorcycle to any other vehicle on a roadway. [2010 c 8 § 9074; 1975 c 62 § 47.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.615 Obstructions to driver's view or driving mechanism. (1) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(2) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his or her control over the driving mechanism of the vehicle. [2010 c 8 § 9075; 1965 ex.s. c 155 § 71.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.620 Opening and closing vehicle doors. No person shall open the door of a motor vehicle on the side adjacent to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle adjacent to moving traffic for a period of time longer than necessary to load or unload passengers. [1965 ex.s. c 155 § 72.]

46.61.625 Riding in trailers or towed vehicles. (1) No person or persons shall occupy any trailer while it is being moved upon a public highway, except a person occupying a

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proper position for steering a trailer designed to be steered from a rear-end position.

(2) No person or persons may occupy a vehicle while it is being towed by a tow truck as defined in RCW 46.55.010. [1999 c 398 § 9; 1995 c 360 § 10; 1965 ex.s. c 155 § 73.]

46.61.630 Coasting prohibited. (1) The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears of such vehicle in neutral.

(2) The driver of a commercial motor vehicle when traveling upon a down grade shall not coast with the clutch disengaged. [1965 ex.s. c 155 § 74.]

46.61.635 Following fire apparatus prohibited. The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet or stop such vehicle within five hundred feet of any fire apparatus stopped in answer to a fire alarm. [1975 c 62 § 38; 1965 ex.s. c 155 § 75.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.640 Crossing fire hose. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, or private driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command. [1965 ex.s. c 155 § 76.]

46.61.645 Throwing materials on highway prohibited—Removal. (1) Any person who drops, or permits to be dropped or thrown, upon any highway any material shall immediately remove the same or cause it to be removed.

(2) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. [2003 c 337 § 5; 1965 ex.s. c 155 § 77.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Findings—2003 c 337: See note following RCW 70.93.060.

Lighted material, disposal of: RCW 76.04.455.

Littering: Chapter 70.93 RCW.

46.61.655 Dropping load, other materials—Covering. (1) No vehicle shall be driven or moved on any public highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction.

(2) No person may operate on any public highway any vehicle with any load unless the load and such covering as required thereon by subsection (3) of this section is securely fastened to prevent the covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

(3) Any vehicle operating on a paved public highway with a load of dirt, sand, or gravel susceptible to being dropped, spilled, leaked, or otherwise escaping therefrom shall be covered so as to prevent spillage. Covering of such loads is not required if six inches of freeboard is maintained within the bed.

(4)(a) Any person operating a vehicle from which any glass or objects have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon such public highway shall immediately cause the public highway to be cleaned of all such glass or objects and shall pay any costs therefor.

(b) Any vehicle with deposits of mud, rocks, or other debris on the vehicle's body, fenders, frame, undercarriage, wheels, or tires shall be cleaned of such material before the operation of the vehicle on a paved public highway.

(5) The state patrol may make necessary rules to carry into effect the provisions of this section, applying such provisions to specific conditions and loads and prescribing means, methods, and practices to effectuate such provisions.

(6) Nothing in this section may be construed to prohibit a public maintenance vehicle from dropping sand on a highway to enhance traction, or sprinkling water or other substances to clean or maintain a highway.

(7)(a)(i) A person is guilty of failure to secure a load in the first degree if he or she, with criminal negligence, fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1), (2), or (3) of this section and causes substantial bodily harm to another.

(ii) Failure to secure a load in the first degree is a gross misdemeanor.

(b)(i) A person is guilty of failure to secure a load in the second degree if he or she, with criminal negligence, fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1) or (2) of this section and causes damage to property of another.

(ii) Failure to secure a load in the second degree is a misdemeanor.

(c) A person who fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1), (2), or (3) of this section is guilty of an infraction if such failure does not amount to a violation of (a) or (b) of this subsection. [2005 c 431 § 1; 1990 c 250 § 56; 1986 c 89 § 1; 1971 ex.s. c 307 § 22; 1965 ex.s. c 52 § 1; 1961 c 12 § 46.56.135. Prior: 1947 c 200 § 3, part; 1937 c 189 § 44, part; Rem. Supp. 1947 § 6360-44, part. Formerly RCW 46.56.135.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Littering: Chapter 70.93 RCW.

Transporting waste to landfills: RCW 70.93.097.

Additional notes found at www.leg.wa.gov

46.61.660 Carrying persons or animals on outside part of vehicle. It shall be unlawful for any person to transport any living animal on the running board, fenders, hood, or other outside part of any vehicle unless suitable harness, cage or enclosure be provided and so attached as to protect such animal from falling or being thrown therefrom. It shall be unlawful for any person to transport any persons upon the running board, fenders, hood or other outside part of any vehicle, except that this provision shall not apply to authorized emergency vehicles or to solid waste collection vehicles that are engaged in collecting solid waste or recyclables on route at speeds of twenty miles per hour or less. [1997 c 190 § 1; 1961 c 12 § 46.56.070. Prior: 1937 c 189 § 115; RRS § 6360-115. Formerly RCW 46.56.070.]

46.61.665 Embracing another while driving. It shall be unlawful for any person to operate a motor vehicle upon the highways of this state when such person has in his or her embrace another person which prevents the free and unhampered operation of such vehicle. Operation of a motor vehicle in violation of this section is prima facie evidence of reckless driving. [1979 ex.s. c 136 § 89; 1961 c 12 § 46.56.100. Prior: 1937 c 189 § 117; RRS § 6360-117; 1927 c 309 § 49; RRS § 6362-49. Formerly RCW 46.56.100.]

Additional notes found at www.leg.wa.gov

46.61.667 Using a wireless communications device while driving. (1) Except as provided in subsections (2) and (3) of this section, a person operating a moving motor vehicle while holding a wireless communications device to his or her ear is guilty of a traffic infraction.

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

(a) An authorized emergency vehicle, or a tow truck responding to a disabled vehicle;

(b) A moving motor vehicle using a wireless communications device in hands-free mode;

(c) A moving motor vehicle using a hand-held wireless communications device to:

(i) Report illegal activity;

(ii) Summon medical or other emergency help;

(iii) Prevent injury to a person or property; or

(iv) Relay information that is time sensitive between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle;

(d) A moving motor vehicle while using a hearing aid.

(3) Subsection (1) of this section does not restrict the operation of an amateur radio station by a person who holds a valid amateur radio operator license issued by the federal communications commission.

(4) For purposes of this section, "hands-free mode" means the use of a wireless communications device with a speaker phone, headset, or earpiece.

(5) The state preempts the field of regulating the use of wireless communications devices in motor vehicles, and this section supersedes any local laws, ordinances, orders, rules, or regulations enacted by a political subdivision or municipality to regulate the use of wireless communications devices by the operator of a motor vehicle.

(6) Infractions that result from the use of a wireless communications device while operating a motor vehicle under this section shall not become part of the driver's record under RCW 46.52.101 and 46.52.120. Additionally, a finding that a person has committed a traffic infraction under this section shall not be made available to insurance companies or employers. [2010 c 223 § 3; 2007 c 417 § 2.]

Intent—2007 c 417: "The use of wireless communications devices by motorists has increased in recent years. While wireless communications devices have assisted with quick reporting of road emergencies, their use has also contributed to accidents and other mishaps on Washington state roadways. When motorists hold a wireless communications device in one hand and drive with the other, their chances of becoming involved in a traffic mishap increase. It is the legislature's intent to phase out the use of hand-held wireless communications devices by motorists while operating a vehicle." [2007 c 417 § 1.]

Effective date—2007 c 417: "This act takes effect July 1, 2008." [2007 c 417 § 3.]

[Title 46 RCW—page 350]

46.61.668 Sending, reading, or writing a text message while driving. (1) Except as provided in subsection (2) of this section, a person operating a moving motor vehicle who, by means of an electronic wireless communications device, sends, reads, or writes a text message, is guilty of a traffic infraction. A person does not send, read, or write a text message when he or she reads, selects, or enters a phone number or name in a wireless communications device for the purpose of making a phone call.

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

(a) An authorized emergency vehicle;

(b) A voice-operated global positioning or navigation system that is affixed to the vehicle and that allows the user to send or receive messages without diverting visual attention from the road or engaging the use of either hand; or

(c) A moving motor vehicle while using an electronic wireless communications device to:

(i) Report illegal activity;

(ii) Summon medical or other emergency help;

(iii) Prevent injury to a person or property; or

(iv) Relay information that is time sensitive between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle.

(3) Infractions under this section shall not become part of the driver's record under RCW 46.52.101 and 46.52.120. Additionally, a finding that a person has committed a traffic infraction under this section shall not be made available to insurance companies or employers. [2010 c 223 § 4; 2007 c 416 § 1.]

Effective date—2007 c 416: "This act takes effect January 1, 2008." [2007 c 416 § 2.]

46.61.670 Driving with wheels off roadway. It shall be unlawful to operate or drive any vehicle or combination of vehicles over or along any pavement or gravel or crushed rock surface on a public highway with one wheel or all of the wheels off the roadway thereof, except as permitted by RCW 46.61.428 or for the purpose of stopping off such roadway, or having stopped thereat, for proceeding back onto the pavement, gravel or crushed rock surface thereof. [1977 ex.s. c 39 § 2; 1961 c 12 § 46.56.130. Prior: 1937 c 189 § 96; RRS § 6360-96. Formerly RCW 46.56.130.]

46.61.675 Causing or permitting vehicle to be unlawfully operated. It shall be unlawful for the owner, or any other person, in employing or otherwise directing the operator of any vehicle to require or knowingly to permit the operation of such vehicle upon any public highway in any manner contrary to the law. [1961 c 12 § 46.56.200. Prior: 1937 c 189 § 148; RRS § 6360-148. Formerly RCW 46.56.200.]

46.61.680 Lowering passenger vehicle below legal clearance—Penalty. It is unlawful to operate any passenger motor vehicle which has been modified from the original design so that any portion of such passenger vehicle other than the wheels has less clearance from the surface of a level roadway than the clearance between the roadway and the lowermost portion of any rim of any wheel the tire on which is in contact with such roadway.

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Violation of the provisions of this section is a traffic infraction. [1979 ex.s. c 136 § 90; 1961 c 151 § 1. Formerly RCW 46.56.220.]

Additional notes found at www.leg.wa.gov

46.61.685 Leaving children unattended in standing vehicle with motor running—Penalty. (1) It is unlawful for any person, while operating or in charge of a vehicle, to park or willfully allow such vehicle to stand upon a public highway or in a public place with its motor running, leaving a minor child or children under the age of sixteen years unattended in the vehicle.

(2) Any person violating this section is guilty of a misdemeanor. Upon a second or subsequent conviction for a violation of this section, the department shall revoke the operator's license of such person. [2003 c 53 § 246; 1990 c 250 § 57; 1961 c 151 § 2. Formerly RCW 46.56.230.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Leaving children unattended in parked automobile while entering tavern, etc.: RCW 9.91.060.

Additional notes found at www.leg.wa.gov

46.61.687 Child passenger restraint required—Conditions—Exceptions—Penalty for violation—Dismissal—Noncompliance not negligence—Immunity. (1) Whenever a child who is less than sixteen years of age is being transported in a motor vehicle that is in operation and that is required by RCW 46.37.510 to be equipped with a safety belt system in a passenger seating position, or is being transported in a neighborhood electric vehicle or medium-speed electric vehicle that is in operation, the driver of the vehicle shall keep the child properly restrained as follows:

(a) A child must be restrained in a child restraint system, if the passenger seating position equipped with a safety belt system allows sufficient space for installation, until the child is eight years old, unless the child is four feet nine inches or taller. The child restraint system must comply with standards of the United States department of transportation and must be secured in the vehicle in accordance with instructions of the vehicle manufacturer and the child restraint system manufacturer.

(b) A child who is eight years of age or older or four feet nine inches or taller shall be properly restrained with the motor vehicle's safety belt properly adjusted and fastened around the child's body or an appropriately fitting child restraint system.

(c) The driver of a vehicle transporting a child who is under thirteen years old shall transport the child in the back seat positions in the vehicle where it is practical to do so.

(2) Enforcement of subsection (1) of this section is subject to a visual inspection by law enforcement to determine if the child restraint system in use is appropriate for the child's individual height, weight, and age. The visual inspection for usage of a child restraint system must ensure that the child restraint system is being used in accordance with the instruction of the vehicle and the child restraint system manufacturers. The driver of a vehicle transporting a child who is under

thirteen years old shall transport the child in the back seat positions in the vehicle where it is practical to do so.

(3) A person violating subsection (1) of this section may be issued a notice of traffic infraction under chapter 46.63 RCW. If the person to whom the notice was issued presents proof of acquisition of an approved child passenger restraint system or a child booster seat, as appropriate, within seven days to the jurisdiction issuing the notice and the person has not previously had a violation of this section dismissed, the jurisdiction shall dismiss the notice of traffic infraction.

(4) Failure to comply with the requirements of this section shall not constitute negligence by a parent or legal guardian. Failure to use a child restraint system shall not be admissible as evidence of negligence in any civil action.

(5) This section does not apply to: (a) For hire vehicles, (b) vehicles designed to transport sixteen or less passengers, including the driver, operated by auto transportation companies, as defined in RCW 81.68.010, (c) vehicles providing customer shuttle service between parking, convention, and hotel facilities, and airport terminals, and (d) school buses.

(6) As used in this section, "child restraint system" means a child passenger restraint system that meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213.

(7) The requirements of subsection (1) of this section do not apply in any seating position where there is only a lap belt available and the child weighs more than forty pounds.

(8)(a) Except as provided in (b) of this subsection, a person who has a current national certification as a child passenger safety technician and who in good faith provides inspection, adjustment, or educational services regarding child passenger restraint systems is not liable for civil damages resulting from any act or omission in providing the services, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(b) The immunity provided in this subsection does not apply to a certified child passenger safety technician who is employed by a retailer of child passenger restraint systems and who, during his or her hours of employment and while being compensated, provides inspection, adjustment, or educational services regarding child passenger restraint systems. [2007 c 510 § 4. Prior: 2005 c 415 § 1; 2005 c 132 § 1; 2003 c 353 § 5; 2000 c 190 § 2; 1994 c 100 § 1; 1993 c 274 § 1; 1987 c 330 § 745; 1983 c 215 § 2.]

Effective date—2007 c 510: See note following RCW 46.04.320.

Effective date—2005 c 132 § 1: "Section 1 of this act takes effect June 1, 2007." [2005 c 132 § 3.]

Effective date—2003 c 353: See note following RCW 46.04.320.

Intent—2000 c 190: "The legislature recognizes that fewer than five percent of all drivers use child booster seats for children over the age of four years. The legislature also recognizes that seventy-one percent of deaths resulting from car accidents could be eliminated if every child under the age of sixteen used an appropriate child safety seat, booster seat, or seat belt. The legislature further recognizes the National Transportation Safety Board's recommendations that promote the use of booster seats to increase the safety of children under eight years of age. Therefore, it is the legislature's intent to decrease deaths and injuries to children by promoting safety education and injury prevention measures, as well as increasing public awareness on ways to maximize the protection of children in vehicles." [2000 c 190 § 1.]

Short title—2000 c 190: "This act may be known and cited as the Anton Skeen Act." [2000 c 190 § 5.]

Effective date—2000 c 190: "This act takes effect July 1, 2002." [2000 c 190 § 6.]

Standards for child passenger restraint systems: RCW 46.37.505.

Additional notes found at www.leg.wa.gov

46.61.6871 Child passenger safety technician—

Immunity. A person who has a current national certification as a child passenger safety technician and who in good faith provides inspection, adjustment, or educational services regarding child passenger restraint systems is not liable for civil damages resulting from any act or omission in providing the services, other than acts or omissions constituting gross negligence or willful or wanton misconduct. [2005 c 132 § 2.]

46.61.688 Safety belts, use required—Penalties—

Exemptions. (1) For the purposes of this section, "motor vehicle" includes:

(a) "Buses," meaning motor vehicles with motive power, except trailers, designed to carry more than ten passengers;

(b) "Medium-speed electric vehicle" meaning a self-propelled, electrically powered four-wheeled motor vehicle, equipped with a roll cage or crush-proof body design, whose speed attainable in one mile is more than thirty miles per hour but not more than thirty-five miles per hour and otherwise meets or exceeds the federal regulations set forth in 49 C.F.R. Sec. 571.500;

(c) "Motorcycle," meaning a three-wheeled motor vehicle that is designed (i) so that the driver rides on a seat in a partially or completely enclosed seating area that is equipped with safety belts and (ii) to be steered with a steering wheel;

(d) "Multipurpose passenger vehicles," meaning motor vehicles with motive power, except trailers, designed to carry ten persons or less that are constructed either on a truck chassis or with special features for occasional off-road operation;

(e) "Neighborhood electric vehicle," meaning a self-propelled, electrically powered four-wheeled motor vehicle whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour and conforms to federal regulations under 49 C.F.R. Sec. 571.500;

(f) "Passenger cars," meaning motor vehicles with motive power, except multipurpose passenger vehicles, motorcycles, or trailers, designed for carrying ten passengers or less; and

(g) "Trucks," meaning motor vehicles with motive power, except trailers, designed primarily for the transportation of property.

(2)(a) This section only applies to:

(i) Motor vehicles that meet the manual seat belt safety standards as set forth in 49 C.F.R. Sec. 571.208;

(ii) Motorcycles, when equipped with safety belts that meet the standards set forth in 49 C.F.R. Part 571; and

(iii) Neighborhood electric vehicles and medium-speed electric vehicles that meet the seat belt standards as set forth in 49 C.F.R. Sec. 571.500.

(b) This section does not apply to a vehicle occupant for whom no safety belt is available when all designated seating positions as required under 49 C.F.R. Part 571 are occupied.

(3) Every person sixteen years of age or older operating or riding in a motor vehicle shall wear the safety belt assembly in a properly adjusted and securely fastened manner.

(4) No person may operate a motor vehicle unless all child passengers under the age of sixteen years are either: (a) Wearing a safety belt assembly or (b) are securely fastened into an approved child restraint device.

(5) A person violating this section shall be issued a notice of traffic infraction under chapter 46.63 RCW. A finding that a person has committed a traffic infraction under this section shall be contained in the driver's abstract but shall not be available to insurance companies or employers.

(6) Failure to comply with the requirements of this section does not constitute negligence, nor may failure to wear a safety belt assembly be admissible as evidence of negligence in any civil action.

(7) This section does not apply to an operator or passenger who possesses written verification from a licensed physician that the operator or passenger is unable to wear a safety belt for physical or medical reasons.

(8) The state patrol may adopt rules exempting operators or occupants of farm vehicles, construction equipment, and vehicles that are required to make frequent stops from the requirement of wearing safety belts. [2009 c 275 § 8; 2007 c 510 § 5; 2003 c 353 § 4; 2002 c 328 § 2; (2002 c 328 § 1 expired July 1, 2002); 2000 c 190 § 3; 1990 c 250 § 58; 1986 c 152 § 1.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—2007 c 510: See note following RCW 46.04.320.

Effective date—2003 c 353: See note following RCW 46.04.320.

Expiration date—2002 c 328 § 1: "Section 1 of this act expires July 1, 2002." [2002 c 328 § 3.]

Effective date—2002 c 328 § 2: "Section 2 of this act takes effect July 1, 2002." [2002 c 328 § 4.]

Intent—Short title—Effective date—2000 c 190: See notes following RCW 46.61.687.

Physicians—Immunity from liability regarding safety belts: RCW 4.24.235.
Seat belts and shoulder harnesses, required equipment: RCW 46.37.510.

Additional notes found at www.leg.wa.gov

46.61.6885 Child restraints, seatbelts—Educational campaign.

The traffic safety commission shall conduct an educational campaign using all available methods to raise public awareness of the importance of properly restraining child passengers and the value of seatbelts to adult motorists. The traffic safety commission shall report to the transportation committees of the legislature on the campaign and results observed on the highways. The first report is due December 1, 2000, and annually thereafter. [2000 c 190 § 4.]

Intent—Short title—Effective date—2000 c 190: See notes following RCW 46.61.687.

46.61.690 Violations relating to toll facilities. (Contingent expiration date.) Any person who uses a toll bridge, toll tunnel, toll road, or toll ferry, and the approaches thereto, operated by the state of Washington, the department of transportation, a political subdivision or municipal corporation empowered to operate toll facilities, or an entity operating a toll facility under a contract with the department of transportation, a political subdivision, or municipal corporation, at the entrance to which appropriate signs have been erected to notify both pedestrian and vehicular traffic that it is entering a toll facility or its approaches and is subject to the payment

of tolls at the designated station for collecting tolls, commits a traffic infraction if:

(1) The person does not pay, refuses to pay, evades, or attempts to evade the payment of such tolls, or uses or attempts to use any spurious, counterfeit, or stolen ticket, coupon, token, or electronic device for payment of any such tolls, or

(2) The person turns, or attempts to turn, the vehicle around in the bridge, tunnel, loading terminal, approach, or toll plaza where signs have been erected forbidding such turns, or

(3) The person refuses to move a vehicle through the toll facility after having come within the area where signs have been erected notifying traffic that it is entering the area where toll is collectible or where vehicles may not turn around and where vehicles are required to pass through the toll facility for the purpose of collecting tolls. [2004 c 231 § 1; 1983 c 247 § 1; 1979 ex.s. c 136 § 91; 1961 c 259 § 1. Formerly RCW 46.56.240.]

Toll collection systems—Photo enforcement systems: RCW 46.63.160.

Additional notes found at www.leg.wa.gov

46.61.690 Violations relating to toll facilities—

Exception. (Contingent effective date.) (1) Any person who uses a toll bridge, toll tunnel, toll road, or toll ferry, and the approaches thereto, operated by the state of Washington, the department of transportation, a political subdivision or municipal corporation empowered to operate toll facilities, or an entity operating a toll facility under a contract with the department of transportation, a political subdivision, or municipal corporation, at the entrance to which appropriate signs have been erected to notify both pedestrian and vehicular traffic that it is entering a toll facility or its approaches and is subject to the payment of tolls at the designated station for collecting tolls, commits a traffic infraction if:

(a) The person does not pay, refuses to pay, evades, or attempts to evade the payment of such tolls, or uses or attempts to use any spurious, counterfeit, or stolen ticket, coupon, token, or electronic device for payment of any such tolls;

(b) The person turns, or attempts to turn, the vehicle around in the bridge, tunnel, loading terminal, approach, or toll plaza where signs have been erected forbidding such turns;

(c) The person refuses to move a vehicle through the toll facility after having come within the area where signs have been erected notifying traffic that it is entering the area where toll is collectible or where vehicles may not turn around and where vehicles are required to pass through the toll facility for the purpose of collecting tolls; or

(d) The driver of the vehicle displays any vehicle license number plate or plates that have been, in any manner, changed, altered, obscured, or disfigured, or have become illegible.

(2) Subsection (1)(a) of this section does not apply to toll nonpayment detected through the use of photo toll systems under RCW 46.63.160. [2010 c 249 § 9; 2004 c 231 § 1; 1983 c 247 § 1; 1979 ex.s. c 136 § 91; 1961 c 259 § 1. Formerly RCW 46.56.240.]

Contingent effective date—2010 c 249: See note following RCW 47.56.795.

(2010 Ed.)

Additional notes found at www.leg.wa.gov

46.61.700 Parent or guardian shall not authorize or permit violation by a child or ward. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter. [1965 ex.s. c 155 § 78.]

Reviser's note: This section was enacted just before sections about the operation of bicycles and play vehicles and was accordingly so codified in 1965. Other sections enacted later have been codified under the numbers remaining between RCW 46.61.700 and 46.61.750. The section appears in the Uniform Vehicle Code (1962) as part of the first section of Article XII—Operation of Bicycles and Play Vehicles.

Captions used herein, not part of the law: RCW 46.61.990.

Unlawful to allow unauthorized child or ward to drive: RCW 46.20.024.

46.61.710 Mopeds, EPAMDs, electric-assisted bicycles, motorized foot scooters—General requirements and operation. (1) No person shall operate a moped upon the highways of this state unless the moped has been assigned a moped registration number and displays a moped permit in accordance with the provisions of *RCW 46.16.630.

(2) Notwithstanding any other provision of law, a moped may not be operated on a bicycle path or trail, bikeway, equestrian trail, or hiking or recreational trail.

(3) Operation of a moped, electric personal assistive mobility device, motorized foot scooter, or an electric-assisted bicycle on a fully controlled limited access highway is unlawful. Operation of a moped, motorized foot scooter, or an electric-assisted bicycle on a sidewalk is unlawful.

(4) Removal of any muffling device or pollution control device from a moped is unlawful.

(5) Subsections (1), (2), and (4) of this section do not apply to electric-assisted bicycles. Electric-assisted bicycles and motorized foot scooters may have access to highways, other than limited access highways, of the state to the same extent as bicycles. Subject to subsection (6) of this section, electric-assisted bicycles and motorized foot scooters may be operated on a multipurpose trail or bicycle lane, but local jurisdictions may restrict or otherwise limit the access of electric-assisted bicycles and motorized foot scooters, and state agencies may regulate the use of motorized foot scooters on facilities and properties under their jurisdiction and control.

(6) Subsections (1) and (4) of this section do not apply to motorized foot scooters. Subsection (2) of this section applies to motorized foot scooters when the bicycle path, trail, bikeway, equestrian trail, or hiking or recreational trail was built or is maintained with federal highway transportation funds. Additionally, any new trail or bicycle path not built or maintained with federal highway transportation funds may be used by persons operating motorized foot scooters only when appropriately signed.

(7) A person operating an electric personal assistive mobility device (EPAMD) shall obey all speed limits and shall yield the right-of-way to pedestrians and human-powered devices at all times. An operator must also give an audible signal before overtaking and passing a pedestrian. Except

for the limitations of this subsection, persons operating an EPAMD have all the rights and duties of a pedestrian.

(8) The use of an EPAMD may be regulated in the following circumstances:

(a) A municipality and the department of transportation may prohibit the operation of an EPAMD on public highways within their respective jurisdictions where the speed limit is greater than twenty-five miles per hour;

(b) A municipality may restrict the speed of an EPAMD in locations with congested pedestrian or nonmotorized traffic and where there is significant speed differential between pedestrians or nonmotorized traffic and EPAMD operators. The areas in this subsection must be designated by the city engineer or designee of the municipality. Municipalities shall not restrict the speed of an EPAMD in the entire community or in areas in which there is infrequent pedestrian traffic;

(c) A state agency or local government may regulate the operation of an EPAMD within the boundaries of any area used for recreation, open space, habitat, trails, or conservation purposes. [2009 c 275 § 9; 2003 c 353 § 10; 2002 c 247 § 7; 1997 c 328 § 5; 1979 ex.s. c 213 § 8.]

***Reviser's note:** RCW 46.16.630 was repealed by 2010 c 161 § 438, effective July 1, 2011.

Effective date—2003 c 353: See note following RCW 46.04.320.

Legislative review—2002 c 247: See note following RCW 46.04.1695.

46.61.720 Mopeds—Safety standards. Mopeds shall comply with those federal motor vehicle safety standards established under the national traffic vehicle safety act of 1966 (15 U.S.C. Sec. 1381, et seq.) which are applicable to a motor-driven cycle, as that term is defined in such federal standards. [1979 ex.s. c 213 § 9.]

Mopeds

drivers' licenses, motorcycle endorsement, moped exemption: RCW 46.20.500.
registration: RCW 46.16.630.

46.61.723 Medium-speed electric vehicles. (1) Except as provided in subsection (3) of this section, a person may operate a medium-speed electric vehicle upon a highway of this state having a speed limit of thirty-five miles per hour or less, or forty-five miles per hour or less as provided in subsection (4) of this section, if:

(a) The person does not operate a medium-speed electric vehicle upon state highways that are listed in chapter 47.17 RCW;

(b) The person does not operate a medium-speed electric vehicle upon a highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates in compliance with *chapter 46.16 RCW. The department must track medium-speed electric vehicles in a separate registration category for reporting purposes;

(c) The person does not operate a medium-speed electric vehicle upon a highway of this state without first obtaining a valid driver's license issued to Washington residents in compliance with chapter 46.20 RCW;

(d) The person does not operate a medium-speed electric vehicle subject to registration under *chapter 46.16 RCW on a highway of this state unless the person is insured under a

motor vehicle liability policy in compliance with chapter 46.30 RCW; and

(e) The person operating a medium-speed electric vehicle does not cross a roadway with a speed limit in excess of thirty-five miles per hour, or forty-five miles per hour as provided in subsection (4) of this section, unless the crossing begins and ends on a roadway with a speed limit of thirty-five miles per hour or less, or forty-five miles per hour or less as provided in subsection (4) of this section, and occurs at an intersection of approximately ninety degrees, except that the operator of a medium-speed electric vehicle must not cross an uncontrolled intersection of streets and highways that are part of the state highway system subject to Title 47 RCW unless that intersection has been authorized by local authorities under subsection (3) of this section.

(2) Any person who violates this section commits a traffic infraction.

(3) This section does not prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of their police power, from regulating the operation of medium-speed electric vehicles on streets and highways under their jurisdiction by resolution or ordinance of the governing body, if the regulation is consistent with this title, except that:

(a) Local authorities may not authorize the operation of medium-speed electric vehicles on streets and highways that are part of the state highway system subject to Title 47 RCW;

(b) Local authorities may not prohibit the operation of medium-speed electric vehicles upon highways of this state having a speed limit of thirty-five miles per hour or less; and

(c) Local authorities may not establish requirements for the registration and licensing of medium-speed electric vehicles.

(4) In counties consisting of islands whose only connection to the mainland are ferry routes, a person may operate a medium-speed electric vehicle upon a highway of this state having a speed limit of forty-five miles per hour or less. A person operating a medium-speed electric vehicle as authorized under this subsection must not cross a roadway with a speed limit in excess of forty-five miles per hour, unless the crossing begins and ends on a roadway with a speed limit of forty-five miles per hour or less and occurs at an intersection of approximately ninety degrees, except that the operator of a medium-speed electric vehicle must not cross an uncontrolled intersection of streets and highways that are part of the state highway system subject to Title 47 RCW unless that intersection has been authorized by local authorities under subsection (3) of this section.

(5) Accidents must be recorded and tracked in compliance with chapter 46.52 RCW. An accident report must indicate and be tracked separately when any of the vehicles involved are a medium-speed electric vehicle. [2010 c 144 § 2; 2007 c 510 § 3.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—2007 c 510: See note following RCW 46.04.320.

46.61.725 Neighborhood electric vehicles. (1) Absent prohibition by local authorities authorized under this section

and except as prohibited elsewhere in this section, a person may operate a neighborhood electric vehicle upon a highway of this state having a speed limit of thirty-five miles per hour or less, or forty-five miles per hour or less as provided in subsection (4) of this section, if:

(a) The person does not operate a neighborhood electric vehicle upon state highways that are listed in chapter 47.17 RCW;

(b) The person does not operate a neighborhood electric vehicle upon a highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates in compliance with *chapter 46.16 RCW. The department must track neighborhood electric vehicles in a separate registration category for reporting purposes;

(c) The person does not operate a neighborhood electric vehicle upon a highway of this state without first obtaining a valid driver's license issued to Washington residents in compliance with chapter 46.20 RCW;

(d) The person does not operate a neighborhood electric vehicle subject to registration under *chapter 46.16 RCW on a highway of this state unless the person is insured under a motor vehicle liability policy in compliance with chapter 46.30 RCW; and

(e) The person operating a neighborhood electric vehicle does not cross a roadway with a speed limit in excess of thirty-five miles per hour, or forty-five miles per hour as provided in subsection (4) of this section, unless the crossing begins and ends on a roadway with a speed limit of thirty-five miles per hour or less, or forty-five miles per hour or less as provided in subsection (4) of this section, and occurs at an intersection of approximately ninety degrees, except that the operator of a neighborhood electric vehicle must not cross an uncontrolled intersection of streets and highways that are part of the state highway system subject to Title 47 RCW unless that intersection has been authorized by local authorities provided elsewhere in this section.

(2) Any person who violates this section commits a traffic infraction.

(3) This section does not prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of their police power, from regulating the operation of neighborhood electric vehicles on streets and highways under their jurisdiction by resolution or ordinance of the governing body, if the regulation is consistent with the provisions of this title, except that:

(a) Local authorities may not authorize the operation of neighborhood electric vehicles on streets and highways that are part of the state highway system subject to the provisions of Title 47 RCW;

(b) Local authorities may not prohibit the operation of neighborhood electric vehicles upon highways of this state having a speed limit of twenty-five miles per hour or less; and

(c) Local authorities are prohibited from establishing any requirements for the registration and licensing of neighborhood electric vehicles.

(4) In counties consisting of islands whose only connection to the mainland are ferry routes, a person may operate a neighborhood electric vehicle upon a highway of this state having a speed limit of forty-five miles per hour or less. A person operating a neighborhood electric vehicle as autho-

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ized under this subsection must not cross a roadway with a speed limit in excess of forty-five miles per hour, unless the crossing begins and ends on a roadway with a speed limit of forty-five miles per hour or less and occurs at an intersection of approximately ninety degrees, except that the operator of a neighborhood electric vehicle must not cross an uncontrolled intersection of streets and highways that are part of the state highway system subject to Title 47 RCW unless that intersection has been authorized by local authorities under subsection (3) of this section.

(5) Accidents must be recorded and tracked in compliance with chapter 46.52 RCW. An accident report must indicate and be tracked separately when any of the vehicles involved are a neighborhood electric vehicle. [2010 c 144 § 3; 2003 c 353 § 3.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—2003 c 353: See note following RCW 46.04.320.

46.61.730 Wheelchair conveyances. (1) No person may operate a wheelchair conveyance on any public roadway with a posted speed limit in excess of thirty-five miles per hour.

(2) No person other than a wheelchair-bound person may operate a wheelchair conveyance on a public roadway.

(3) Every wheelchair-bound person operating a wheelchair conveyance upon a roadway is granted all the rights and is subject to all the duties applicable to the driver of a vehicle by this chapter, except those provisions that by their nature can have no application.

(4) A violation of this section is a traffic infraction. [1983 c 200 § 5.]

Wheelchair conveyances

definitions: RCW 46.04.710.

licensing: RCW 46.16.640.

operator's license: RCW 46.20.109.

safety standards: RCW 46.37.610.

Additional notes found at www.leg.wa.gov

46.61.735 Ferry queues—Violations—Exemptions.

(1) It is a traffic infraction for a driver of a motor vehicle intending to board a Washington state ferry, to: (a) Block a residential driveway while waiting to board the ferry; or (b) move in front of another vehicle in a queue already waiting to board the ferry, without the authorization of a state ferry system employee. Vehicles qualifying for preferential loading privileges under rules adopted by the department of transportation are exempt from this section. In addition to any other penalty imposed for a violation of this section, the driver will be directed to immediately move the motor vehicle to the end of the queue of vehicles waiting to board the ferry. Violations of this section are not part of the vehicle driver's driving record under RCW 46.52.101 and 46.52.120.

(2) Subsection (1) of this section does not apply to a driver of a motor vehicle intending to board the Keller Ferry on state route No. 21. [2007 c 423 § 1.]

46.61.740 Theft of motor vehicle fuel. (1) Any person who refuses to pay or evades payment for motor vehicle fuel

that is pumped into a motor vehicle is guilty of theft of motor vehicle fuel. A violation of this subsection is a gross misdemeanor punishable under chapter 9A.20 RCW.

(2) The court shall order the department to suspend the person's license, permit, or nonresident privilege to drive for a period specified by the court of up to six months. [2001 c 325 § 1.]

OPERATION OF NONMOTORIZED VEHICLES

46.61.750 Effect of regulations—Penalty. (1) It is a traffic infraction for any person to do any act forbidden or fail to perform any act required in RCW 46.61.750 through 46.61.780.

(2) These regulations applicable to bicycles apply whenever a bicycle is operated upon any highway or upon any bicycle path, subject to those exceptions stated herein. [1982 c 55 § 6; 1979 ex.s. c 136 § 92; 1965 ex.s. c 155 § 79.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Bicycle awareness program: RCW 43.43.390.

"Bicycle" defined: RCW 46.04.071.

Additional notes found at www.leg.wa.gov

46.61.755 Traffic laws apply to persons riding bicycles. (1) Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in RCW 46.61.750 through 46.61.780 and except as to those provisions of this chapter which by their nature can have no application.

(2) Every person riding a bicycle upon a sidewalk or crosswalk must be granted all of the rights and is subject to all of the duties applicable to a pedestrian by this chapter. [2000 c 85 § 3; 1965 ex.s. c 155 § 80.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.758 Hand signals. All hand signals required of persons operating bicycles shall be given in the following manner:

(1) Left turn. Left hand and arm extended horizontally beyond the side of the bicycle;

(2) Right turn. Left hand and arm extended upward beyond the side of the bicycle, or right hand and arm extended horizontally to the right side of the bicycle;

(3) Stop or decrease speed. Left hand and arm extended downward beyond the side of the bicycle.

The hand signals required by this section shall be given before initiation of a turn. [1982 c 55 § 8.]

46.61.760 Riding on bicycles. (1) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(2) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. [1965 ex.s. c 155 § 81.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.765 Clinging to vehicles. No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall

attach the same or himself or herself to any vehicle upon a roadway. [2010 c 8 § 9076; 1965 ex.s. c 155 § 82.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.770 Riding on roadways and bicycle paths. (1) Every person operating a bicycle upon a roadway at a rate of speed less than the normal flow of traffic at the particular time and place shall ride as near to the right side of the right through lane as is safe except as may be appropriate while preparing to make or while making turning movements, or while overtaking and passing another bicycle or vehicle proceeding in the same direction. A person operating a bicycle upon a roadway or highway other than a limited-access highway, which roadway or highway carries traffic in one direction only and has two or more marked traffic lanes, may ride as near to the left side of the left through lane as is safe. A person operating a bicycle upon a roadway may use the shoulder of the roadway or any specially designated bicycle lane if such exists.

(2) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. [1982 c 55 § 7; 1974 ex.s. c 141 § 14; 1965 ex.s. c 155 § 83.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Use of bicycles on limited-access highways: RCW 46.61.160.

46.61.775 Carrying articles. No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars. [1965 ex.s. c 155 § 84.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

46.61.780 Lamps and other equipment on bicycles. (1) Every bicycle when in use during the hours of darkness as defined in RCW 46.37.020 shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the state patrol which shall be visible from all distances up to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector. A light-emitting diode flashing taillight visible from a distance of five hundred feet to the rear may also be used in addition to the red reflector.

(2) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement. [1998 c 165 § 17; 1987 c 330 § 746; 1975 c 62 § 39; 1965 ex.s. c 155 § 85.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Additional notes found at www.leg.wa.gov

46.61.790 Intoxicated bicyclists. (1) A law enforcement officer may offer to transport a bicycle rider who appears to be under the influence of alcohol or any drug and who is walking or moving along or within the right-of-way of a public roadway, unless the bicycle rider is to be taken into protective custody under RCW 70.96A.120. The law enforcement officer offering to transport an intoxicated bicyclist under this section shall:

- (a) Transport the intoxicated bicycle rider to a safe place; or
- (b) Release the intoxicated bicycle rider to a competent person.

(2) The law enforcement officer shall not provide the assistance offered if the bicycle rider refuses to accept it. No suit or action may be commenced or prosecuted against the law enforcement officer, law enforcement agency, the state of Washington, or any political subdivision of the state for any act resulting from the refusal of the bicycle rider to accept this assistance.

(3) The law enforcement officer may impound the bicycle operated by an intoxicated bicycle rider if the officer determines that impoundment is necessary to reduce a threat to public safety, and there are no reasonable alternatives to impoundment. The bicyclist will be given a written notice of when and where the impounded bicycle may be reclaimed. The bicycle may be reclaimed by the bicycle rider when the bicycle rider no longer appears to be intoxicated, or by an individual who can establish ownership of the bicycle. The bicycle must be returned without payment of a fee. If the bicycle is not reclaimed within thirty days, it will be subject to sale or disposal consistent with agency procedures. [2000 c 85 § 4.]

46.61.990 Recodification of sections—Organization of chapter—Construction. Sections 1 through 52 and 54 through 86 of chapter 155, Laws of 1965 ex. sess. are added to chapter 12, Laws of 1961 and shall constitute a new chapter in Title 46 of the Revised Code of Washington and sections 54, 55, and 63 as herein amended and RCW 46.48.012, 46.48.014, 46.48.015, 46.48.016, 46.48.023, 46.48.025, 46.48.026, 46.48.041, 46.48.046, 46.48.050, 46.48.060, 46.48.080, 46.48.110, 46.48.120, 46.48.150, 46.48.160, 46.48.340, 46.56.030, 46.56.070, 46.56.100, 46.56.130, 46.56.135, 46.56.190, 46.56.200, 46.56.210, 46.56.220, 46.56.230, 46.56.240, 46.60.260, 46.60.270, 46.60.330, and 46.60.340 shall be recodified as and be a part of said chapter. The sections of the new chapter shall be organized under the following captions: "OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS", "TRAFFIC SIGNS, SIGNALS AND MARKINGS", "DRIVING ON RIGHT SIDE OF ROADWAY—OVERTAKING AND PASSING—USE OF ROADWAY", "RIGHT-OF-WAY", "PEDESTRIANS' RIGHTS AND DUTIES", "TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING", "SPECIAL STOPS REQUIRED", "SPEED RESTRICTIONS", "RECKLESS DRIVING, DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR ANY DRUG, AND NEGLIGENT HOMICIDE BY VEHICLE", "STOPPING, STANDING AND PARKING", "MISCELLANEOUS RULES", and "OPERATION OF NONMOTORIZED VEHICLES". Such captions shall not constitute any part of the law. [1991 c 290 § 5; 1991 c 214 § 3; 1965 ex.s. c 155 § 92.]

Reviser's note: This section was amended by 1991 c 214 § 3 and by 1991 c 290 § 5, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

(2010 Ed.)

46.61.991 Severability—1965 ex.s. c 155. If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1965 ex.s. c 155 § 93.]

Chapter 46.63 RCW

DISPOSITION OF TRAFFIC INFRACTIONS

Sections

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Additional statutory assessments: RCW 3.62.090, 46.64.055.

Traffic and civil infraction cases involving juveniles under age sixteen: RCW 13.40.250.

46.63.010 Legislative intent. It is the legislative intent in the adoption of this chapter in decriminalizing certain traffic offenses to promote the public safety and welfare on public highways and to facilitate the implementation of a uniform and expeditious system for the disposition of traffic infractions. [1979 ex.s. c 136 § 1.]

Additional notes found at www.leg.wa.gov

46.63.020 Violations as traffic infractions—Exceptions. (*Effective until January 1, 2011.*) Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

- (1) RCW 46.09.120(2) relating to the operation of a non-highway vehicle while under the influence of intoxicating liquor or a controlled substance;
- (2) RCW 46.09.130 relating to operation of nonhighway vehicles;
- (3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor

or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381(2) relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to circumventing an ignition interlock device;

(18) RCW 46.25.170 relating to commercial driver's licenses;

(19) Chapter 46.29 RCW relating to financial responsibility;

(20) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(21) RCW 46.37.435 relating to wrongful installation of sunscreening material;

(22) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

(23) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;

(24) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

(25) RCW 46.48.175 relating to the transportation of dangerous articles;

(26) RCW 46.52.010 relating to duty on striking an unattended car or other property;

(27) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(28) RCW 46.52.090 relating to reports by repairers, storage persons, and appraisers;

(29) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

(30) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

(31) RCW 46.55.035 relating to prohibited practices by tow truck operators;

(32) RCW 46.55.300 relating to vehicle immobilization;

(33) RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;

(34) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

(35) RCW 46.61.022 relating to failure to stop and give identification to an officer;

(36) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

(37) RCW 46.61.500 relating to reckless driving;

(38) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

(39) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

(40) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

(41) RCW 46.61.522 relating to vehicular assault;

(42) RCW 46.61.5249 relating to first degree negligent driving;

(43) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

(44) RCW 46.61.530 relating to racing of vehicles on highways;

(45) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;

(46) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

(47) RCW 46.61.740 relating to theft of motor vehicle fuel;

(48) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

(49) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

(50) Chapter 46.65 RCW relating to habitual traffic offenders;

(51) RCW 46.68.010 relating to false statements made to obtain a refund;

(52) RCW 46.35.030 relating to recording device information;

(53) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

(54) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

(55) RCW 46.72A.060 relating to limousine carrier insurance;

(56) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

(57) RCW 46.72A.080 relating to false advertising by a limousine carrier;

(58) Chapter 46.80 RCW relating to motor vehicle wreckers;

(59) Chapter 46.82 RCW relating to driver's training schools;

(60) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

(61) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW. [2010 c 8 § 9077; 2009 c 485 § 6; 2008 c 282 § 11. Prior: 2005 c 431 § 2; 2005 c 323 § 3; 2005 c 183 § 10; 2004 c 95 § 14; 2003 c 33 § 4; 2001 c 325 § 4; 1999 c 86 § 6; 1998 c 294 § 3; prior: 1997 c 229 § 13; 1997 c 66 § 8; prior: 1996 c 307 § 6; 1996 c 287 § 7; 1996 c 93 § 3; 1996 c 87 § 21; 1996 c 31 § 3; prior: 1995 1st sp.s. c 16 § 1; 1995 c 332 § 16; 1995 c 256 § 25; prior: 1994 c 275 § 33; 1994 c 141 § 2; 1993 c 501 § 8; 1992 c 32 § 4; 1991 c 339 § 27; prior: 1990 c 250 § 59; 1990 c 95 § 3; prior: 1989 c 353 § 8; 1989 c 178 § 27; 1989 c 111 § 20; prior: 1987 c 388 § 11; 1987 c 247 § 6; 1987 c 244 § 55; 1987 c 181 § 2; 1986 c 186 § 3; prior: 1985 c 377 § 28; 1985 c 353 § 2; 1985 c 302 § 7; 1983 c 164 § 6; 1982 c 10 § 12; prior: 1981 c 318 § 2; 1981 c 19 § 1; 1980 c 148 § 7; 1979 ex.s. c 136 § 2.]

Effective date—2010 c 8 § 9077: "Section 9077 of this act takes effect July 1, 2010." [2010 c 8 § 20001.]

Effective date—2009 c 485: See note following RCW 46.35.010.

Effective date—2008 c 282: See note following RCW 46.20.308.

Declaration and intent—Effective date—Application—2005 c 323: See notes following RCW 46.16.010.

Additional notes found at www.leg.wa.gov

46.63.020 Violations as traffic infractions—Exceptions. (*Effective January 1, 2011, until July 1, 2011.*) Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a non-highway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381(2) relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(2010 Ed.)

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to circumventing an ignition interlock device;

(18) RCW 46.25.170 relating to commercial driver's licenses;

(19) Chapter 46.29 RCW relating to financial responsibility;

(20) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(21) RCW 46.37.435 relating to wrongful installation of sunscreening material;

(22) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

(23) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;

(24) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

(25) RCW 46.48.175 relating to the transportation of dangerous articles;

(26) RCW 46.52.010 relating to duty on striking an unattended car or other property;

(27) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(28) RCW 46.52.090 relating to reports by repairers, storage persons, and appraisers;

(29) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

(30) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

(31) RCW 46.55.035 relating to prohibited practices by tow truck operators;

(32) RCW 46.55.300 relating to vehicle immobilization;

(33) RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;

(34) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

(35) RCW 46.61.022 relating to failure to stop and give identification to an officer;

(36) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

(37) RCW 46.61.212(4) relating to reckless endangerment of emergency zone workers;

(38) RCW 46.61.500 relating to reckless driving;

(39) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

(40) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

(41) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

(42) RCW 46.61.522 relating to vehicular assault;

(43) RCW 46.61.5249 relating to first degree negligent driving;

(44) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

(45) RCW 46.61.530 relating to racing of vehicles on highways;

(46) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;

(47) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

(48) RCW 46.61.740 relating to theft of motor vehicle fuel;

(49) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

(50) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

(51) Chapter 46.65 RCW relating to habitual traffic offenders;

(52) RCW 46.68.010 relating to false statements made to obtain a refund;

(53) RCW 46.35.030 relating to recording device information;

(54) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

(55) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

(56) RCW 46.72A.060 relating to limousine carrier insurance;

(57) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

(58) RCW 46.72A.080 relating to false advertising by a limousine carrier;

(59) Chapter 46.80 RCW relating to motor vehicle wreckers;

(60) Chapter 46.82 RCW relating to driver's training schools;

(61) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

(62) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW. [2010 c 252 § 3; 2010 c 8 § 9077; 2009 c 485 § 6; 2008 c 282 § 11. Prior: 2005 c 431 § 2; 2005 c 323 § 3; 2005 c 183 § 10; 2004 c 95 § 14; 2003 c 33 § 4; 2001 c 325 § 4; 1999 c 86 § 6; 1998 c 294 § 3; prior: 1997 c 229 § 13; 1997 c 66 § 8; prior: 1996 c 307 § 6; 1996 c 287 § 7; 1996 c 93 § 3; 1996 c 87 § 21; 1996 c 31 § 3; prior: 1995 1st sp.s. c 16 § 1; 1995 c 332 § 16; 1995 c 256 § 25; prior: 1994 c 275 § 33; 1994 c 141 § 2; 1993 c 501 § 8; 1992 c 32 § 4; 1991 c 339 § 27; prior: 1990 c 250 § 59; 1990 c 95 § 3; prior: 1989 c 353 § 8; 1989 c 178 § 27; 1989 c 111 § 20; prior: 1987 c 388 § 11; 1987 c 247 § 6; 1987 c 244 § 55; 1987 c 181 § 2; 1986 c 186 § 3; prior: 1985 c 377 § 28; 1985 c 353 § 2; 1985 c 302 § 7; 1983 c 164 § 6; 1982 c

10 § 12; prior: 1981 c 318 § 2; 1981 c 19 § 1; 1980 c 148 § 7; 1979 ex.s. c 136 § 2.]

Reviser's note: This section was amended by 2010 c 8 § 9077 and by 2010 c 252 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 c 252: See note following RCW 46.61.212.

Effective date—2010 c 8 § 9077: "Section 9077 of this act takes effect July 1, 2010." [2010 c 8 § 20001.]

Effective date—2009 c 485: See note following RCW 46.35.010.

Effective date—2008 c 282: See note following RCW 46.20.308.

Declaration and intent—Effective date—Application—2005 c 323: See notes following RCW 46.16.010.

Additional notes found at www.leg.wa.gov

46.63.020 Violations as traffic infractions—Exceptions. (Effective July 1, 2011.) Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.470(2) relating to the operation of a non-highway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.480 relating to operation of nonhighway vehicles;

(3) RCW 46.10.490(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.495 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of title, registration certificates, and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16A.030 and 46.16A.050(3) relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(7) RCW 46.16A.520 relating to permitting unauthorized persons to drive;

(8) RCW 46.16A.320 relating to vehicle trip permits;

(9) RCW 46.19.050 relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

- (15) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license;
- (16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;
- (17) RCW 46.20.750 relating to circumventing an ignition interlock device;
- (18) RCW 46.25.170 relating to commercial driver's licenses;
- (19) Chapter 46.29 RCW relating to financial responsibility;
- (20) RCW 46.30.040 relating to providing false evidence of financial responsibility;
- (21) RCW 46.35.030 relating to recording device information;
- (22) RCW 46.37.435 relating to wrongful installation of sunscreening material;
- (23) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;
- (24) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;
- (25) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- (26) RCW 46.48.175 relating to the transportation of dangerous articles;
- (27) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- (28) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (29) RCW 46.52.090 relating to reports by repairers, storage persons, and appraisers;
- (30) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;
- (31) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- (32) RCW 46.55.035 relating to prohibited practices by tow truck operators;
- (33) RCW 46.55.300 relating to vehicle immobilization;
- (34) RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;
- (35) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- (36) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- (37) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- (38) RCW 46.61.212(4) relating to reckless endangerment of emergency zone workers;
- (39) RCW 46.61.500 relating to reckless driving;
- (40) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
- (41) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;
- (42) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- (43) RCW 46.61.522 relating to vehicular assault;
- (44) RCW 46.61.5249 relating to first degree negligent driving;
- (45) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;
- (46) RCW 46.61.530 relating to racing of vehicles on highways;
- (47) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;
- (48) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- (49) RCW 46.61.740 relating to theft of motor vehicle fuel;
- (50) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
- (51) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;
- (52) Chapter 46.65 RCW relating to habitual traffic offenders;
- (53) RCW 46.68.010 relating to false statements made to obtain a refund;
- (54) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;
- (55) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;
- (56) RCW 46.72A.060 relating to limousine carrier insurance;
- (57) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;
- (58) RCW 46.72A.080 relating to false advertising by a limousine carrier;
- (59) Chapter 46.80 RCW relating to motor vehicle wreckers;
- (60) Chapter 46.82 RCW relating to driver's training schools;
- (61) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;
- (62) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW. [2010 c 252 § 3; 2010 c 161 § 1125; 2010 c 8 § 9077; 2009 c 485 § 6; 2008 c 282 § 11. Prior: 2005 c 431 § 2; 2005 c 323 § 3; 2005 c 183 § 10; 2004 c 95 § 14; 2003 c 33 § 4; 2001 c 325 § 4; 1999 c 86 § 6; 1998 c 294 § 3; prior: 1997 c 229 § 13; 1997 c 66 § 8; prior: 1996 c 307 § 6; 1996 c 287 § 7; 1996 c 93 § 3; 1996 c 87 § 21; 1996 c 31 § 3; prior: 1995 1st sp.s. c 16 § 1; 1995 c 332 § 16; 1995 c 256 § 25; prior: 1994 c 275 § 33; 1994 c 141 § 2; 1993 c 501 § 8; 1992 c 32 § 4; 1991 c 339 § 27; prior: 1990 c 250 § 59; 1990 c 95 § 3; prior: 1989 c 353 § 8; 1989 c 178 § 27; 1989 c 111 § 20; prior: 1987 c 388 § 11; 1987 c 247 § 6; 1987 c 244 § 55; 1987 c 181 § 2; 1986 c 186 § 3; prior: 1985 c 377 § 28; 1985 c 353 § 2; 1985 c 302 § 7; 1983 c 164 § 6; 1982 c 10 § 12; prior: 1981 c 318 § 2; 1981 c 19 § 1; 1980 c 148 § 7; 1979 ex.s. c 136 § 2.]

Reviser's note: This section was amended by 2010 c 252 § 3, 2010 c 161 § 1125, and by 2010 c 8 § 9077, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2010 c 252: See note following RCW 46.61.212.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2010 c 8 § 9077: "Section 9077 of this act takes effect July 1, 2010." [2010 c 8 § 20001.]

Effective date—2009 c 485: See note following RCW 46.35.010.

Effective date—2008 c 282: See note following RCW 46.20.308.

Declaration and intent—Effective date—Application—2005 c 323: See notes following RCW 46.16A.030.

Additional notes found at www.leg.wa.gov

46.63.030 Notice of traffic infraction—Issuance—Abandoned vehicles. (Contingent expiration date.) (1) A law enforcement officer has the authority to issue a notice of traffic infraction:

(a) When the infraction is committed in the officer's presence;

(b) When the officer is acting upon the request of a law enforcement officer in whose presence the traffic infraction was committed;

(c) If an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction;

(d) When the infraction is detected through the use of a photo enforcement system under RCW 46.63.160; or

(e) When the infraction is detected through the use of an automated traffic safety camera under RCW 46.63.170.

(2) A court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

(3) If any motor vehicle without a driver is found parked, standing, or stopped in violation of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of traffic infraction.

(4) In the case of failure to redeem an abandoned vehicle under RCW 46.55.120, upon receiving a complaint by a registered tow truck operator that has incurred costs in removing, storing, and disposing of an abandoned vehicle, an officer of the law enforcement agency responsible for directing the removal of the vehicle shall send a notice of infraction by certified mail to the last known address of the person responsible under RCW 46.55.105. The notice must be entitled "Littering—Abandoned Vehicle" and give notice of the monetary penalty. The officer shall append to the notice of infraction, on a form prescribed by the department of licensing, a notice indicating the amount of costs incurred as a result of removing, storing, and disposing of the abandoned vehicle, less any amount realized at auction, and a statement that monetary penalties for the infraction will not be considered as having been paid until the monetary penalty payable under this chapter has been paid and the court is satisfied that the person has made restitution in the amount of the deficiency remaining after disposal of the vehicle. [2007 c 101 § 1; 2005 c 167 § 2; 2004 c 231 § 2; 2002 c 279 § 14; 1995 c 219 § 5; 1994 c 176 § 3; 1987 c 66 § 2; 1980 c 128 § 10; 1979 ex.s. c 136 § 3.]

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Additional notes found at www.leg.wa.gov

46.63.030 Notice of traffic infraction—Issuance—Abandoned vehicles. (Contingent effective date.) (1) A law enforcement officer has the authority to issue a notice of traffic infraction:

(a) When the infraction is committed in the officer's presence;

(b) When the officer is acting upon the request of a law enforcement officer in whose presence the traffic infraction was committed;

(c) If an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction; or

(d) When the infraction is detected through the use of an automated traffic safety camera under RCW 46.63.170.

(2) A court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

(3) If any motor vehicle without a driver is found parked, standing, or stopped in violation of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of traffic infraction.

(4) In the case of failure to redeem an abandoned vehicle under RCW 46.55.120, upon receiving a complaint by a registered tow truck operator that has incurred costs in removing, storing, and disposing of an abandoned vehicle, an officer of the law enforcement agency responsible for directing the removal of the vehicle shall send a notice of infraction by certified mail to the last known address of the person responsible under RCW 46.55.105. The notice must be entitled "Littering—Abandoned Vehicle" and give notice of the monetary penalty. The officer shall append to the notice of infraction, on a form prescribed by the department of licensing, a notice indicating the amount of costs incurred as a result of removing, storing, and disposing of the abandoned vehicle, less any amount realized at auction, and a statement that monetary penalties for the infraction will not be considered as having been paid until the monetary penalty payable under this chapter has been paid and the court is satisfied that the person has made restitution in the amount of the deficiency remaining after disposal of the vehicle. [2010 c 249 § 5; 2007 c 101 § 1; 2005 c 167 § 2; 2004 c 231 § 2; 2002 c 279 § 14; 1995 c 219 § 5; 1994 c 176 § 3; 1987 c 66 § 2; 1980 c 128 § 10; 1979 ex.s. c 136 § 3.]

Contingent effective date—2010 c 249: See note following RCW 47.56.795.

Additional notes found at www.leg.wa.gov

46.63.040 Jurisdiction of courts—Jurisdiction of college and university governing bodies. (1) All violations of state law, local law, ordinance, regulation, or resolution designated as traffic infractions in RCW 46.63.020 may be heard and determined by a district court, except as otherwise provided in this section.

(2010 Ed.)

(2) Any municipal court has the authority to hear and determine traffic infractions pursuant to this chapter.

(3) Any city or town with a municipal court may contract with the county to have traffic infractions committed within the city or town adjudicated by a district court.

(4) District court commissioners have the authority to hear and determine traffic infractions pursuant to this chapter.

(5) Any district or municipal court may refer juveniles age sixteen or seventeen who are enrolled in school to a youth court, as defined in RCW 3.72.005 or 13.40.020, for traffic infractions.

(6) The boards of regents of the state universities, and the boards of trustees of the regional universities and of The Evergreen State College have the authority to hear and determine traffic infractions under RCW 28B.10.560. [2002 c 237 § 20; 1984 c 258 § 137; 1983 c 221 § 2; 1979 ex.s. c 136 § 6.]

Additional notes found at www.leg.wa.gov

46.63.050 Training of judicial officers. All judges and court commissioners adjudicating traffic infractions shall complete such training requirements as are promulgated by the supreme court. [1979 ex.s. c 136 § 7.]

Additional notes found at www.leg.wa.gov

46.63.060 Notice of traffic infraction—Determination final unless contested—Form. (1) A notice of traffic infraction represents a determination that an infraction has been committed. The determination will be final unless contested as provided in this chapter.

(2) The form for the notice of traffic infraction shall be prescribed by rule of the supreme court and shall include the following:

(a) A statement that the notice represents a determination that a traffic infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(b) A statement that a traffic infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction; that the penalty for a traffic infraction may include sanctions against the person's driver's license including suspension, revocation, or denial; that the penalty for a traffic infraction related to standing, stopping, or parking may include nonrenewal of the vehicle license;

(c) A statement of the specific traffic infraction for which the notice was issued;

(d) A statement of the monetary penalty established for the traffic infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that at any hearing to contest the determination the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses including the officer who issued the notice of infraction;

(g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction the person will be deemed to have committed the infraction and may not subpoena witnesses;

(2010 Ed.)

(h) A statement that the person must respond to the notice as provided in this chapter within fifteen days or the person's driver's license or driving privilege will be suspended by the department until any penalties imposed pursuant to this chapter have been satisfied; and

(i) A statement that failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in the suspension of the person's driver's license or driving privilege, or in the case of a standing, stopping, or parking violation, refusal of the department to renew the vehicle license, until any penalties imposed pursuant to this chapter have been satisfied. [2006 c 270 § 2; 1993 c 501 § 9; 1984 c 224 § 2; 1982 1st ex.s. c 14 § 2; 1980 c 128 § 1; 1979 ex.s. c 136 § 8.]

Additional notes found at www.leg.wa.gov

46.63.070 Response to notice—Contesting determination—Hearing—Failure to respond or appear. (1) Any person who receives a notice of traffic infraction shall respond to such notice as provided in this section within fifteen days of the date of the notice.

(2) If the person determined to have committed the infraction does not contest the determination the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response and order shall be furnished to the department in accordance with RCW 46.20.270.

(3) If the person determined to have committed the infraction wishes to contest the determination the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

(4) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing.

(5)(a) Except as provided in (b) and (c) of this subsection, in hearings conducted pursuant to subsections (3) and (4) of this section, the court may defer findings, or in a hearing to explain mitigating circumstances may defer entry of its order, for up to one year and impose conditions upon the defendant the court deems appropriate. Upon deferring findings, the court may assess costs as the court deems appropriate for administrative processing. If at the end of the deferral period the defendant has met all conditions and has not been determined to have committed another traffic infraction, the court may dismiss the infraction.

(b) A person may not receive more than one deferral within a seven-year period for traffic infractions for moving violations and more than one deferral within a seven-year period for traffic infractions for nonmoving violations.

(c) A person who is the holder of a commercial driver's license or who was operating a commercial motor vehicle at the time of the violation may not receive a deferral under this section.

(6) If any person issued a notice of traffic infraction:

(a) Fails to respond to the notice of traffic infraction as provided in subsection (2) of this section; or

(b) Fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section;

the court shall enter an appropriate order assessing the monetary penalty prescribed for the traffic infraction and any other penalty authorized by this chapter and shall notify the department in accordance with RCW 46.20.270, of the failure to respond to the notice of infraction or to appear at a requested hearing. [2006 c 327 § 7; 2004 c 187 § 10; 2000 c 110 § 1; 1993 c 501 § 10; 1984 c 224 § 3; 1982 1st ex.s. c 14 § 3; 1980 c 128 § 2; 1979 ex.s. c 136 § 9.]

Effective date—2004 c 187 §§ 1, 5, 7, 8, and 10: See note following RCW 46.20.308.

Additional notes found at www.leg.wa.gov

46.63.073 Rental vehicles. (1) In the event a traffic infraction is based on a vehicle's identification, and the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction may be issued, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within thirty days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction. In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty. For the purpose of this subsection, a "traffic infraction based on a vehicle's identification" includes, but is not limited to, parking infractions, high occupancy toll lane violations, and violations recorded by automated traffic safety cameras.

(2) In the event a parking infraction is issued by a private parking facility and is based on a vehicle's identification, and the registered owner of the vehicle is a rental car business, the parking facility shall, before a notice of infraction may be issued, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within thirty days of receiving the written notice, provide to the parking facility by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft.

Timely mailing of this statement to the parking facility relieves a rental car business of any liability under this chapter for the notice of infraction. In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty. For the purpose of this subsection, a "parking infraction based on a vehicle's identification" is limited to parking infractions occurring on a private parking facility's premises. [2007 c 372 § 1; 2005 c 331 § 2.]

46.63.075 Toll evasion—Presumption. (Contingent expiration date.) (1) In a traffic infraction case involving an infraction detected through the use of a photo enforcement system under RCW 46.63.160, or detected through the use of an automated traffic safety camera under RCW 46.63.170, proof that the particular vehicle described in the notice of traffic infraction was in violation of any such provision of RCW 46.63.160 or 46.63.170, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, constitutes in evidence a prima facie presumption that the registered owner of the vehicle was the person in control of the vehicle at the point where, and for the time during which, the violation occurred.

(2) This presumption may be overcome only if the registered owner states, under oath, in a written statement to the court or in testimony before the court that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner. [2005 c 167 § 3; 2004 c 231 § 3.]

46.63.075 Toll evasion—Presumption. (Contingent effective date.) (1) In a traffic infraction case involving an infraction detected through the use of an automated traffic safety camera under RCW 46.63.170, proof that the particular vehicle described in the notice of traffic infraction was in violation of any such provision of RCW 46.63.170, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, constitutes in evidence a prima facie presumption that the registered owner of the vehicle was the person in control of the vehicle at the point where, and for the time during which, the violation occurred.

(2) This presumption may be overcome only if the registered owner states, under oath, in a written statement to the court or in testimony before the court that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner. [2010 c 249 § 7; 2005 c 167 § 3; 2004 c 231 § 3.]

Contingent effective date—2010 c 249: See note following RCW 47.56.795.

46.63.080 Hearings—Rules of procedure—Counsel.

(1) Procedures for the conduct of all hearings provided for in this chapter may be established by rule of the supreme court.

(2) Any person subject to proceedings under this chapter may be represented by counsel.

(3) The attorney representing the state, county, city, or town may appear in any proceedings under this chapter but need not appear, notwithstanding any statute or rule of court to the contrary. [1981 c 19 § 2; 1979 ex.s. c 136 § 10.]

Additional notes found at www.leg.wa.gov

46.63.090 Hearings—Contesting determination that infraction committed—Appeal. (1) A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without a jury.

(2) The court may consider the notice of traffic infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the officer, and has the right to present evidence and examine witnesses present in court.

(3) The burden of proof is upon the state to establish the commission of the infraction by a preponderance of the evidence.

(4) After consideration of the evidence and argument the court shall determine whether the infraction was committed. Where it has not been established that the infraction was committed an order dismissing the notice shall be entered in the court's records. Where it has been established that the infraction was committed an appropriate order shall be entered in the court's records. A record of the court's determination and order shall be furnished to the department in accordance with RCW 46.20.270 as now or hereafter amended.

(5) An appeal from the court's determination or order shall be to the superior court. The decision of the superior court is subject only to discretionary review pursuant to Rule 2.3 of the Rules of Appellate Procedure. [1980 c 128 § 3; 1979 ex.s. c 136 § 11.]

Additional notes found at www.leg.wa.gov

46.63.100 Hearings—Explanation of mitigating circumstances. (1) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that an infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(2) After the court has heard the explanation of the circumstances surrounding the commission of the infraction an appropriate order shall be entered in the court's records. A record of the court's determination and order shall be furnished to the department in accordance with RCW 46.20.270 as now or hereafter amended.

(3) There may be no appeal from the court's determination or order. [1979 ex.s. c 136 § 12.]

Additional notes found at www.leg.wa.gov

46.63.105 City attorney, county prosecutor, or other prosecuting authority—Filing an infraction—Contribution, donation, payment. A city attorney, county prosecutor, or other prosecuting authority may not dismiss, amend, or agree not to file an infraction in exchange for a contribution, donation, or payment to any person, corporation, or organization. This does not prohibit:

(1) Contribution, donation, or payment to any specific fund authorized by state statute;

(2) The collection of costs associated with actual supervision, treatment, or collection of restitution under agreements to defer or divert; or

(3) Dismissal following payment that is authorized by any other statute. [2007 c 367 § 2.]

46.63.110 Monetary penalties. (Effective until January 1, 2011.) (1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter it is immediately payable. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the

court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privilege until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the department has been notified that the court has entered into a new time payment or community restitution agreement with the person.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court shall notify the department of the delinquency. The department shall suspend the person's driver's license or driving privilege until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in

the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter. [2009 c 479 § 39. Prior: 2007 c 356 § 8; 2007 c 199 § 28; prior: 2005 c 413 § 2; 2005 c 320 § 2; 2005 c 288 § 8; 2003 c 380 § 2. Prior: 2002 c 279 § 15; 2002 c 175 § 36; 2001 c 289 § 2; 1997 c 331 § 3; 1993 c 501 § 11; 1986 c 213 § 2; 1984 c 258 § 330; prior: 1982 1st ex.s. c 14 § 4; 1982 1st ex.s. c 12 § 1; 1982 c 10 § 13; prior: 1981 c 330 § 7; 1981 c 19 § 6; 1980 c 128 § 4; 1979 ex.s. c 136 § 13.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Effective date—2009 c 479: See note following RCW 2.56.030.

Short title—2007 c 356: See note following RCW 74.31.005.

Findings—Intent—Short title—2007 c 199: See notes following RCW 9A.56.065.

Effective date—2005 c 288: See note following RCW 46.20.245.

Effective date—2002 c 175: See note following RCW 7.80.130.

Intent—1984 c 258: See note following RCW 3.34.130.

Additional statutory assessments: RCW 3.62.090, 46.64.055.

Additional notes found at www.leg.wa.gov

46.63.110 Monetary penalties. (*Effective January 1, 2011.*) (1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter it is immediately payable. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good

cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privilege until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the department has been notified that the court has entered into a new time payment or community restitution agreement with the person.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court shall notify the department of the delinquency. The department shall suspend the person's driver's license or driving privilege until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty

unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter. [2010 c 252 § 5; 2009 c 479 § 39. Prior: 2007 c 356 § 8; 2007 c 199 § 28; prior: 2005 c 413 § 2; 2005 c 320 § 2; 2005 c 288 § 8; 2003 c 380 § 2. Prior: 2002 c 279 § 15; 2002 c 175 § 36; 2001 c 289 § 2; 1997 c 331 § 3; 1993 c 501 § 11; 1986 c 213 § 2; 1984 c 258 § 330; prior: 1982 1st ex.s. c 14 § 4; 1982 1st ex.s. c 12 § 1; 1982 c 10 § 13; prior: 1981 c 330 § 7; 1981 c 19 § 6; 1980 c 128 § 4; 1979 ex.s. c 136 § 13.]

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Effective date—2010 c 252: See note following RCW 46.61.212.

Effective date—2009 c 479: See note following RCW 2.56.030.

Short title—2007 c 356: See note following RCW 74.31.005.

Findings—Intent—Short title—2007 c 199: See notes following RCW 9A.56.065.

Effective date—2005 c 288: See note following RCW 46.20.245.

Effective date—2002 c 175: See note following RCW 7.80.130.

Intent—1984 c 258: See note following RCW 3.34.130.

Additional statutory assessments: RCW 3.62.090, 46.64.055.

Additional notes found at www.leg.wa.gov

46.63.120 Order of court—Civil nature—Waiver, reduction, suspension of penalty—Community restitution. (1) An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances is civil in nature.

(2) The court may include in the order the imposition of any penalty authorized by the provisions of this chapter for the commission of an infraction. The court may, in its discretion, waive, reduce, or suspend the monetary penalty prescribed for the infraction. At the person's request the court may order performance of a number of hours of community restitution in lieu of a monetary penalty, at the rate of the then state minimum wage per hour. [2002 c 175 § 37; 1979 ex.s. c 136 § 14.]

[Title 46 RCW—page 368]

Effective date—2002 c 175: See note following RCW 7.80.130.

Additional notes found at www.leg.wa.gov

46.63.130 Issue of process by court of limited jurisdiction. Notwithstanding any other provisions of law governing service of process in civil cases, a court of limited jurisdiction having jurisdiction over an alleged traffic infraction may issue process anywhere within the state. [1980 c 128 § 5.]

Additional notes found at www.leg.wa.gov

46.63.140 Presumption regarding stopped, standing, or parked vehicles. (1) In any traffic infraction case involving a violation of this title or equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to the stopping, standing, or parking of a vehicle, proof that the particular vehicle described in the notice of traffic infraction was stopping, standing, or parking in violation of any such provision of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

(2) The foregoing stated presumption shall apply only when the procedure prescribed in RCW 46.63.030(3) has been followed. [1980 c 128 § 11.]

Additional notes found at www.leg.wa.gov

46.63.151 Costs and attorney fees. Each party to a traffic infraction case is responsible for costs incurred by that party. No costs or attorney fees may be awarded to either party in a traffic infraction case, except as provided for in RCW 46.30.020(2). [1991 sp.s. c 25 § 3; 1981 c 19 § 4.]

Additional notes found at www.leg.wa.gov

46.63.160 Toll collection systems—Photo enforcement systems. (Contingent expiration date.) (Effective until July 1, 2011.) (1) This section applies only to infractions issued under RCW 46.61.690 for toll collection evasion.

(2) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(3) Toll collection systems include manual cash collection, electronic toll collection, and photo enforcement systems.

(4) "Electronic toll collection system" means a system of collecting tolls or charges that is capable of charging the account of the toll patron the appropriate toll or charge by electronic transmission from the motor vehicle to the toll collection system, which information is used to charge the appropriate toll or charge to the patron's account.

(5) "Photo enforcement system" means a vehicle sensor installed to work in conjunction with an electronic toll collection system that automatically produces one or more photographs, one or more microphotographs, a videotape, or other

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recorded images of a vehicle operated in violation of an infraction under this chapter.

(6) The use of a toll collection system is subject to the following requirements:

(a) The department of transportation shall adopt rules that allow an open standard for automatic vehicle identification transponders used for electronic toll collection to be compatible with other electronic payment devices or transponders from the Washington state ferry system, other public transportation systems, or other toll collection systems to the extent that technology permits. The rules must also allow for multiple vendors providing electronic payment devices or transponders as technology permits.

(b) The department of transportation may not sell, distribute, or make available in any way, the names and addresses of electronic toll collection system account holders.

(7) The use of a photo enforcement system for issuance of notices of infraction is subject to the following requirements:

(a) Photo enforcement systems may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) A notice of infraction must be mailed to the registered owner of the vehicle or to the renter of a vehicle within sixty days of the violation. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo enforcement system, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, digital photographs, microphotographs, videotape, or other recorded images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction.

(c) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, or other recorded images prepared under this chapter are for the exclusive use of the tolling agency and law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this chapter. No photograph, digital photograph, microphotograph, videotape, or other recorded image may be used for any purpose other than enforcement of violations under this chapter nor retained longer than necessary to enforce this chapter or verify that tolls are paid.

(d) All locations where a photo enforcement system is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by a photo enforcement system.

(8) Infractions detected through the use of photo enforcement systems are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of photo enforcement systems under this section shall be processed in the same manner

as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3).

(9) The penalty for an infraction detected through the use of a photo enforcement system shall be forty dollars plus an additional toll penalty. The toll penalty is equal to three times the cash toll for a standard passenger car during peak hours. The toll penalty may not be reduced. The court shall remit the toll penalty to the department of transportation or a private entity under contract with the department of transportation for deposit in the statewide account in which tolls are deposited for the tolling facility at which the violation occurred. If the driver is found not to have committed an infraction under this section, the driver shall pay the toll due at the time the photograph was taken, unless the toll has already been paid.

(10) If the registered owner of the vehicle is a rental car business the department of transportation or a law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of the mailing of the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable toll and fee.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction. [2009 c 272 § 1. Prior: 2007 c 372 § 2; 2007 c 101 § 2; 2004 c 231 § 6.]

Report to legislature—2009 c 272: "The department shall report to the transportation committees of the legislature by December 1, 2009, with recommendations regarding implementing a time period for the payment of tolls after crossing the Tacoma Narrows bridge in which individuals without a transponder could pay the toll due prior to the issuance of an infraction." [2009 c 272 § 2.]

46.63.160 Photo toll systems—Civil penalties for nonpayment of tolls—System requirements—Rules. (Contingent effective date.) (1) This section applies only to civil penalties for nonpayment of tolls detected through use of photo toll systems.

(2) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(3) A notice of civil penalty may be issued by the department of transportation when a toll is assessed through use of a photo toll system and the toll is not paid by the toll payment due date, which is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

(4) Any registered owner or renter of a vehicle traveling upon a toll facility operated under chapter 47.56 or 47.46 RCW is subject to a civil penalty governed by the administrative procedures set forth in this section when the vehicle incurs a toll charge and the toll is not paid by the toll payment due date, which is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

(5) Consistent with chapter 34.05 RCW, the department of transportation shall develop an administrative adjudication process to review appeals of civil penalties issued by the department of transportation for toll nonpayment detected through the use of a photo toll system under this section.

(6) The use of a photo toll system is subject to the following requirements:

(a) Photo toll systems may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) A notice of civil penalty must include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo toll system, stating the facts supporting the notice of civil penalty. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding established under subsection (5) of this section. The photographs, digital photographs, microphotographs, videotape, or other recorded images evidencing the toll nonpayment civil penalty must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the civil penalty.

(c) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this chapter are for the exclusive use of the tolling agency for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty under this chapter. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under this section. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies.

(d) All locations where a photo toll system is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where tolls are assessed and enforced by a photo toll system.

(e) Within existing resources, the department of transportation shall conduct education and outreach efforts at least six months prior to activating an all-electronic photo toll system. Methods of outreach shall include a department presence at community meetings in the vicinity of a toll facility, signage, and information published in local media. Information provided shall include notice of when all electronic photo tolling shall begin and methods of payment. Additionally, the department shall provide quarterly reporting on education and outreach efforts and other data related to the issuance of civil penalties.

(7) Civil penalties for toll nonpayment detected through the use of photo toll systems must be issued to the registered owner of the vehicle identified by the photo toll system, but are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120.

(8) The civil penalty for toll nonpayment detected through the use of a photo toll system is forty dollars plus the photo toll and associated fees.

(9) Except as provided otherwise in this subsection, all civil penalties, including the photo toll and associated fees, collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed. However, beginning on July 1, 2011, civil penalties deposited into the Tacoma Narrows toll bridge account created under RCW 47.56.165 must first be allocated toward repayment of operating loans and reserve payments provided to the account from the motor vehicle account under section 1005(15), chapter 518, Laws of 2007. Additionally, all civil penalties, resulting from nonpayment of tolls on the state route number 520 corridor, shall be deposited into the state route number 520 civil penalties account created under section 4, chapter 248, Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June 30, 2010.

(10) If the registered owner of the vehicle is a rental car business, the department of transportation shall, before a toll bill is issued, provide a written notice to the rental car business that a toll bill may be issued to the rental car business if the rental car business does not, within thirty days of the mailing of the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the toll was assessed; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the toll was assessed because the vehicle was stolen at the time the toll was assessed. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable toll and fee.

Timely mailing of this statement to the issuing agency relieves a rental car business of any liability under this section for the payment of the toll.

(11) Consistent with chapter 34.05 RCW, the department of transportation shall develop rules to implement this section.

(12) For the purposes of this section, "photo toll system" means the system defined in RCW 47.56.010 and 47.46.020. [2010 c 249 § 6; 2009 c 272 § 1. Prior: 2007 c 372 § 2; 2007 c 101 § 2; 2004 c 231 § 6.]

Contingent effective date—2010 c 249: See note following RCW 47.56.795.

Report to legislature—2009 c 272: "The department shall report to the transportation committees of the legislature by December 1, 2009, with recommendations regarding implementing a time period for the payment of tolls after crossing the Tacoma Narrows bridge in which individuals without a transponder could pay the toll due prior to the issuance of an infraction." [2009 c 272 § 2.]

46.63.160 Toll collection systems—Photo enforcement systems. (Effective July 1, 2011.) (1) This section

applies only to infractions issued under RCW 46.61.690 for toll collection evasion.

(2) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(3) Toll collection systems include manual cash collection, electronic toll collection, and photo enforcement systems.

(4) "Electronic toll collection system" means a system of collecting tolls or charges that is capable of charging the account of the toll patron the appropriate toll or charge by electronic transmission from the motor vehicle to the toll collection system, which information is used to charge the appropriate toll or charge to the patron's account.

(5) "Photo enforcement system" means a vehicle sensor installed to work in conjunction with an electronic toll collection system that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of a vehicle operated in violation of an infraction under this chapter.

(6) The use of a toll collection system is subject to the following requirements:

(a) The department of transportation shall adopt rules that allow an open standard for automatic vehicle identification transponders used for electronic toll collection to be compatible with other electronic payment devices or transponders from the Washington state ferry system, other public transportation systems, or other toll collection systems to the extent that technology permits. The rules must also allow for multiple vendors providing electronic payment devices or transponders as technology permits.

(b) The department of transportation may not sell, distribute, or make available in any way, the names and addresses of electronic toll collection system account holders.

(7) The use of a photo enforcement system for issuance of notices of infraction is subject to the following requirements:

(a) Photo enforcement systems may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) A notice of infraction must be mailed to the registered owner of the vehicle or to the renter of a vehicle within sixty days of the violation. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo enforcement system, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, digital photographs, microphotographs, videotape, or other recorded images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction.

(c) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, or other recorded images prepared under this chapter are for the exclusive use of the tolling agency and law enforcement

in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this chapter. No photograph, digital photograph, microphotograph, videotape, or other recorded image may be used for any purpose other than enforcement of violations under this chapter nor retained longer than necessary to enforce this chapter or verify that tolls are paid.

(d) All locations where a photo enforcement system is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by a photo enforcement system.

(8) Infractions detected through the use of photo enforcement systems are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of photo enforcement systems under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3).

(9) The penalty for an infraction detected through the use of a photo enforcement system shall be forty dollars plus an additional toll penalty. The toll penalty is equal to three times the cash toll for a standard passenger car during peak hours. The toll penalty may not be reduced. The court shall remit the toll penalty to the department of transportation or a private entity under contract with the department of transportation for deposit in the statewide account in which tolls are deposited for the tolling facility at which the violation occurred. If the driver is found not to have committed an infraction under this section, the driver shall pay the toll due at the time the photograph was taken, unless the toll has already been paid.

(10) If the registered owner of the vehicle is a rental car business the department of transportation or a law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of the mailing of the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable toll and fee.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction. [2010 c 161 § 1126; 2009 c 272 § 1. Prior: 2007 c 372 § 2; 2007 c 101 § 2; 2004 c 231 § 6.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Report to legislature—2009 c 272: "The department shall report to the transportation committees of the legislature by December 1, 2009, with recommendations regarding implementing a time period for the payment of tolls after crossing the Tacoma Narrows bridge in which individuals without a transponder could pay the toll due prior to the issuance of an infraction." [2009 c 272 § 2.]

46.63.170 Automated traffic safety cameras—Definition. (Effective until July 1, 2011.) (1) The use of automated traffic safety cameras for issuance of notices of infraction is subject to the following requirements:

(a) The appropriate local legislative authority must first enact an ordinance allowing for their use to detect one or more of the following: Stoplight, railroad crossing, or school speed zone violations. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to enact an authorizing ordinance.

(b) Use of automated traffic safety cameras is restricted to two-arterial intersections, railroad crossings, and school speed zones only.

(c) During the 2009-2011 fiscal biennium, automated traffic safety cameras may be used to detect speed violations for the purposes of section 201(2), chapter 470, Laws of 2009 if the local legislative authority first enacts an ordinance authorizing the use of cameras to detect speed violations.

(d) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle.

(e) A notice of infraction must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under subsection (3)(a) of this section. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.

(f) The registered owner of a vehicle is responsible for an infraction under RCW 46.63.030(1)(e) unless the registered owner overcomes the presumption in RCW 46.63.075, or, in the case of a rental car business, satisfies the conditions under subsection (3) of this section. If appropriate under the circumstances, a renter identified under subsection (3)(a) of this section is responsible for an infraction.

(g) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images prepared under this section are for the exclusive use of law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending

action or proceeding unless the action or proceeding relates to a violation under this section. No photograph, microphotograph, or electronic image may be used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section.

(h) All locations where an automated traffic safety camera is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera.

(i) If a county or city has established an authorized automated traffic safety camera program under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the equipment and services provided or rendered in support of the system, and may not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.

(2) Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3). However, the amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction.

(3) If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

(4) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(5) For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehi-

cle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit in a school speed zone as detected by a speed measuring device. During the 2009-2011 fiscal biennium, an automated traffic safety camera includes a camera used to detect speed violations for the purposes of section 201(2), chapter 470, Laws of 2009.

(6) During the 2009-2011 fiscal biennium, this section does not apply to automated traffic safety cameras for the purposes of section 218(2), chapter 470, Laws of 2009. [2009 c 470 § 714; 2007 c 372 § 3; 2005 c 167 § 1.]

Effective date—2009 c 470: See note following RCW 46.68.170.

46.63.170 Automated traffic safety cameras—Definition. (*Effective July 1, 2011.*) (1) The use of automated traffic safety cameras for issuance of notices of infraction is subject to the following requirements:

(a) The appropriate local legislative authority must first enact an ordinance allowing for their use to detect one or more of the following: Stoplight, railroad crossing, or school speed zone violations. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to enact an authorizing ordinance.

(b) Use of automated traffic safety cameras is restricted to two-arterial intersections, railroad crossings, and school speed zones only.

(c) During the 2009-2011 fiscal biennium, automated traffic safety cameras may be used to detect speed violations for the purposes of section 201(2), chapter 470, Laws of 2009 if the local legislative authority first enacts an ordinance authorizing the use of cameras to detect speed violations.

(d) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle.

(e) A notice of infraction must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under subsection (3)(a) of this section. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.

(f) The registered owner of a vehicle is responsible for an infraction under *RCW 46.63.030(1)(e) unless the registered owner overcomes the presumption in RCW 46.63.075, or, in the case of a rental car business, satisfies the conditions under

subsection (3) of this section. If appropriate under the circumstances, a renter identified under subsection (3)(a) of this section is responsible for an infraction.

(g) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images prepared under this section are for the exclusive use of law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this section. No photograph, microphotograph, or electronic image may be used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section.

(h) All locations where an automated traffic safety camera is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera.

(i) If a county or city has established an authorized automated traffic safety camera program under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the equipment and services provided or rendered in support of the system, and may not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.

(2) Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3). However, the amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction.

(3) If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

(4) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person

in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(5) For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, micro-photographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit in a school speed zone as detected by a speed measuring device. During the 2009-2011 fiscal biennium, an automated traffic safety camera includes a camera used to detect speed violations for the purposes of section 201(2), chapter 470, Laws of 2009.

(6) During the 2009-2011 fiscal biennium, this section does not apply to automated traffic safety cameras for the purposes of section 218(2), chapter 470, Laws of 2009. [2010 c 161 § 1127; 2009 c 470 § 714; 2007 c 372 § 3; 2005 c 167 § 1.]

***Reviser's note:** RCW 46.63.030 was amended by 2010 c 249 § 5, changing subsection (1)(e) to subsection (1)(d).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2009 c 470: See note following RCW 46.68.170.

Chapter 46.64 RCW ENFORCEMENT

Sections

46.64.010	Traffic citations—Record of—Cancellation prohibited—Penalty—Citation audit.
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46.64.018	Arrest without warrant for certain traffic offenses.
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46.64.060	Stopping motor vehicles for driver's license check, vehicle inspection and test—Purpose.
46.64.070	Stopping motor vehicles for driver's license check, vehicle inspection and test—Authorized—Powers additional.

46.64.010 Traffic citations—Record of—Cancellation prohibited—Penalty—Citation audit. (1) Every traffic enforcement agency in this state shall provide in appropriate form traffic citations containing notices to appear which shall be issued in books with citations in quadruplicate and meeting the requirements of this section, or issued by an electronic device capable of producing a printed copy and electronic copies of the citations. The chief administrative officer of every such traffic enforcement agency shall be responsible for the issuance of such books or electronic devices and shall maintain a record of every such book and each citation contained therein and every such electronic device issued to individual members of the traffic enforcement agency and shall

require and retain a receipt for every book and electronic device so issued.

(2) Every traffic enforcement officer upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic ordinance of any city or town shall deposit the original or a printed or electronic copy of such traffic citation with a court having competent jurisdiction over the alleged offense or with its traffic violations bureau. Upon the deposit of the original or a copy of such traffic citation with a court having competent jurisdiction over the alleged offense or with its traffic violations bureau as aforesaid, the original or copy of such traffic citation may be disposed of only by trial in the court or other official action by a judge of the court, including forfeiture of the bail or by the deposit of sufficient bail with or payment of a fine to the traffic violations bureau by the person to whom such traffic citation has been issued by the traffic enforcement officer.

(3) It shall be unlawful and official misconduct for any traffic enforcement officer or other officer or public employee to dispose of a traffic citation or copies thereof or of the record of the issuance of the same in a manner other than as required in this section.

(4) The chief administrative officer of every traffic enforcement agency shall require the return to him or her of a printed or electronic copy of every traffic citation issued by an officer under his or her supervision to an alleged violator of any traffic law or ordinance and of all copies of every traffic citation which has been spoiled or upon which any entry has been made and not issued to an alleged violator. Such chief administrative officer shall also maintain or cause to be maintained in connection with every traffic citation issued by an officer under his or her supervision a record of the disposition of the charge by the court or its traffic violations bureau in which the original or copy of the traffic citation was deposited.

(5) Any person who cancels or solicits the cancellation of any traffic citation, in any manner other than as provided in this section, is guilty of a misdemeanor.

(6) Every record of traffic citations required in this section shall be audited monthly by the appropriate fiscal officer of the government agency to which the traffic enforcement agency is responsible. [2004 c 43 § 4; 2003 c 53 § 247; 1961 c 12 § 46.64.010. Prior: 1949 c 196 § 16; 1937 c 189 § 145; Rem. Supp. 1949 § 6360-145.]

Effective date—2004 c 43: See note following RCW 7.80.150.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.64.015 Citation and notice to appear in court—Issuance—Contents—Arrest—Detention. Whenever any person is arrested for any violation of the traffic laws or regulations which is punishable as a misdemeanor or by imposition of a fine, the arresting officer may serve upon him or her a traffic citation and notice to appear in court. Such citation and notice shall conform to the requirements of RCW 46.64.010, and in addition, shall include spaces for the name and address of the person arrested, the license number of the vehicle involved, the driver's license number of such person, if any, the offense or violation charged, and the time and place where such person shall appear in court. Such spaces

shall be filled with the appropriate information by the arresting officer. An officer may not serve or issue any traffic citation or notice for any offense or violation except either when the offense or violation is committed in his or her presence or when a person may be arrested pursuant to RCW 10.31.100, as now or hereafter amended. The detention arising from an arrest under this section may not be for a period of time longer than is reasonably necessary to issue and serve a citation and notice, except that the time limitation does not apply under any of the following circumstances:

(1) Where the arresting officer has probable cause to believe that the arrested person has committed any of the offenses enumerated in RCW 10.31.100(3);

(2) When the arrested person is a nonresident and is being detained for a hearing under RCW 46.64.035. [2006 c 270 § 3; 2004 c 43 § 5; 1987 c 345 § 2; 1985 c 303 § 11; 1979 ex.s. c 28 § 2; 1975-'76 2nd ex.s. c 95 § 2; 1975 c 56 § 1; 1967 c 32 § 70; 1961 c 12 § 46.64.015. Prior: 1951 c 175 § 1.]

Effective date—2004 c 43: See note following RCW 7.80.150.

46.64.018 Arrest without warrant for certain traffic offenses. See RCW 10.31.100.

46.64.025 Failure to appear—Notice to department. Whenever any person served with a traffic citation willfully fails to appear for a scheduled court hearing, the court in which the defendant failed to appear shall promptly give notice of such fact to the department of licensing. Whenever thereafter the case in which the defendant failed to appear is adjudicated, the court hearing the case shall promptly file with the department a certificate showing that the case has been adjudicated. [2006 c 270 § 4; 1999 c 86 § 7; 1979 c 158 § 175; 1967 c 32 § 71; 1965 ex.s. c 121 § 23.]

Purpose—Construction—1965 ex.s. c 121: See note following RCW 46.20.021.

Additional notes found at www.leg.wa.gov

46.64.030 Procedure governing arrest and prosecution. The provisions of this title with regard to the apprehension and arrest of persons violating this title shall govern all police officers in making arrests without a warrant for violations of this title for offenses either committed in their presence or believed to have been committed based on probable cause pursuant to RCW 10.31.100, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for other like offenses. [1979 ex.s. c 28 § 3; 1975 c 56 § 2; 1967 c 32 § 72; 1961 c 12 § 46.64.030. Prior: 1937 c 189 § 147; RRS § 6360-147.]

46.64.035 Posting of security or bail by nonresident—Penalty. Any nonresident of the state of Washington who is issued a notice of infraction or a citation for a traffic offense may be required to post either a bond or cash security in the amount of the infraction penalty or to post bail. The court shall by January 1, 1990, accept, in lieu of bond or cash security, valid major credit cards issued by a bank or other financial institution or automobile club card guaranteed by an insurance company licensed to conduct business in the state.

If payment is made by credit card the court is authorized to impose, in addition to any penalty or fine, an amount equal to the charge to the court for accepting such cards. If the person cannot post the bond, cash security, or bail, he or she shall be taken to a magistrate or judge for a hearing at the first possible working time of the court. If the person refuses to comply with this section, he or she shall be guilty of a misdemeanor. This section does not apply to residents of states that have entered into a reciprocal agreement as outlined in RCW 46.23.020. [1987 c 345 § 3.]

46.64.040 Nonresident's use of highways—Resident leaving state—Secretary of state as attorney-in-fact. The acceptance by a nonresident of the rights and privileges conferred by law in the use of the public highways of this state, as evidenced by his or her operation of a vehicle thereon, or the operation thereon of his or her vehicle with his or her consent, express or implied, shall be deemed equivalent to and construed to be an appointment by such nonresident of the secretary of state of the state of Washington to be his or her true and lawful attorney upon whom may be served all lawful summons and processes against him or her growing out of any accident, collision, or liability in which such nonresident may be involved while operating a vehicle upon the public highways, or while his or her vehicle is being operated thereon with his or her consent, express or implied, and such operation and acceptance shall be a signification of the nonresident's agreement that any summons or process against him or her which is so served shall be of the same legal force and validity as if served on the nonresident personally within the state of Washington. Likewise each resident of this state who, while operating a motor vehicle on the public highways of this state, is involved in any accident, collision, or liability and thereafter at any time within the following three years cannot, after a due and diligent search, be found in this state appoints the secretary of state of the state of Washington as his or her lawful attorney for service of summons as provided in this section for nonresidents. Service of such summons or process shall be made by leaving two copies thereof with a fee established by the secretary of state by rule with the secretary of state of the state of Washington, or at the secretary of state's office, and such service shall be sufficient and valid personal service upon said resident or nonresident: PROVIDED, That notice of such service and a copy of the summons or process is forthwith sent by registered mail with return receipt requested, by plaintiff to the defendant at the last known address of the said defendant, and the plaintiff's affidavit of compliance herewith are appended to the process, together with the affidavit of the plaintiff's attorney that the attorney has with due diligence attempted to serve personal process upon the defendant at all addresses known to him or her of defendant and further listing in his or her affidavit the addresses at which he or she attempted to have process served. However, if process is forwarded by registered mail and defendant's endorsed receipt is received and entered as a part of the return of process then the foregoing affidavit of plaintiff's attorney need only show that the defendant received personal delivery by mail: PROVIDED FURTHER, That personal service outside of this state in accordance with the provisions of law relating to personal service of summons outside of this state shall relieve the plaintiff

from mailing a copy of the summons or process by registered mail as hereinbefore provided. The secretary of state shall forthwith send one of such copies by mail, postage prepaid, addressed to the defendant at the defendant's address, if known to the secretary of state. The court in which the action is brought may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action. The fee paid by the plaintiff to the secretary of state shall be taxed as part of his or her costs if he or she prevails in the action. The secretary of state shall keep a record of all such summons and processes, which shall show the day of service. [2003 c 223 § 1; 1993 c 269 § 16; 1982 c 35 § 197; 1973 c 91 § 1; 1971 ex.s. c 69 § 1; 1961 c 12 § 46.64.040. Prior: 1959 c 121 § 1; 1957 c 75 § 1; 1937 c 189 § 129; RRS § 6360-129.]

Rules of court: *Cf. CR 12(a).*

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Deposit of fees in secretary of state's revolving fund: RCW 43.07.130.

Additional notes found at www.leg.wa.gov

46.64.048 Attempting, aiding, abetting, coercing, committing violations, punishable. Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of any act declared by this title to be a traffic infraction or a crime, whether individually or in connection with one or more other persons or as principal, agent, or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcefully, or willfully induces, causes, coerces, requires, permits or directs others to violate any provisions of this title is likewise guilty of such offense. [1990 c 250 § 60; 1961 c 12 § 46.56.210. Prior: 1937 c 189 § 149; RRS § 6360-149. Formerly RCW 46.61.695.]

Additional notes found at www.leg.wa.gov

46.64.050 General penalty. It is a traffic infraction for any person to violate any of the provisions of this title unless violation is by this title or other law of this state declared to be a felony, a gross misdemeanor, or a misdemeanor.

Unless another penalty is in this title provided, every person convicted of a misdemeanor for violation of any provisions of this title shall be punished accordingly. [1979 ex.s. c 136 § 93; 1975-'76 2nd ex.s. c 95 § 3; 1961 c 12 § 46.64.050. Prior: (i) 1937 c 189 § 150; RRS § 6360-150; 1927 c 309 § 53; RRS § 6362-53. (ii) 1937 c 188 § 82; RRS § 6312-82; 1921 c 108 § 16; RRS § 6378.]

Additional notes found at www.leg.wa.gov

46.64.055 Additional monetary penalty. (1) In addition to any other penalties imposed for conviction of a violation of this title that is a misdemeanor, gross misdemeanor, or felony, the court shall impose an additional penalty of fifty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this section by participation in the community restitution program.

(2) Revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20

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RCW. Money remitted under this section to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this section must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060. [2009 c 479 § 40; 2002 c 175 § 38; 2001 c 289 § 3.]

Effective date—2009 c 479: See note following RCW 2.56.030.

Effective date—2002 c 175: See note following RCW 7.80.130.

Additional statutory assessments: RCW 3.62.090.

46.64.060 Stopping motor vehicles for driver's license check, vehicle inspection and test—Purpose. The purpose of RCW 46.64.060 and 46.64.070 is to provide for the exercise of the police power of this state to protect the health and safety of its citizens by assuring that only qualified drivers and vehicles which meet minimum equipment standards shall operate upon the highways of this state. [1967 c 144 § 1.]

Additional notes found at www.leg.wa.gov

46.64.070 Stopping motor vehicles for driver's license check, vehicle inspection and test—Authorized—Powers additional. To carry out the purpose of RCW 46.64.060 and 46.64.070, officers of the Washington state patrol are hereby empowered during daylight hours and while using plainly marked state patrol vehicles to require the driver of any motor vehicle being operated on any highway of this state to stop and display his or her driver's license and/or to submit the motor vehicle being driven by such person to an inspection and test to ascertain whether such vehicle complies with the minimum equipment requirements prescribed by chapter 46.37 RCW, as now or hereafter amended. No criminal citation shall be issued for a period of ten days after giving a warning ticket pointing out the defect.

The powers conferred by RCW 46.64.060 and 46.64.070 are in addition to all other powers conferred by law upon such officers, including but not limited to powers conferred upon them as police officers pursuant to RCW 46.20.349 and powers conferred by chapter 46.32 RCW. [1999 c 6 § 26; 1973 2nd ex.s. c 22 § 1; 1967 c 144 § 2.]

Intent—1999 c 6: See note following RCW 46.04.168.

Additional notes found at www.leg.wa.gov

Chapter 46.65 RCW

WASHINGTON HABITUAL TRAFFIC OFFENDERS ACT

Sections

46.65.010	State policy enunciated.
46.65.020	Habitual offender defined.
46.65.030	Transcript or abstract of conviction record certified—As prima facie evidence.
46.65.060	Department findings—Revocation of license—Stay by department.
46.65.065	Revocation of habitual offender's license—Request for hearing, scope—Right to appeal.
46.65.070	Period during which habitual offender not to be issued license.
46.65.080	Four-year petition for license restoration—Reinstatement of driving privilege.
46.65.100	Seven-year petition for license restoration—Reinstatement of driving privilege.

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46.65.900 Construction—Chapter supplemental.
46.65.910 Short title.

46.65.010 State policy enunciated. It is hereby declared to be the policy of the state of Washington:

(1) To provide maximum safety for all persons who travel or otherwise use the public highways of this state; and

(2) To deny the privilege of operating motor vehicles on such highways to persons who by their conduct and record have demonstrated their indifference for the safety and welfare of others and their disrespect for the laws of the state, the orders of her courts and the statutorily required acts of her administrative agencies; and

(3) To discourage repetition of criminal acts by individuals against the peace and dignity of the state and her political subdivisions and to impose increased and added deprivation of the privilege to operate motor vehicles upon habitual offenders who have been convicted repeatedly of violations of traffic laws. [1971 ex.s. c 284 § 3.]

Additional notes found at www.leg.wa.gov

46.65.020 Habitual offender defined. As used in this chapter, unless a different meaning is plainly required by the context, an habitual offender means any person, resident or nonresident, who has accumulated convictions or findings that the person committed a traffic infraction as defined in RCW 46.20.270, or, if a minor, has violations recorded with the department of licensing, for separate and distinct offenses as described in either subsection (1) or (2) below committed within a five-year period, as evidenced by the records maintained in the department of licensing: PROVIDED, That where more than one described offense is committed within a six-hour period such multiple offenses shall, on the first such occasion, be treated as one offense for the purposes of this chapter:

(1) Three or more convictions, singularly or in combination, of the following offenses:

(a) Vehicular homicide as defined in RCW 46.61.520;

(b) Vehicular assault as defined in RCW 46.61.522;

(c) Driving or operating a motor vehicle while under the influence of intoxicants or drugs;

(d) Driving a motor vehicle while his or her license, permit, or privilege to drive has been suspended or revoked as defined in RCW 46.20.342(1)(b);

(e) Failure of the driver of any vehicle involved in an accident resulting in the injury or death of any person or damage to any vehicle which is driven or attended by any person to immediately stop such vehicle at the scene of such accident or as close thereto as possible and to forthwith return to and in every event remain at, the scene of such accident until he or she has fulfilled the requirements of RCW 46.52.020;

(f) Reckless driving as defined in RCW 46.61.500;

(g) Being in physical control of a motor vehicle while under the influence of intoxicating liquor or any drug as defined in RCW 46.61.504; or

(h) Attempting to elude a pursuing police vehicle as defined in RCW 46.61.024;

(2) Twenty or more convictions or findings that the person committed a traffic infraction for separate and distinct offenses, singularly or in combination, in the operation of a motor vehicle that are required to be reported to the depart-

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ment of licensing other than the offenses of driving with an expired driver's license and not having a driver's license in the operator's immediate possession. Such convictions or findings shall include those for offenses enumerated in subsection (1) of this section when taken with and added to those offenses described herein but shall not include convictions or findings for any nonmoving violation. No person may be considered an habitual offender under this subsection unless at least three convictions have occurred within the three hundred sixty-five days immediately preceding the last conviction.

The offenses included in subsections (1) and (2) of this section are deemed to include offenses under any valid town, city, or county ordinance substantially conforming to the provisions cited in subsections (1) and (2) [of this section] or amendments thereto, and any federal law, or any law of another state, including subdivisions thereof, substantially conforming to the aforesaid state statutory provisions. [2010 c 8 § 9078; 1991 c 293 § 7; 1983 c 164 § 7; 1981 c 188 § 1; 1979 ex.s. c 136 § 94; 1979 c 62 § 1; 1971 ex.s. c 284 § 4.]

Additional notes found at www.leg.wa.gov

46.65.030 Transcript or abstract of conviction record certified—As prima facie evidence. The director of the department of licensing shall certify a transcript or abstract of the record of convictions and findings of traffic infractions as maintained by the department of licensing of any person whose record brings him or her within the definition of an habitual offender, as defined in RCW 46.65.020, to the hearing officer appointed in the event a hearing is requested. Such transcript or abstract may be admitted as evidence in any hearing or court proceeding and shall be prima facie evidence that the person named therein was duly convicted by the court wherein such conviction or holding was made of each offense shown by such transcript or abstract; and if such person denies any of the facts as stated therein, he or she shall have the burden of proving that such fact is untrue. [1983 c 209 § 1; 1979 ex.s. c 136 § 95; 1979 c 62 § 2; 1971 ex.s. c 284 § 5.]

Additional notes found at www.leg.wa.gov

46.65.060 Department findings—Revocation of license—Stay by department. If the department finds that such person is not an habitual offender under this chapter, the proceeding shall be dismissed, but if the department finds that such person is an habitual offender, the department shall revoke the operator's license for a period of seven years: PROVIDED, That the department may stay the date of the revocation if it finds that the traffic offenses upon which it is based were caused by or are the result of alcoholism and/or drug addiction as evaluated by a program approved by the department of social and health services, and that since his or her last offense he or she has undertaken and followed a course of treatment for alcoholism and/or drug treatment in a program approved by the department of social and health services; such stay shall be subject to terms and conditions as are deemed reasonable by the department. Said stay shall continue as long as there is no further conviction for any of the offenses listed in RCW 46.65.020(1). Upon a subsequent conviction for any offense listed in RCW 46.65.020(1) or violation of any of the terms or conditions of the original stay

order, the stay shall be removed and the department shall revoke the operator's license for a period of seven years. [1999 c 274 § 7; 1985 c 101 § 2; 1981 c 188 § 2; 1979 c 62 § 3; 1973 1st ex.s. c 83 § 1; 1971 ex.s. c 284 § 8.]

Additional notes found at www.leg.wa.gov

46.65.065 Revocation of habitual offender's license—Request for hearing, scope—Right to appeal. (1) Whenever a person's driving record, as maintained by the department, brings him or her within the definition of an habitual traffic offender, as defined in RCW 46.65.020, the department shall forthwith notify the person of the revocation in writing by certified mail at his or her address of record as maintained by the department. If the person is a nonresident of this state, notice shall be sent to the person's last known address. Notices of revocation shall inform the recipient thereof of his or her right to a formal hearing and specify the steps which must be taken in order to obtain a hearing. Within fifteen days after the notice has been given, the person may, in writing, request a formal hearing. If such a request is not made within the prescribed time the right to a hearing is waived. A request for a hearing stays the effectiveness of the revocation.

(2) Upon receipt of a request for a hearing, the department shall schedule a hearing in the county in which the person making the request resides, and if [the] person is a nonresident of this state, the hearing shall be held in Thurston county. The department shall give at least ten days notice of the hearing to the person.

(3) The scope of the hearings provided by this section is limited to the issues of whether the certified transcripts or abstracts of the convictions, as maintained by the department, show that the requisite number of violations have been accumulated within the prescribed period of time as set forth in RCW 46.65.020 and whether the terms and conditions for granting stays, as provided in RCW 46.65.060, have been met.

(4) Upon receipt of the hearing officer's decision, an aggrieved party may appeal to the superior court of the county in which he or she resides, or, in the case of a nonresident of this state, in the superior court of Thurston county, for review of the revocation. Notice of appeal must be filed within thirty days after receipt of the hearing officer's decision or the right to appeal is waived. Review by the court shall be de novo and without a jury.

(5) The filing of a notice of appeal does not stay the effective date of the revocation. [1989 c 337 § 10; 1979 c 62 § 5.]

Additional notes found at www.leg.wa.gov

46.65.070 Period during which habitual offender not to be issued license. No license to operate motor vehicles in Washington shall be issued to an habitual offender (1) for a period of seven years from the date of the license revocation except as provided in RCW 46.65.080, and (2) until the privilege of such person to operate a motor vehicle in this state has been restored by the department of licensing as provided in this chapter. [1998 c 214 § 2; 1990 c 250 § 62; 1979 c 62 § 4; 1971 ex.s. c 284 § 9.]

Additional notes found at www.leg.wa.gov

46.65.080 Four-year petition for license restoration—Reinstatement of driving privilege. At the end of four years, the habitual offender may petition the department of licensing for the return of his or her operator's license and upon good and sufficient showing, the department of licensing may, wholly or conditionally, reinstate the privilege of such person to operate a motor vehicle in this state. [2010 c 8 § 9079; 1998 c 214 § 3; 1979 c 158 § 181; 1971 ex.s. c 284 § 10.]

Additional notes found at www.leg.wa.gov

46.65.100 Seven-year petition for license restoration—Reinstatement of driving privilege. At the expiration of seven years from the date of any final order finding a person to be an habitual offender and directing him or her not to operate a motor vehicle in this state, such person may petition the department of licensing for restoration of his or her privilege to operate a motor vehicle in this state. Upon receipt of such petition, and for good cause shown, the department of licensing shall restore to such person the privilege to operate a motor vehicle in this state upon such terms and conditions as the department of licensing may prescribe, subject to the provisions of chapter 46.29 RCW and such other provisions of law relating to the issuance or revocation of operators' licenses. [2010 c 8 § 9080; 1998 c 214 § 4; 1979 c 158 § 182; 1971 ex.s. c 284 § 12.]

Additional notes found at www.leg.wa.gov

46.65.900 Construction—Chapter supplemental. Nothing in this chapter shall be construed as amending, modifying, or repealing any existing law of Washington or any existing ordinance of any political subdivision relating to the operation or licensing of motor vehicles, the licensing of persons to operate motor vehicles or providing penalties for the violation thereof or shall be construed so as to preclude the exercise of regulatory powers of any division, agency, department, or political subdivision of the state having the statutory power to regulate such operation and licensing. [1971 ex.s. c 284 § 14.]

Additional notes found at www.leg.wa.gov

46.65.910 Short title. This chapter shall be known and may be cited as the "Washington Habitual Traffic Offenders Act." [1971 ex.s. c 284 § 18.]

Additional notes found at www.leg.wa.gov

Chapter 46.66 RCW

WASHINGTON AUTO THEFT PREVENTION AUTHORITY

Sections

46.66.010	Authority established—Members.
46.66.020	Meetings—Officers—Terms.
46.66.030	Powers, duties.
46.66.040	Gifts, grants, conveyances.
46.66.050	Removal of member—Grounds—Replacement.
46.66.060	Members—Compensation and travel expenses.
46.66.070	Members—Immunity.
46.66.080	Washington auto theft prevention authority account.
46.66.900	Findings—Intent—Short title—2007 c 199.

46.66.010 Authority established—Members. (1) The Washington auto theft prevention authority is established. The authority shall consist of the following members, appointed by the governor:

(a) The executive director of the Washington association of sheriffs and police chiefs, or the executive director's designee;

(b) The chief of the Washington state patrol, or the chief's designee;

(c) Two police chiefs;

(d) Two sheriffs;

(e) One prosecuting attorney;

(f) A representative from the insurance industry who is responsible for writing property and casualty liability insurance in the state of Washington;

(g) A representative from the automobile industry; and

(h) One member of the general public.

(2) In addition, the authority may, where feasible, consult with other governmental entities or individuals from the public and private sector in carrying out its duties under this section. [2007 c 199 § 20.]

46.66.020 Meetings—Officers—Terms. (1) The Washington auto theft prevention authority shall initially convene at the call of the executive director of the Washington association of sheriffs and police chiefs, or the executive director's designee, no later than the third Monday in January 2008. Subsequent meetings of the authority shall be at the call of the chair or seven members.

(2) The authority shall annually elect a chairperson and other such officers as it deems appropriate from its membership.

(3) Members of the authority shall serve terms of four years each on a staggered schedule to be established by the first authority. For purposes of initiating a staggered schedule of terms, some members of the first authority may initially serve two years and some members may initially serve four years. [2007 c 199 § 21.]

46.66.030 Powers, duties. (1) The Washington auto theft prevention authority may obtain or contract for staff services, including an executive director, and any facilities and equipment as the authority requires to carry out its duties.

(2) The director may enter into contracts with any public or private organization to carry out the purposes of this section and RCW 46.66.010, 46.66.020, and 46.66.040 through 46.66.080.

(3) The authority shall review and make recommendations to the legislature and the governor regarding motor vehicle theft in Washington state. In preparing the recommendations, the authority shall, at a minimum, review the following issues:

(a) Determine the scope of the problem of motor vehicle theft, including:

(i) Particular areas of the state where the problem is the greatest;

(ii) Annual data reported by local law enforcement regarding the number of reported thefts, investigations, recovered vehicles, arrests, and convictions; and

(iii) An assessment of estimated funds needed to hire sufficient investigators to respond to all reported thefts.

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(b) Analyze the various methods of combating the problem of motor vehicle theft;

(c) Develop and implement a plan of operation; and

(d) Develop and implement a financial plan.

(4) The authority is not a law enforcement agency and may not gather, collect, or disseminate intelligence information for the purpose of investigating specific crimes or pursuing or capturing specific perpetrators. Members of the authority may not exercise general authority peace officer powers while acting in their capacity as members of the authority, unless the exercise of peace officer powers is necessary to prevent an imminent threat to persons or property.

(5) The authority shall annually report its activities, findings, and recommendations during the preceding year to the legislature by December 31st. [2007 c 199 § 22.]

46.66.040 Gifts, grants, conveyances. The Washington auto theft prevention authority may solicit and accept gifts, grants, bequests, devises, or other funds from public and private sources to support its activities. [2007 c 199 § 23.]

46.66.050 Removal of member—Grounds—Replacement. The governor may remove any member of the Washington auto theft prevention authority for cause including but not limited to neglect of duty, misconduct, malfeasance or misfeasance in office, or upon written request of two-thirds of the members of the authority under this chapter. Upon the death, resignation, or removal of a member, the governor shall appoint a replacement to fill the remainder of the unexpired term. [2007 c 199 § 24.]

46.66.060 Members—Compensation and travel expenses. Members of the Washington auto theft prevention authority who are not public employees shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for travel expenses incurred in carrying out the duties of the authority in accordance with RCW 43.03.050 and 43.03.060. [2007 c 199 § 25.]

46.66.070 Members—Immunity. Any member serving in their official capacity on the Washington auto theft prevention authority, or either their employer or employers, or other entity that selected the members to serve, are immune from a civil action based upon an act performed in good faith. [2007 c 199 § 26.]

46.66.080 Washington auto theft prevention authority account. (1) The Washington auto theft prevention authority account is created in the state treasury, subject to appropriation. All revenues from the traffic infraction surcharge in RCW 46.63.110(7)(b) and all receipts from gifts, grants, bequests, devises, or other funds from public and private sources to support the activities of the auto theft prevention authority must be deposited into the account. Expenditures from the account may be used only for activities relating to motor vehicle theft, including education, prevention, law enforcement, investigation, prosecution, and confinement. During the 2009-2011 fiscal biennium, the legislature may appropriate moneys from the Washington auto theft preven-

tion authority account for criminal justice purposes and community building.

(2) The authority shall allocate moneys appropriated from the account to public agencies for the purpose of establishing, maintaining, and supporting programs that are designed to prevent motor vehicle theft, including:

(a) Financial support to prosecution agencies to increase the effectiveness of motor vehicle theft prosecution;

(b) Financial support to a unit of local government or a team consisting of units of local governments to increase the effectiveness of motor vehicle theft enforcement;

(c) Financial support for the procurement of equipment and technologies for use by law enforcement agencies for the purpose of enforcing motor vehicle theft laws; and

(d) Financial support for programs that are designed to educate and assist the public in the prevention of motor vehicle theft.

(3) The costs of administration shall not exceed ten percent of the moneys in the account in any one year so that the greatest possible portion of the moneys available to the authority is expended on combating motor vehicle theft.

(4) Prior to awarding any moneys from the Washington auto theft prevention authority account for motor vehicle theft enforcement, the auto theft prevention authority must verify that the financial award includes sufficient funding to cover proposed activities, which include, but are not limited to: (a) State, municipal, and county offender and juvenile confinement costs; (b) administration costs; (c) law enforcement costs; (d) prosecutor costs; and (e) court costs, with a priority being given to ensuring that sufficient funding is available to cover state, municipal, and county offender and juvenile confinement costs.

(5) Moneys expended from the Washington auto theft prevention authority account under subsection (2) of this section shall be used to supplement, not supplant, other moneys that are available for motor vehicle theft prevention.

(6) Grants provided under subsection (2) of this section constitute reimbursement for purposes of RCW 43.135.060(1). [2009 c 564 § 945; 2007 c 199 § 27.]

Effective date—2009 c 564: See note following RCW 2.68.020.

46.66.900 Findings—Intent—Short title—2007 c 199. See notes following RCW 9A.56.065.

Chapter 46.68 RCW

DISPOSITION OF REVENUE

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46.68.010	Erroneous payments—Refunds, underpayments—Penalty for false statements.
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46.68.120	Distribution of amount allocated to counties—Generally.
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46.68.440	Emergency medical services fee—Distribution.
46.68.445	Parking ticket surcharge—Distribution.
46.68.450	Department temporary permit fee—Distribution.
46.68.455	Vehicle trip permit fee—Distribution.
46.68.460	Special fuel trip permit fee—Distribution.

Amount of snowmobile fuel tax paid as motor vehicle fuel tax: RCW 46.10.170.

Highway funds, use, constitutional limitations: State Constitution Art. 2 § 40 (Amendment 18).

Motor vehicle

fuel tax: Chapter 82.36 RCW.

special fuel tax: Chapter 82.38 RCW.

use tax: Chapter 82.12 RCW.

Motor vehicle fund income from United States securities—Exemption from reserve fund requirement: RCW 43.84.095.

Off-road vehicle fuel tax—Refunds from motor vehicle fund: RCW 46.09.170.

Snowmobile fuel tax—Refund to general fund: RCW 46.10.150.

State patrol: Chapter 43.43 RCW.

46.68.010 Erroneous payments—Refunds, underpayments—Penalty for false statements. (Effective until July 1, 2011.) (1) Whenever any license fee, paid under the provisions of this title, has been erroneously paid, either wholly or in part, the payor is entitled to have refunded the amount so erroneously paid.

(2) A license fee is refundable in one or more of the following circumstances: (a) If the vehicle for which the renewal license was purchased was destroyed before the beginning date of the registration period for which the renewal fee was paid; (b) if the vehicle for which the renewal license was purchased was permanently removed from the state before the beginning date of the registration period for

which the renewal fee was paid; (c) if the vehicle license was purchased after the owner has sold the vehicle; (d) if the vehicle is currently licensed in Washington and is subsequently licensed in another jurisdiction, in which case any full months of Washington fees between the date of license application in the other jurisdiction and the expiration of the Washington license are refundable; or (e) if the vehicle for which the renewal license was purchased is sold before the beginning date of the registration period for which the renewal fee was paid, and the payor returns the new, unused, never affixed license renewal tabs to the department before the beginning of the registration period for which the registration was purchased.

(3) Upon the refund being certified to the state treasurer by the director as correct and being claimed in the time required by law the state treasurer shall mail or deliver the amount of each refund to the person entitled thereto. No claim for refund shall be allowed for such erroneous payments unless filed with the director within three years after such claimed erroneous payment was made.

(4) If due to error a person has been required to pay a vehicle license fee under this title and an excise tax under Title 82 RCW that amounts to an overpayment of ten dollars or more, that person shall be entitled to a refund of the entire amount of the overpayment, regardless of whether a refund of the overpayment has been requested.

(5) If due to error the department or its agent has failed to collect the full amount of the license fee and excise tax due and the underpayment is in the amount of ten dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the tax and fees.

(6) Any person who makes a false statement under which he or she obtains a refund to which he or she is not entitled under this section is guilty of a gross misdemeanor. [2003 c 53 § 248; 1997 c 22 § 1; 1996 c 31 § 1; 1993 c 307 § 2; 1989 c 68 § 1; 1979 c 120 § 1; 1967 c 32 § 73; 1961 c 12 § 46.68.010. Prior: 1937 c 188 § 76; RRS § 6312-76.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.68.010 Refunds, overpayments, and underpayments—Penalty for false statements. (Effective July 1, 2011.)

(1) A person who has paid all or part of a vehicle license fee under this title is entitled to a refund if the amount was paid in error or if the vehicle:

(a) Was destroyed before the new registration period began;

(b) Was permanently removed from Washington state before the new registration period began;

(c) Registration was purchased after the owner sold the vehicle;

(d) Was registered in another jurisdiction after the Washington state registration had been purchased. Any full months of Washington vehicle license fees remaining after application for out-of-state registration was made are refundable; or

(e) Registration was purchased before the vehicle was sold and before the new registration period began. The person who paid the fees must return the unused, never-affixed license tabs to the department before the new registration period begins.

(2010 Ed.)

(2) The department shall refund overpayments of vehicle license fees and motor vehicle excise taxes under Title 82 RCW that are ten dollars or more. A request for a refund is not required.

(3) The department shall certify refunds to the state treasurer as correct and being claimed in the time required by law. The state treasurer shall mail or deliver the amount of each refund to the person who is entitled to the refund. The department shall not authorize refunds of fees paid in error unless the request is made within three years after the fees were paid.

(4) If due to error the department, county auditor or other agent, or subagent appointed by the director has failed to collect the full amount of the vehicle license fee and excise tax due and the underpayment is in the amount of ten dollars or more, the department shall charge and collect the additional amount to constitute full payment of the tax and fees.

(5) Any person who makes a false statement under which he or she obtains a refund that he or she is not entitled to under this section is guilty of a gross misdemeanor. [2010 c 161 § 801; 2003 c 53 § 248; 1997 c 22 § 1; 1996 c 31 § 1; 1993 c 307 § 2; 1989 c 68 § 1; 1979 c 120 § 1; 1967 c 32 § 73; 1961 c 12 § 46.68.010. Prior: 1937 c 188 § 76; RRS § 6312-76.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.68.020 Disposition of fees for certificates of ownership. (Effective until July 1, 2011.) The director shall forward all fees for certificates of ownership or other moneys accruing under the provisions of chapter 46.12 RCW to the state treasurer, together with a proper identifying detailed report. The state treasurer shall credit such moneys as follows:

(1) The fees collected under RCW 46.12.040(1) and 46.12.101(6) shall be credited to the multimodal transportation account in RCW 47.66.070.

(2)(a) Beginning July 27, 2003, and until July 1, 2008, the fees collected under RCW 46.12.080, 46.12.101(3), 46.12.170, and 46.12.181 shall be credited as follows:

(i) 58.12 percent shall be credited to a segregated subaccount of the air pollution control account in RCW 70.94.015;

(ii) 16.60 percent shall be credited to the vessel response account created in RCW 90.56.335; and

(iii) The remainder shall be credited into the transportation 2003 account (nickel account).

(b) Beginning July 1, 2008, and thereafter, the fees collected under RCW 46.12.080, 46.12.101(3), 46.12.170, and 46.12.181 shall be credited to the transportation 2003 account (nickel account).

(3) The fees collected under RCW 46.12.040(3) and 46.12.060 shall be credited to the motor vehicle account. [2004 c 200 § 3; 2003 c 264 § 8; 2002 c 352 § 21; 1961 c 12 § 46.68.020. Prior: 1955 c 259 § 3; 1947 c 164 § 7; 1937 c 188 § 11; Rem. Supp. 1947 § 6312-11.]

Effective date—2004 c 200: See note following RCW 46.12.040.

Effective dates—2002 c 352: See note following RCW 46.09.070.

46.68.020 Disposition of certificates of title fees. (Effective July 1, 2011.) (1) The director shall forward all fees for certificates of title or other moneys accruing under chapters 46.12 and 46.17 RCW to the state treasurer, together with a proper identifying detailed report. The state treasurer shall credit these moneys as follows:

FEE	REQUIRED IN	ESTABLISHED IN	DISTRIBUTION
ORV registration fee	RCW 46.09.320	RCW 46.17.100	RCW 47.66.070
Original certificate of title	RCW 46.12.530	RCW 46.17.100	RCW 47.66.070
Penalty for late transfer	RCW 46.12.650	RCW 46.17.140	RCW 47.66.070
Motor change	RCW 46.12.590	RCW 46.17.100	RCW 46.68.280
Transfer certificate of title	RCW 46.12.650	RCW 46.17.100	RCW 46.68.280
Security interest changes	RCW 46.12.675	RCW 46.17.100	RCW 46.68.280
Duplicate certificate of title	RCW 46.12.580	RCW 46.17.100	RCW 46.68.280
Stolen vehicle check	RCW 46.12.570	RCW 46.17.120	RCW 46.68.070
Vehicle identification number assignment	RCW 46.12.560	RCW 46.17.135	RCW 46.68.070

(2) The vehicle identification number inspection fee created in RCW 46.17.130 must be credited as follows:

(a) Fifteen dollars to the state patrol highway account created in RCW 46.68.030; and

(b) Fifty dollars to the motor vehicle fund created in RCW 46.68.070. [2010 c 161 § 802; 2004 c 200 § 3; 2003 c 264 § 8; 2002 c 352 § 21; 1961 c 12 § 46.68.020. Prior: 1955 c 259 § 3; 1947 c 164 § 7; 1937 c 188 § 11; Rem. Supp. 1947 § 6312-11.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2004 c 200: "This act takes effect July 1, 2004." [2004 c 200 § 4.]

Effective dates—2002 c 352: See note following RCW 46.09.410.

46.68.030 Disposition of vehicle license fees. (Effective until July 1, 2011.) Except for proceeds from fees for vehicle licensing for vehicles paying such fees under RCW 46.16.070 and 46.16.085, and as otherwise provided for in chapter 46.16 RCW, all fees received by the director for vehicle licenses under the provisions of chapter 46.16 RCW shall be forwarded to the state treasurer, accompanied by a proper identifying detailed report, and be deposited to the credit of the motor vehicle fund, except that the proceeds from the vehicle license fee and renewal license fee shall be deposited by the state treasurer as hereinafter provided. After July 1, 2002, \$20.35 of each original or renewal license fee must be deposited in the state patrol highway account in the motor vehicle fund, hereby created. Vehicle license fees, renewal license fees, and all other funds in the state patrol highway account shall be for the sole use of the Washington state patrol for highway activities of the Washington state patrol, subject to proper appropriations and reappropriations therefor. \$2.02 of each original vehicle license fee and \$0.93 of each renewal license fee shall be deposited each biennium in the Puget Sound ferry operations account. Any remaining amounts of vehicle license fees and renewal license fees that are not distributed otherwise under this section must be deposited in the motor vehicle fund. [2002 c 352 § 22; 1990

c 42 § 109; 1985 c 380 § 20. Prior: 1983 c 15 § 23; 1983 c 3 § 122; 1981 c 342 § 9; 1973 c 103 § 3; 1971 ex.s. c 231 § 11; 1971 ex.s. c 91 § 1; 1969 ex.s. c 281 § 25; 1969 c 99 § 8; 1965 c 25 § 2; 1961 ex.s. c 7 § 17; 1961 c 12 § 46.68.030; prior: 1957 c 105 § 2; 1955 c 259 § 4; 1947 c 164 § 15; 1937 c 188 § 40; Rem. Supp. 1947 § 6312-40.]

Effective dates—2002 c 352: See note following RCW 46.09.070.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Refund of mobile home identification tag fees: "The department of motor vehicles shall refund all moneys collected in 1973 for mobile home identification tags. Such refunds shall be made to those persons who have purchased such tags. The department shall adopt rules pursuant to chapter 34.04 RCW to comply with the provisions of this section." [1973 c 103 § 4.]

Additional notes found at www.leg.wa.gov

46.68.030 Disposition of vehicle registration and license fees. (Effective July 1, 2011.) (1) The director shall forward all fees for vehicle registrations under chapters *46.16 and 46.17 RCW, unless otherwise specified by law, to the state treasurer with a proper identifying detailed report. The state treasurer shall credit these moneys to the motor vehicle fund created in RCW 46.68.070.

(2) Proceeds from vehicle license fees and renewal vehicle license fees must be deposited by the state treasurer as follows:

(a) \$20.35 of each initial or renewal vehicle license fee must be deposited in the state patrol highway account in the motor vehicle fund, hereby created. Vehicle license fees, renewal vehicle license fees, and all other funds in the state patrol highway account must be for the sole use of the Washington state patrol for highway activities of the Washington state patrol, subject to proper appropriations and reappropriations.

(b) \$2.02 of each initial vehicle license fee and \$0.93 of each renewal vehicle license fee must be deposited each biennium in the Puget Sound ferry operations account.

(c) Any remaining amounts of vehicle license fees and renewal vehicle license fees that are not distributed otherwise under this section must be deposited in the motor vehicle fund. [2010 c 161 § 803; 2002 c 352 § 22; 1990 c 42 § 109; 1985 c 380 § 20. Prior: 1983 c 15 § 23; 1983 c 3 § 122; 1981 c 342 § 9; 1973 c 103 § 3; 1971 ex.s. c 231 § 11; 1971 ex.s. c 91 § 1; 1969 ex.s. c 281 § 25; 1969 c 99 § 8; 1965 c 25 § 2; 1961 ex.s. c 7 § 17; 1961 c 12 § 46.68.030; prior: 1957 c 105 § 2; 1955 c 259 § 4; 1947 c 164 § 15; 1937 c 188 § 40; Rem. Supp. 1947 § 6312-40.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective dates—2002 c 352: See note following RCW 46.09.410.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Refund of mobile home identification tag fees: "The department of motor vehicles shall refund all moneys collected in 1973 for mobile home identification tags. Such refunds shall be made to those persons who have purchased such tags. The department shall adopt rules pursuant to chapter 34.04 RCW to comply with the provisions of this section." [1973 c 103 § 4.]

Additional notes found at www.leg.wa.gov

46.68.035 Disposition of combined vehicle licensing fees. (*Effective until July 1, 2011.*) All proceeds from combined vehicle licensing fees received by the director for vehicles licensed under RCW 46.16.070 and 46.16.085 shall be forwarded to the state treasurer to be distributed into accounts according to the following method:

(1) The sum of two dollars for each vehicle shall be deposited into the multimodal transportation account, except that for each vehicle registered by a county auditor or agent to a county auditor pursuant to RCW 46.01.140, the sum of two dollars shall be credited to the current county expense fund.

(2) The remainder and the proceeds from the license fee under RCW 46.16.086 and the farm vehicle trip permit under RCW 46.16.162 shall be distributed as follows:

(a) 22.36 percent shall be deposited into the state patrol highway account of the motor vehicle fund;

(b) 1.375 percent shall be deposited into the Puget Sound ferry operations account of the motor vehicle fund;

(c) 5.237 percent shall be deposited into the transportation 2003 account (nickel account);

(d) 11.533 percent shall be deposited into the transportation partnership account created in RCW 46.68.290; and

(e) The remaining proceeds shall be deposited into the motor vehicle fund. [2006 c 337 § 1; 2005 c 314 § 205; 2003 c 361 § 202; 2000 2nd sp.s. c 4 § 8; 1993 c 102 § 7; 1990 c 42 § 106; 1989 c 156 § 4; 1985 c 380 § 21.]

Application—2006 c 337 § 1: "Section 1 of this act applies to license fees due on or after July 1, 2006." [2006 c 337 § 15.]

Effective dates—2005 c 314 §§ 110 and 201-206: See note following RCW 46.17.010.

Application—2005 c 314 §§ 201-206, 301, and 302: See note following RCW 46.17.010.

Part headings not law—2005 c 314: See note following RCW 46.17.010.

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

Effective dates—2000 2nd sp.s. c 4 §§ 4-10: See note following RCW 43.89.010.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

46.68.035 Disposition of combined vehicle license fees. (*Effective July 1, 2011.*) The director shall forward all proceeds from vehicle license fees received by the director for vehicles registered under RCW 46.17.350(1) (c) and (k), 46.17.355, and 46.17.400(1)(c) to the state treasurer to be distributed into accounts according to the following method:

(1) 22.36 percent must be deposited into the state patrol highway account of the motor vehicle fund;

(2) 1.375 percent must be deposited into the Puget Sound ferry operations account of the motor vehicle fund;

(3) 5.237 percent must be deposited into the transportation 2003 account (nickel account);

(4) 11.533 percent must be deposited into the transportation partnership account created in RCW 46.68.290; and

(5) The remaining proceeds must be deposited into the motor vehicle fund. [2010 c 161 § 804; 2006 c 337 § 1; 2005 c 314 § 205; 2003 c 361 § 202; 2000 2nd sp.s. c 4 § 8; 1993 c 102 § 7; 1990 c 42 § 106; 1989 c 156 § 4; 1985 c 380 § 21.]

(2010 Ed.)

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Application—2006 c 337 § 1: "Section 1 of this act applies to license fees due on or after July 1, 2006." [2006 c 337 § 15.]

Effective dates—2005 c 314 §§ 110 and 201-206: "(1) Section 110 of this act takes effect July 1, 2006.

(2) Sections 201 through 206 of this act take effect January 1, 2006." [2005 c 314 § 403.]

Application—2005 c 314 §§ 201-206, 301, and 302: "Sections 201 through 206, 301, and 302 of this act apply to vehicle registrations that are due or become due on or after January 1, 2006." [2005 c 314 § 402.]

Part headings not law—2005 c 314: "Part headings used in this act are not part of the law." [2005 c 314 § 407.]

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

Effective dates—2000 2nd sp.s. c 4 §§ 4-10: See note following RCW 43.89.010.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

46.68.038 Disposition of driving record abstract fees.

The funding allocated under RCW 46.20.293, 46.29.050, and 46.52.130 shall be deposited into the state patrol highway account created in RCW 46.68.030, for the purposes enumerated therein, which may include the provision of enhanced resources to address locations with higher than average collision rates. [2007 c 424 § 4.]

Effective date—2007 c 424: See note following RCW 46.20.293.

46.68.041 Disposition of driver's license fees.

(1) Except as provided in subsection (2) of this section, the department shall forward all funds accruing under the provisions of chapter 46.20 RCW together with a proper identifying, detailed report to the state treasurer who shall deposit such moneys to the credit of the highway safety fund.

(2) Sixty-three percent of each fee collected by the department under RCW 46.20.311 (1)(e)(ii), (2)(b)(ii), and (3)(b) shall be deposited in the impaired driving safety account. [2004 c 95 § 15; 1998 c 212 § 3; 1995 2nd sp.s. c 3 § 1; 1985 ex.s. c 1 § 12; 1981 c 245 § 3; 1979 c 63 § 3; 1977 c 27 § 1; 1975 1st ex.s. c 293 § 20; 1971 ex.s. c 91 § 2; 1969 c 99 § 9; 1967 c 174 § 3; 1965 c 25 § 4.]

Additional notes found at www.leg.wa.gov

46.68.045 Disposition of off-road vehicle moneys. (*Effective July 1, 2011.*) The moneys collected by the department for ORV registrations, temporary ORV use permits, decals, and tabs under this chapter and chapter 46.17 RCW must be distributed from time to time, but at least once a year, in the following manner:

(1) The department shall retain enough money to cover expenses incurred in the administration of this chapter. The amount kept by the department must never exceed eighteen percent of fees collected.

(2) The remaining moneys must be distributed for off-road vehicle recreation facilities by the board in accordance with RCW 46.09.520(2)(d)(ii)(A). [2010 c 161 § 822; 2007 c 241 § 14; 2004 c 105 § 2; 1986 c 206 § 6; 1985 c 57 § 60;

1977 ex.s. c 220 § 9; 1972 ex.s. c 153 § 11; 1971 ex.s. c 47 § 16. Formerly RCW 46.09.110.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Purpose—1972 ex.s. c 153: See RCW 79A.35.070.

Additional notes found at www.leg.wa.gov

46.68.060 Highway safety fund. There is hereby created in the state treasury a fund to be known as the highway safety fund to the credit of which shall be deposited all moneys directed by law to be deposited therein. This fund shall be used for carrying out the provisions of law relating to driver licensing, driver improvement, financial responsibility, cost of furnishing abstracts of driving records and maintaining such case records, and to carry out the purposes set forth in RCW 43.59.010. During the 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the highway safety fund to the motor vehicle fund and the multimodal transportation account such amounts as reflect the excess fund balance of the highway safety fund. [2009 c 470 § 711; 2007 c 518 § 714; 1969 c 99 § 11; 1967 c 174 § 4; 1965 c 25 § 3; 1961 c 12 § 46.68.060. Prior: 1957 c 104 § 1; 1937 c 188 § 81; RRS § 6312-81; 1921 c 108 § 13; RRS § 6375.]

Effective date—2009 c 470: See note following RCW 46.68.170.

Severability—Effective date—2007 c 518: See notes following RCW 46.68.170.

Deposits into account: RCW 46.20.505, 46.20.510, 46.81A.030.

Additional notes found at www.leg.wa.gov

46.68.065 Motorcycle safety education account. There is hereby created the motorcycle safety education account in the highway safety fund of the state treasury, to the credit of which shall be deposited all moneys directed by law to be credited thereto. All expenses incurred by the director of the department of licensing in administering RCW 46.20.505 through 46.20.520 shall be borne by appropriations from this account, and moneys deposited into this account shall be used only for the purposes authorized in RCW 46.20.505 through 46.20.520. During the 2007-2009 fiscal biennium, the legislature may transfer from the motorcycle safety education account such amounts as reflect the excess fund balance of the account. [2009 c 8 § 502; 2001 c 285 § 1; 1982 c 77 § 8.]

Effective date—2009 c 8: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 5, 2009]." [2009 c 8 § 509.]

Additional notes found at www.leg.wa.gov

46.68.070 Motor vehicle fund created—Use limited. There is created in the state treasury a permanent fund to be known as the motor vehicle fund to the credit of which shall be deposited all moneys directed by law to be deposited therein. This fund shall be for the use of the state, and through state agencies, for the use of counties, cities, and towns for proper road, street, and highway purposes, including the purposes of RCW 47.30.030. [1972 ex.s. c 103 § 6; 1961 c 12 §

46.68.070. Prior: (i) 1935 c 111 § 1, part; 1933 c 41 § 4, part; RRS § 6600, part; 1929 c 163 § 1; 1925 ex.s. c 185 § 1; 1923 c 181 § 3; 1921 c 96 § 18; 1919 c 46 § 3; 1917 c 155 § 13; 1915 c 142 § 18; RRS § 6330. (ii) 1939 c 181 § 1; RRS § 6600-1; 1937 c 208 §§ 1, 2, part.]

Additional notes found at www.leg.wa.gov

46.68.080 Refund of vehicle license fees and fuel taxes to island counties—Deposit of fuel taxes into Puget Sound ferry operations account. (Effective until July 1, 2011.) (1) Motor vehicle license fees collected under RCW 46.16.0621 and 46.16.070 and fuel taxes collected under RCW 82.36.025(1) and 82.38.030(1) and directly or indirectly paid by the residents of those counties composed entirely of islands and which have neither a fixed physical connection with the mainland nor any state highways on any of the islands of which they are composed, shall be paid into the motor vehicle fund of the state of Washington and shall monthly, as they accrue, and after deducting therefrom the expenses of issuing such licenses and the cost of collecting such vehicle fuel tax, be paid to the county treasurer of each such county to be by him or her disbursed as hereinafter provided.

(2) One-half of the motor vehicle license fees collected under RCW 46.16.0621 and 46.16.070 and one-half of the fuel taxes collected under RCW 82.36.025(1) and 82.38.030(1) and directly or indirectly paid by the residents of those counties composed entirely of islands and which have either a fixed physical connection with the mainland or state highways on any of the islands of which they are composed, shall be paid into the motor vehicle fund of the state of Washington and shall monthly, as they accrue, and after deducting therefrom the expenses of issuing such licenses and the cost of collecting such motor vehicle fuel tax, be paid to the county treasurer of each such county to be by him or her disbursed as hereinafter provided.

(3) All funds paid to the county treasurer of the counties of either class referred to in subsections (1) and (2) of this section, shall be by such county treasurer distributed and credited to the several road districts of each such county and paid to the city treasurer of each incorporated city and town within each such county, in the direct proportion that the assessed valuation of each such road district and incorporated city and town shall bear to the total assessed valuation of each such county.

(4) The amount of motor vehicle fuel tax paid by the residents of those counties composed entirely of islands shall, for the purposes of this section, be that percentage of the total amount of motor vehicle fuel tax collected in the state that the motor vehicle license fees paid by the residents of counties composed entirely of islands bears to the total motor vehicle license fees paid by the residents of the state.

(5)(a) An amount of fuel taxes shall be deposited into the Puget Sound ferry operations account. This amount shall equal the difference between the total amount of fuel taxes collected in the state under RCW 82.36.020 and 82.38.030 less the total amount of fuel taxes collected in the state under RCW 82.36.020(1) and 82.38.030(1) and be multiplied by a fraction. The fraction shall equal the amount of motor vehicle license fees collected under RCW 46.16.0621 and

46.16.070 from counties described in subsection (1) of this section divided by the total amount of motor vehicle license fees collected in the state under RCW 46.16.0621 and 46.16.070.

(b) An additional amount of fuel taxes shall be deposited into the Puget Sound ferry operations account. This amount shall equal the difference between the total amount of fuel taxes collected in the state under RCW 82.36.020 and 82.38.030 less the total amount of fuel taxes collected in the state under RCW 82.36.020(1) and 82.38.030(1) and be multiplied by a fraction. The fraction shall equal the amount of motor vehicle license fees collected under RCW 46.16.0621 and 46.16.070 from counties described in subsection (2) of this section divided by the total amount of motor vehicle license fees collected in the state under RCW 46.16.0621 and 46.16.070, and this shall be multiplied by one-half. [2010 c 8 § 9081; 2006 c 337 § 12; 1961 c 12 § 46.68.080. Prior: 1939 c 181 § 9; RRS § 6450-54a.]

46.68.080 Refund of vehicle license fees and fuel taxes to island counties—Deposit of fuel taxes into Puget Sound ferry operations account. (Effective July 1, 2011.)

(1) Vehicle license fees collected under RCW 46.17.350 and 46.17.355 and fuel taxes collected under RCW 82.36.025(1) and 82.38.030(1) and directly or indirectly paid by the residents of those counties composed entirely of islands and which have neither a fixed physical connection with the mainland nor any state highways on any of the islands of which they are composed, shall be paid into the motor vehicle fund of the state of Washington and shall monthly, as they accrue, and after deducting therefrom the expenses of issuing such licenses and the cost of collecting such vehicle fuel tax, be paid to the county treasurer of each such county to be by him or her disbursed as hereinafter provided.

(2) One-half of the vehicle license fees collected under RCW 46.17.350 and 46.17.355 and one-half of the fuel taxes collected under RCW 82.36.025(1) and 82.38.030(1) and directly or indirectly paid by the residents of those counties composed entirely of islands and which have either a fixed physical connection with the mainland or state highways on any of the islands of which they are composed, shall be paid into the motor vehicle fund of the state of Washington and shall monthly, as they accrue, and after deducting therefrom the expenses of issuing such licenses and the cost of collecting such motor vehicle fuel tax, be paid to the county treasurer of each such county to be by him or her disbursed as hereinafter provided.

(3) All funds paid to the county treasurer of the counties of either class referred to in subsections (1) and (2) of this section, shall be by such county treasurer distributed and credited to the several road districts of each such county and paid to the city treasurer of each incorporated city and town within each such county, in the direct proportion that the assessed valuation of each such road district and incorporated city and town shall bear to the total assessed valuation of each such county.

(4) The amount of motor vehicle fuel tax paid by the residents of those counties composed entirely of islands shall, for the purposes of this section, be that percentage of the total amount of motor vehicle fuel tax collected in the state that the vehicle license fees paid by the residents of counties com-

posed entirely of islands bears to the total vehicle license fees paid by the residents of the state.

(5)(a) An amount of fuel taxes shall be deposited into the Puget Sound ferry operations account. This amount shall equal the difference between the total amount of fuel taxes collected in the state under RCW 82.36.020 and 82.38.030 less the total amount of fuel taxes collected in the state under RCW 82.36.020(1) and 82.38.030(1) and be multiplied by a fraction. The fraction shall equal the amount of vehicle license fees collected under RCW 46.17.350 and 46.17.355 from counties described in subsection (1) of this section divided by the total amount of vehicle license fees collected in the state under RCW 46.17.350 and 46.17.355.

(b) An additional amount of fuel taxes shall be deposited into the Puget Sound ferry operations account. This amount shall equal the difference between the total amount of fuel taxes collected in the state under RCW 82.36.020 and 82.38.030 less the total amount of fuel taxes collected in the state under RCW 82.36.020(1) and 82.38.030(1) and be multiplied by a fraction. The fraction shall equal the amount of vehicle license fees collected under RCW 46.17.350 and 46.17.355 from counties described in subsection (2) of this section divided by the total amount of vehicle license fees collected in the state under RCW 46.17.350 and 46.17.355, and this shall be multiplied by one-half. [2010 c 161 § 1128; 2010 c 8 § 9081; 2006 c 337 § 12; 1961 c 12 § 46.68.080. Prior: 1939 c 181 § 9; RRS § 6450-54a.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.090 Distribution of statewide fuel taxes. (1) All moneys that have accrued or may accrue to the motor vehicle fund from the motor vehicle fuel tax and special fuel tax shall be first expended for purposes enumerated in (a) and (b) of this subsection. The remaining net tax amount shall be distributed monthly by the state treasurer in accordance with subsections (2) through (7) of this section.

(a) For payment of refunds of motor vehicle fuel tax and special fuel tax that has been paid and is refundable as provided by law;

(b) For payment of amounts to be expended pursuant to appropriations for the administrative expenses of the offices of state treasurer, state auditor, and the department of licensing of the state of Washington in the administration of the motor vehicle fuel tax and the special fuel tax, which sums shall be distributed monthly.

(2) All of the remaining net tax amount collected under RCW 82.36.025(1) and 82.38.030(1) shall be distributed as set forth in (a) through (j) of this section.

(a) For distribution to the motor vehicle fund an amount equal to 44.387 percent to be expended for highway purposes of the state as defined in RCW 46.68.130;

(b) For distribution to the special category C account, hereby created in the motor vehicle fund, an amount equal to 3.2609 percent to be expended for special category C projects. Special category C projects are category C projects that, due to high cost only, will require bond financing to complete construction.

The following criteria, listed in order of priority, shall be used in determining which special category C projects have the highest priority:

- (i) Accident experience;
- (ii) Fatal accident experience;
- (iii) Capacity to move people and goods safely and at reasonable speeds without undue congestion; and
- (iv) Continuity of development of the highway transportation network.

Moneys deposited in the special category C account in the motor vehicle fund may be used for payment of debt service on bonds the proceeds of which are used to finance special category C projects under this subsection (2)(b);

(c) For distribution to the Puget Sound ferry operations account in the motor vehicle fund an amount equal to 2.3283 percent;

(d) For distribution to the Puget Sound capital construction account in the motor vehicle fund an amount equal to 2.3726 percent;

(e) For distribution to the urban arterial trust account in the motor vehicle fund an amount equal to 7.5597 percent;

(f) For distribution to the transportation improvement account in the motor vehicle fund an amount equal to 5.6739 percent and expended in accordance with RCW 47.26.086;

(g) For distribution to the cities and towns from the motor vehicle fund an amount equal to 10.6961 percent in accordance with RCW 46.68.110;

(h) For distribution to the counties from the motor vehicle fund an amount equal to 19.2287 percent: (i) Out of which there shall be distributed from time to time, as directed by the department of transportation, those sums as may be necessary to carry out the provisions of RCW 47.56.725; and (ii) less any amounts appropriated to the county road administration board to implement the provisions of RCW 47.56.725(4), with the balance of such county share to be distributed monthly as the same accrues for distribution in accordance with RCW 46.68.120;

(i) For distribution to the county arterial preservation account, hereby created in the motor vehicle fund an amount equal to 1.9565 percent. These funds shall be distributed by the county road administration board to counties in proportions corresponding to the number of paved arterial lane miles in the unincorporated area of each county and shall be used for improvements to sustain the structural, safety, and operational integrity of county arterials. The county road administration board shall adopt reasonable rules and develop policies to implement this program and to assure that a pavement management system is used;

(j) For distribution to the rural arterial trust account in the motor vehicle fund an amount equal to 2.5363 percent and expended in accordance with RCW 36.79.020.

(3) The remaining net tax amount collected under RCW 82.36.025(2) and 82.38.030(2) shall be distributed to the transportation 2003 account (nickel account).

(4) The remaining net tax amount collected under RCW 82.36.025(3) and 82.38.030(3) shall be distributed as follows:

(a) 8.3333 percent shall be distributed to the incorporated cities and towns of the state in accordance with RCW 46.68.110;

(b) 8.3333 percent shall be distributed to counties of the state in accordance with RCW 46.68.120; and

(c) The remainder shall be distributed to the transportation partnership account created in RCW 46.68.290.

(5) The remaining net tax amount collected under RCW 82.36.025(4) and 82.38.030(4) shall be distributed as follows:

(a) 8.3333 percent shall be distributed to the incorporated cities and towns of the state in accordance with RCW 46.68.110;

(b) 8.3333 percent shall be distributed to counties of the state in accordance with RCW 46.68.120; and

(c) The remainder shall be distributed to the transportation partnership account created in RCW 46.68.290.

(6) The remaining net tax amount collected under RCW 82.36.025 (5) and (6) and 82.38.030 (5) and (6) shall be distributed to the transportation partnership account created in RCW 46.68.290.

(7) Nothing in this section or in RCW 46.68.130 may be construed so as to violate any terms or conditions contained in any highway construction bond issues now or hereafter authorized by statute and whose payment is by such statute pledged to be paid from any excise taxes on motor vehicle fuel and special fuels. [2005 c 314 § 103; 2003 c 361 § 403. Prior: 1999 c 269 § 2; 1999 c 94 § 6; prior: 1994 c 225 § 2; 1994 c 179 § 3; 1991 c 342 § 56; 1990 c 42 § 102; 1983 1st ex.s. c 49 § 21; 1979 c 158 § 184; 1977 ex.s. c 317 § 8; 1967 c 32 § 74; 1961 ex.s. c 7 § 5; 1961 c 12 § 46.68.090; prior: 1943 c 115 § 3; 1939 c 181 § 2; Rem. Supp. 1943 § 6600-1d; 1937 c 208 §§ 2, part, 3, part.]

Effective date—2005 c 314 §§ 101-107, 109, 303-309, and 401: See note following RCW 46.68.290.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

Legislative finding—Effective dates—1999 c 94: See notes following RCW 43.84.092.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Rural arterial trust account: RCW 36.79.020.

Urban arterial trust account: RCW 47.26.080.

Additional notes found at www.leg.wa.gov

46.68.110 Distribution of amount allocated to cities and towns. Funds credited to the incorporated cities and towns of the state as set forth in RCW 46.68.090 shall be subject to deduction and distribution as follows:

(1) One and one-half percent of such sums distributed under RCW 46.68.090 shall be deducted monthly as such sums are credited and set aside for the use of the department of transportation for the supervision of work and expenditures of such incorporated cities and towns on the city and town streets thereof, including the supervision and administration of federal-aid programs for which the department of transportation has responsibility: PROVIDED, That any moneys so retained and not expended shall be credited in the succeeding biennium to the incorporated cities and towns in proportion to deductions herein made;

(2) Thirty-three one-hundredths of one percent of such funds distributed under RCW 46.68.090 shall be deducted monthly, as such funds accrue, and set aside for the use of the department of transportation for the purpose of funding the cities' share of the costs of highway jurisdiction studies and other studies. Any funds so retained and not expended shall be credited in the succeeding biennium to the cities in proportion to the deductions made;

(3) One percent of such funds distributed under RCW 46.68.090 shall be deducted monthly, as such funds accrue, to be deposited in the small city pavement and sidewalk account, to implement the city hardship assistance program, as provided in RCW 47.26.164. However, any moneys so retained and not required to carry out the program under this subsection as of July 1st of each odd-numbered year thereafter, shall be retained in the account and used for maintenance, repair, and resurfacing of city and town streets for cities and towns with a population of less than five thousand.

(4) Except as provided in RCW 47.26.080, after making the deductions under subsections (1) through (3) of this section and RCW 35.76.050, the balance remaining to the credit of incorporated cities and towns shall be apportioned monthly as such funds accrue among the several cities and towns within the state ratably on the basis of the population last determined by the office of financial management. [2008 c 121 § 601; 2007 c 148 § 1. Prior: 2005 c 314 § 106; 2005 c 89 § 1; 2003 c 361 § 404; prior: 1999 c 269 § 3; 1999 c 94 § 9; 1996 c 94 § 1; prior: 1991 sp.s. c 15 § 46; 1991 c 342 § 59; 1989 1st ex.s. c 6 § 41; 1987 1st ex.s. c 10 § 37; 1985 c 460 § 32; 1979 c 151 § 161; 1975 1st ex.s. c 100 § 1; 1961 ex.s. c 7 § 7; 1961 c 12 § 46.68.110; prior: 1957 c 175 § 11; 1949 c 143 § 1; 1943 c 83 § 2; 1941 c 232 § 1; 1939 c 181 § 4; Rem. Supp. 1949 § 6600-3a; 1937 c 208 §§ 2, part, 3, part.]

Severability—2008 c 121: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2008 c 121 § 606.]

Effective date—2008 c 121: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 25, 2008]." [2008 c 121 § 607.]

Effective date—2005 c 314 §§ 101-107, 109, 303-309, and 401: See note following RCW 46.68.290.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

Legislative finding—Effective dates—1999 c 94: See notes following RCW 43.84.092.

Expense of cost-audit examination of city and town street records payable from funds withheld under RCW 46.68.110(1): RCW 35.76.050.

Population determination, office of financial management: Chapter 43.62 RCW.

Additional notes found at www.leg.wa.gov

46.68.113 Preservation rating. During the 2003-2005 biennium, cities and towns shall provide to the transportation commission, or its successor entity, preservation rating information on at least seventy percent of the total city and town arterial network. Thereafter, the preservation rating information requirement shall increase in five percent increments in

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subsequent biennia. The rating system used by cities and towns must be based upon the Washington state pavement rating method or an equivalent standard approved by the department of transportation. Beginning January 1, 2007, the preservation rating information shall be submitted to the department. [2006 c 334 § 21; 2003 c 363 § 305.]

Effective date—2006 c 334: See note following RCW 47.01.051.

Finding—Intent—2003 c 363: See note following RCW 35.84.060.

Part headings not law—Severability—2003 c 363: See notes following RCW 47.28.241.

46.68.120 Distribution of amount allocated to counties—Generally. Funds to be paid to the counties of the state shall be subject to deduction and distribution as follows:

(1) One and one-half percent of such funds shall be deducted monthly as such funds accrue and set aside for the use of the department of transportation and the county road administration board for the supervision of work and expenditures of such counties on the county roads thereof, including the supervision and administration of federal-aid programs for which the department of transportation has responsibility: PROVIDED, That any funds so retained and not expended shall be credited in the succeeding biennium to the counties in proportion to deductions herein made;

(2) All sums required to be repaid to counties composed entirely of islands shall be deducted;

(3) Thirty-three one-hundredths of one percent of such funds shall be deducted monthly, as such funds accrue, and set aside for the use of the department of transportation for the purpose of funding the counties' share of the costs of highway jurisdiction studies and other studies. Any funds so retained and not expended shall be credited in the succeeding biennium to the counties in proportion to the deductions made;

(4) The balance of such funds remaining to the credit of counties after such deductions shall be paid to the several counties monthly, as such funds accrue, in accordance with RCW 46.68.122 and 46.68.124. [1991 sp.s. c 15 § 47; 1991 c 342 § 64; 1989 1st ex.s. c 6 § 42; 1987 1st ex.s. c 10 § 38; 1985 c 460 § 33; 1985 c 120 § 1; 1982 c 33 § 1; 1980 c 87 § 44; 1979 c 158 § 185; 1977 ex.s. c 151 § 42; 1975 1st ex.s. c 100 § 2; 1973 1st ex.s. c 195 § 47; 1972 ex.s. c 103 § 1; 1967 c 32 § 75; 1965 ex.s. c 120 § 12; 1961 c 12 § 46.68.120. Prior: 1957 c 109 § 1; 1955 c 243 § 1; 1949 c 143 § 2; 1945 c 260 § 1; 1943 c 83 § 3; 1939 c 181 § 5; Rem. Supp. 149 § 6600-2a.]

County road administration board—Expenses to be paid from motor vehicle fund—Disbursement procedure: RCW 36.78.110.

Additional notes found at www.leg.wa.gov

46.68.122 Distribution of amount to counties—Factors of distribution formula. Funds to be paid to the several counties pursuant to RCW 46.68.120(4) shall be allocated among them upon the basis of a distribution formula consisting of the following four factors:

(1) An equal distribution factor of ten percent of such funds shall be paid to each county;

(2) A population factor of thirty percent of such funds shall be paid to each county in direct proportion that the county's total equivalent population, as computed pursuant to RCW 46.68.124(1), is to the total equivalent population of all counties;

(3) A road cost factor of thirty percent of such funds shall be paid to each county in direct proportion that the county's total annual road cost, as computed pursuant to RCW 46.68.124(2), is to the total annual road costs of all counties;

(4) A money need factor of thirty percent of such funds shall be paid to each county in direct proportion that the county's money need factor, as computed pursuant to RCW 46.68.124(3), is to the total of money need factors of all counties. [1982 c 33 § 2.]

46.68.124 Distribution of amount to counties—Population, road cost, money need, computed—Allocation percentage adjustment. (1) The equivalent population for each county shall be computed as the sum of the population residing in the county's unincorporated area plus twenty-five percent of the population residing in the county's incorporated area. Population figures required for the computations in this subsection shall be certified by the director of the office of financial management on or before July 1st of each odd-numbered year.

(2) The total annual road cost for each county shall be computed as the sum of one twenty-fifth of the total estimated county road replacement cost, plus the total estimated annual maintenance cost. Appropriate costs for bridges and ferries shall be included. The county road administration board shall be responsible for establishing a uniform system of roadway categories for both maintenance and construction and also for establishing a single statewide cost per mile rate for each roadway category. The total annual cost for each county will be based on the established statewide cost per mile and associated mileage for each category. The mileage to be used for these computations shall be as shown in the county road log as maintained by the county road administration board as of July 1, 1985, and each two years thereafter. Each county shall be responsible for submitting changes, corrections, and deletions as regards the county road log to the county road administration board. Such changes, corrections, and deletions shall be subject to verification and approval by the county road administration board prior to inclusion in the county road log.

(3) The money need factor for each county shall be the county's total annual road cost less the following four amounts:

(a) One-half the sum of the actual county road tax levied upon the valuation of all taxable property within the county road districts pursuant to RCW 36.82.040, including any amount of such tax diverted under chapter 39.89 RCW, for the two calendar years next preceding the year of computation of the allocation amounts as certified by the department of revenue;

(b) One-half the sum of all funds received by the county road fund from the federal forest reserve fund pursuant to RCW 28A.520.010 and 28A.520.020 during the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer;

(c) One-half the sum of timber excise taxes received by the county road fund pursuant to chapter 84.33 RCW in the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer;

(d) One-half the sum of motor vehicle license fees and motor vehicle and special fuel taxes refunded to the county,

pursuant to RCW 46.68.080 during the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer.

(4) The state treasurer and the department of revenue shall furnish to the county road administration board the information required by subsection (3) of this section on or before July 1st of each odd-numbered year.

(5) The county road administration board, shall compute and provide to the counties the allocation factors of the several counties on or before September 1st of each year based solely upon the sources of information herein before required: PROVIDED, That the allocation factor shall be held to a level not more than five percent above or five percent below the allocation factor in use during the previous calendar year. Upon computation of the actual allocation factors of the several counties, the county road administration board shall provide such factors to the state treasurer to be used in the computation of the counties' fuel tax allocation for the succeeding calendar year. The state treasurer shall adjust the fuel tax allocation of each county on January 1st of every year based solely upon the information provided by the county road administration board. [2001 c 212 § 28; 1990 c 33 § 586. Prior: 1985 c 120 § 2; 1985 c 7 § 113; 1982 c 33 § 3.]

Severability—2001 c 212: See RCW 39.89.902.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

46.68.130 Expenditure of balance of motor vehicle fund. The tax amount distributed to the state in the manner provided by RCW 46.68.090, and all moneys accruing to the motor vehicle fund from any other source, less such sums as are properly appropriated and reappropriated for expenditure for costs of collection and administration thereof, shall be expended, subject to proper appropriation and reappropriation, solely for highway purposes of the state, including the purposes of RCW 47.30.030. For the purposes of this section, the term "highway purposes of the state" does not include those expenditures of the Washington state patrol heretofore appropriated or reappropriated from the motor vehicle fund. Nothing in this section or in RCW 46.68.090 may be construed so as to violate terms or conditions contained in highway construction bond issues authorized by statute as of July 1, 1999, or thereafter and whose payment is, by the statute, pledged to be paid from excise taxes on motor vehicle fuel and special fuels. [1999 c 269 § 4; 1981 c 342 § 11; 1974 ex.s. c 9 § 1; 1972 ex.s. c 103 § 7; 1971 ex.s. c 91 § 6; 1963 c 83 § 1; 1961 ex.s. c 7 § 9; 1961 c 12 § 46.68.130. Prior: 1957 c 271 § 4; 1957 c 105 § 3; 1941 c 246 § 1; 1939 c 181 § 6; Rem. Supp. 1941 § 6600-26.]

Additional notes found at www.leg.wa.gov

46.68.135 Multimodal account, transportation infrastructure account—Annual transfers. By July 1, 2006, and each year thereafter, the state treasurer shall transfer two and one-half million dollars from the multimodal account to the transportation infrastructure account created under RCW 82.44.190. The funds must be distributed for rail capital improvements only. [2006 c 337 § 4; 2005 c 314 § 111.]

Part headings not law—2005 c 314: See note following RCW 46.68.035.

46.68.160 Urban arterial trust account—Created in motor vehicle fund—Expenditures from. See RCW 47.26.080.

46.68.170 RV account. There is hereby created in the motor vehicle fund the RV account. All moneys hereafter deposited in said account shall be used by the department of transportation for the construction, maintenance, and operation of recreational vehicle sanitary disposal systems at safety rest areas in accordance with the department's highway system plan as prescribed in chapter 47.06 RCW. During the 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the RV account to the motor vehicle fund such amounts as reflect the excess fund balance of the RV account to accomplish the purposes identified in this section. [2009 c 470 § 701; 2007 c 518 § 701; 1996 c 237 § 2; 1980 c 60 § 3.]

Effective date—2009 c 470: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 13, 2009]." [2009 c 470 § 802.]

Severability—2007 c 518: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2007 c 518 § 1101.]

Effective date—2007 c 518: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 15, 2007]." [2007 c 518 § 1102.]

Additional license fees for recreational vehicles: RCW 46.16.063.

Additional notes found at www.leg.wa.gov

46.68.210 Puyallup tribal settlement account. (1) The Puyallup tribal settlement account is hereby created in the motor vehicle fund. All moneys designated by the "Agreement between the Puyallup Tribe of Indians, local governments in Pierce county, the state of Washington, the United States of America, and certain private property owners," dated August 27, 1988, (the "agreement") for use by the department of transportation on the Blair project as described in the agreement shall be deposited into the account, including but not limited to federal appropriations for the Blair project, and appropriations contained in section 34, chapter 6, Laws of 1989 1st ex. sess. and section 709, chapter 19, Laws of 1989 1st ex. sess.

(2) All moneys deposited into the account shall be expended by the department of transportation pursuant to appropriation solely for the Blair project as described in the agreement. [1991 sp.s. c 13 § 104; 1990 c 42 § 411.]

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

46.68.220 Department of licensing services account. (Effective until July 1, 2011.) The department of licensing services account is created in the motor vehicle fund. All receipts from service fees received under RCW 46.01.140(4)(b) shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for information and service delivery systems for the department, and for reimbursement of county licensing activities. During the 2007-2009 and 2009-2011 fiscal biennia, the legislature may

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transfer from the department of licensing services account such amounts as reflect the excess fund balance of the account. [2009 c 470 § 712; 2009 c 8 § 503; 1992 c 216 § 5.]

Effective date—2009 c 470: See note following RCW 46.68.170.

Effective date—2009 c 8: See note following RCW 46.68.065.

46.68.220 Department of licensing services account. (Effective July 1, 2011.) The department of licensing services account is created in the motor vehicle fund. All receipts from service fees received under RCW 46.17.025 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for:

(1) Information and service delivery systems for the department;

(2) Reimbursement of county licensing activities; and

(3) County auditor or other agent and subagent support including, but not limited to, the replacement of department-owned equipment in the possession of county auditors or other agents and subagents appointed by the director. During the 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the department of licensing services account such amounts as reflect the excess fund balance of the account. [2010 c 161 § 807; 2009 c 470 § 712; 2009 c 8 § 503; 1992 c 216 § 5.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2009 c 470: See note following RCW 46.68.170.

Effective date—2009 c 8: See note following RCW 46.68.065.

46.68.230 Transfer of funds under government service agreement. Funds that are distributed to counties, cities, or towns pursuant to this chapter may be transferred by the recipient county, city, or town to another unit of local government pursuant to a government service agreement as provided in RCW 36.115.040 and 36.115.050. [1994 c 266 § 9.]

46.68.240 Highway infrastructure account. The highway infrastructure account is hereby created in the motor vehicle fund. Public and private entities may deposit moneys in the highway infrastructure account from federal, state, local, or private sources. Proceeds from bonds or other financial instruments sold to finance surface transportation projects from the highway infrastructure account shall be deposited into the account. Principal and interest payments made on loans from the highway infrastructure account shall be deposited into the account. Moneys in the account shall be available for purposes specified in RCW 82.44.195. Expenditures from the highway infrastructure account shall be subject to appropriation by the legislature. To the extent required by federal law or regulations promulgated by the United States secretary of transportation, the state treasurer is authorized to create separate subaccounts within the highway infrastructure account. [1996 c 262 § 3.]

Transportation infrastructure account—Highway infrastructure account—Finding—Intent—Purpose—1996 c 262: See RCW 82.44.195.

Additional notes found at www.leg.wa.gov

46.68.250 Vehicle licensing fraud account. (*Effective until July 1, 2011.*) The vehicle licensing fraud account is created in the state treasury. From penalties and fines imposed under RCW 46.16.010, 47.68.255, and 88.02.118, an amount equal to the taxes and fees owed shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for vehicle license fraud enforcement and collections by the Washington state patrol and the department of revenue. [1996 c 184 § 6.]

Additional notes found at www.leg.wa.gov

46.68.250 Vehicle licensing fraud account. (*Effective July 1, 2011.*) The vehicle licensing fraud account is created in the state treasury. From penalties and fines imposed under RCW 46.16A.030, 47.68.255, and 88.02.400, an amount equal to the taxes and fees owed shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for vehicle license fraud enforcement and collections by the Washington state patrol and the department of revenue. [2010 c 161 § 1129; 1996 c 184 § 6.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.68.260 Impaired driving safety account. The impaired driving safety account is created in the custody of the state treasurer. All receipts from fees collected under RCW 46.20.311 (1)(e)(ii), (2)(b)(ii), and (3)(b) shall be deposited according to RCW 46.68.041. Expenditures from this account may be used only to fund projects to reduce impaired driving and to provide funding to local governments for costs associated with enforcing laws relating to driving and boating while under the influence of intoxicating liquor or any drug. The account is subject to allotment procedures under chapter 43.88 RCW. Moneys in the account may be spent only after appropriation. [2004 c 95 § 16; 1998 c 212 § 2.]

46.68.280 Transportation 2003 account (nickel account). (1) The transportation 2003 account (nickel account) is hereby created in the motor vehicle fund. Money in the account may be spent only after appropriation. Expenditures from the account must be used only for projects or improvements identified as transportation 2003 projects or improvements in the omnibus transportation budget and to pay the principal and interest on the bonds authorized for transportation 2003 projects or improvements. Upon completion of the projects or improvements identified as transportation 2003 projects or improvements, moneys deposited in this account must only be used to pay the principal and interest on the bonds authorized for transportation 2003 projects or improvements, and any funds in the account in excess of the amount necessary to make the principal and interest payments may be used for maintenance on the completed projects or improvements.

(2) The "nickel account" means the transportation 2003 account. [2003 c 361 § 601.]

Findings—Part headings not law—Severability—2003 c 361: See notes following RCW 82.36.025.

Effective dates—2003 c 361: See note following RCW 82.08.020.

46.68.290 Transportation partnership account—Definitions—Performance audits. (1) The transportation partnership account is hereby created in the state treasury. All distributions to the account from RCW 46.68.090 must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account must be used only for projects or improvements identified as 2005 transportation partnership projects or improvements in the omnibus transportation appropriations act, including any principal and interest on bonds authorized for the projects or improvements.

(2) The legislature finds that:

(a) Citizens demand and deserve accountability of transportation-related programs and expenditures. Transportation-related programs must continuously improve in quality, efficiency, and effectiveness in order to increase public trust;

(b) Transportation-related agencies that receive tax dollars must continuously improve the way they operate and deliver services so citizens receive maximum value for their tax dollars; and

(c) Fair, independent, comprehensive performance audits of transportation-related agencies overseen by the elected state auditor are essential to improving the efficiency, economy, and effectiveness of the state's transportation system.

(3) For purposes of chapter 314, Laws of 2005:

(a) "Performance audit" means an objective and systematic assessment of a state agency or agencies or any of their programs, functions, or activities by the state auditor or designee in order to help improve agency efficiency, effectiveness, and accountability. Performance audits include economy and efficiency audits and program audits.

(b) "Transportation-related agency" means any state agency, board, or commission that receives funding primarily for transportation-related purposes. At a minimum, the department of transportation, the transportation improvement board or its successor entity, the county road administration board or its successor entity, and the traffic safety commission are considered transportation-related agencies. The Washington state patrol and the department of licensing shall not be considered transportation-related agencies under chapter 314, Laws of 2005.

(4) Within the authorities and duties under chapter 43.09 RCW, the state auditor shall establish criteria and protocols for performance audits. Transportation-related agencies shall be audited using criteria that include generally accepted government auditing standards as well as legislative mandates and performance objectives established by state agencies. Mandates include, but are not limited to, agency strategies, timelines, program objectives, and mission and goals as required in RCW 43.88.090.

(5) Within the authorities and duties under chapter 43.09 RCW, the state auditor may conduct performance audits for transportation-related agencies. The state auditor shall contract with private firms to conduct the performance audits.

(6) The audits may include:

(a) Identification of programs and services that can be eliminated, reduced, consolidated, or enhanced;

(b) Identification of funding sources to the transportation-related agency, to programs, and to services that can be eliminated, reduced, consolidated, or enhanced;

(c) Analysis of gaps and overlaps in programs and services and recommendations for improving, dropping, blending, or separating functions to correct gaps or overlaps;

(d) Analysis and recommendations for pooling information technology systems used within the transportation-related agency, and evaluation of information processing and telecommunications policy, organization, and management;

(e) Analysis of the roles and functions of the transportation-related agency, its programs, and its services and their compliance with statutory authority and recommendations for eliminating or changing those roles and functions and ensuring compliance with statutory authority;

(f) Recommendations for eliminating or changing statutes, rules, and policy directives as may be necessary to ensure that the transportation-related agency carry out reasonably and properly those functions vested in the agency by statute;

(g) Verification of the reliability and validity of transportation-related agency performance data, self-assessments, and performance measurement systems as required under RCW 43.88.090;

(h) Identification of potential cost savings in the transportation-related agency, its programs, and its services;

(i) Identification and recognition of best practices;

(j) Evaluation of planning, budgeting, and program evaluation policies and practices;

(k) Evaluation of personnel systems operation and management;

(l) Evaluation of purchasing operations and management policies and practices;

(m) Evaluation of organizational structure and staffing levels, particularly in terms of the ratio of managers and supervisors to nonmanagement personnel; and

(n) Evaluation of transportation-related project costs, including but not limited to environmental mitigation, competitive bidding practices, permitting processes, and capital project management.

(7) Within the authorities and duties under chapter 43.09 RCW, the state auditor must provide the preliminary performance audit reports to the audited state agency for comment. The auditor also may seek input on the preliminary report from other appropriate officials. Comments must be received within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the state auditor. The final performance audit report shall include the objectives, scope, and methodology; the audit results, including findings and recommendations; the agency's response and conclusions; and identification of best practices.

(8) The state auditor shall provide final performance audit reports to the citizens of Washington, the governor, the joint legislative audit and review committee, the appropriate legislative committees, and other appropriate officials. Final performance audit reports shall be posted on the internet.

(9) The audited transportation-related agency is responsible for follow-up and corrective action on all performance

audit findings and recommendations. The audited agency's plan for addressing each audit finding and recommendation shall be included in the final audit report. The plan shall provide the name of the contact person responsible for each action, the action planned, and the anticipated completion date. If the audited agency does not agree with the audit findings and recommendations or believes action is not required, then the action plan shall include an explanation and specific reasons.

The office of financial management shall require periodic progress reports from the audited agency until all resolution has occurred. The office of financial management is responsible for achieving audit resolution. The office of financial management shall annually report by December 31st the status of performance audit resolution to the appropriate legislative committees and the state auditor. The legislature shall consider the performance audit results in connection with the state budget process.

The auditor may request status reports on specific audits or findings.

(10) For the period from July 1, 2005, until June 30, 2007, the amount of \$4,000,000 is appropriated from the transportation partnership account to the state auditors office for the purposes of subsections (2) through (9) of this section. [2006 c 337 § 5; 2005 c 314 § 104.]

Effective date—2005 c 314 §§ 101-107, 109, 303-309, and 401: "Sections 101 through 107, 109, 303 through 310 [309], and 401 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2005." [2005 c 314 § 405.]

Part headings not law—2005 c 314: See note following RCW 46.68.035.

46.68.294 Transportation partnership account—Legislative transfer. During the 2007-2009 fiscal biennium, the legislature may transfer from the transportation partnership account to the transportation 2003 account (nickel account) such amounts as reflect the excess fund balance of the transportation partnership account. [2009 c 8 § 505.]

Effective date—2009 c 8: See note following RCW 46.68.065.

46.68.295 Transportation partnership account—Transfers. (1) On July 1, 2006, and by each July 1st thereafter, the state treasurer shall transfer from the transportation partnership account created in RCW 46.68.290:

(a) One million dollars to the small city pavement and sidewalk account created in RCW 47.26.340;

(b) Two and one-half million dollars to the transportation improvement account created in RCW 47.26.084; and

(c) One and one-half million dollars to the county arterial preservation account created in RCW 46.68.090(2)(i).

(2) On July 1, 2006, the state treasurer shall transfer six million dollars from the transportation partnership account created in RCW 46.68.290 into the freight mobility investment account created in RCW 46.68.300 and by July 1, 2007, and by every July 1st thereafter, three million dollars shall be deposited into the freight mobility investment account. [2006 c 337 § 6.]

46.68.300 Freight mobility investment account. The freight mobility investment account is hereby created in the

state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for freight mobility projects identified in the omnibus transportation appropriations act, including any principal and interest on bonds authorized for the projects or improvements. [2005 c 314 § 105.]

Effective date—2005 c 314 §§ 101-107, 109, 303-309, and 401: See note following RCW 46.68.290.

Part headings not law—2005 c 314: See note following RCW 46.68.035.

46.68.310 Freight mobility multimodal account. The freight mobility multimodal account is created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for freight mobility projects identified in the omnibus transportation appropriations act, including any principal and interest on bonds authorized for the projects or improvements. [2006 c 337 § 7.]

Effective date—2006 c 337 § 7: "Section 7 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect March 24, 2006." [2006 c 337 § 16.]

46.68.320 Regional mobility grant program account.

(1) The regional mobility grant program account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the grants provided under RCW 47.66.030.

(2) Beginning with September 2007, by the last day of September, December, March, and June of each year, the state treasurer shall transfer from the multimodal transportation account to the regional mobility grant program account five million dollars.

(3) Beginning with September 2015, by the last day of September, December, March, and June of each year, the state treasurer shall transfer from the multimodal transportation account to the regional mobility grant program account six million two hundred fifty thousand dollars.

(4) During the 2009-2011 fiscal biennium, the legislature may transfer from the regional mobility grant program account to the multimodal transportation account such amounts as reflect the excess fund balance of the regional mobility grant program account. [2010 c 247 § 702; 2006 c 337 § 8.]

Effective date—2010 c 247: See note following RCW 43.19.642.

46.68.330 Freight congestion relief account. The freight congestion relief account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used to provide congestion relief through the improvement of freight rail systems and state highways that function as freight corridors. [2007 c 514 § 2.]

46.68.340 Ignition interlock device revolving account. The ignition interlock device revolving account is created in the state treasury. All receipts from the fee assessed under RCW 46.20.385(6) must be deposited into the account. Moneys in the account may be spent only after

appropriation. Expenditures from the account may be used only for administering and operating the ignition interlock device revolving account program. [2008 c 282 § 3.]

46.68.350 Snowmobile account—Disposition of snowmobile moneys. (Effective July 1, 2011.) (1) The snowmobile account is created within the state treasury. Snowmobile registration fees, monetary civil penalties from snowmobile dealers, and snowmobile fuel tax moneys collected under this chapter and chapter 46.17 RCW and in excess of the amounts fixed for the administration of the registration and fuel tax provisions of this chapter must be deposited into the account and must be appropriated only to the state parks and recreation commission for the administration and coordination of this chapter.

(2) The moneys collected by the department as snowmobile registration fees, monetary civil penalties from snowmobile dealers, and fuel tax moneys placed into the account must be distributed in the following manner:

(a) Actual expenses not to exceed three percent for each year must be retained by the department to cover expenses incurred in the administration of the registration and fuel tax provisions of this chapter; and

(b) The remainder of funds each year must be remitted to the state treasurer to be deposited into the snowmobile account of the general fund and must be appropriated only to the commission to be expended for snowmobile purposes. Purposes may include, but not necessarily be limited to, the administration, acquisition, development, operation, and maintenance of snowmobile facilities and development and implementation of snowmobile safety, enforcement, and education programs.

(3) This section is not intended to discourage any public agency in this state from developing and implementing snowmobile programs. The commission may award grants to public agencies and contract with any public or private agency or person for the purpose of developing and implementing snowmobile programs, as long as the programs are not inconsistent with the rules adopted by the commission. [2010 c 161 § 823; 1991 sp.s. c 13 § 9; 1985 c 57 § 61; 1982 c 17 § 6; 1979 ex.s. c 182 § 7. Formerly RCW 46.10.075.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.68.360 Organ and tissue donation awareness account—Distribution. (Effective July 1, 2011.) At least quarterly, the department shall transmit donations made to the organ and tissue donation awareness account under RCW 46.16A.090(2) to the foundation established for organ and tissue donation awareness purposes by the Washington state organ procurement organizations. All Washington state organ procurement organizations have proportional access to these funds to conduct public education in their service areas. [2010 c 161 § 805.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.370 License plate technology account. (*Effective July 1, 2011.*) The license plate technology account is created in the state treasury. All receipts collected under RCW 46.17.015 must be deposited into this account. Expenditures from this account must support current and future license plate technology and systems integration upgrades for both the department and correctional industries. Moneys in the account may be spent only after appropriation. Additionally, the moneys in this account may be used to reimburse the motor vehicle account for any appropriation made to implement the digital license plate system. During the 2009-2011 fiscal biennium, the legislature may transfer from the license plate technology account to the highway safety account such amounts as reflect the excess fund balance of the license plate technology account. [2010 c 161 § 818; 2009 c 470 § 704; 2007 c 518 § 704; 2003 c 370 § 4. Formerly RCW 46.16.685.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2009 c 470: See note following RCW 46.68.170.

Severability—Effective date—2007 c 518: See notes following RCW 46.68.170.

46.68.380 Special license plate applicant trust account. (*Effective July 1, 2011.*) (1) The special license plate applicant trust account is created in the custody of the state treasurer. All receipts from special license plate applicants must be deposited into the account. Only the director or the director's designee may authorize disbursements from the account. The account is not subject to the allotment procedures under chapter 43.88 RCW, and an appropriation is not required for disbursements.

(2)(a) Revenues generated from the sale of special license plates for those sponsoring organizations that used the application process in RCW 46.18.110 must be deposited into the motor vehicle fund until the department determines that the state's implementation costs have been fully reimbursed.

(b) When it is determined that the state has been fully reimbursed, the department must notify the house of representatives and senate transportation committees, the sponsoring organization, and the state treasurer, and commence the distribution of the revenue as otherwise provided by law.

(3) If reimbursement does not occur within two years from the date the plate is first offered for sale to the public, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the plate series must be discontinued immediately. Special license plates issued before discontinuation are valid until replaced under RCW 46.16A.200(10). [2010 c 161 § 808.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.400 Vehicle registration filing fees—Distribution. (*Effective July 1, 2011.*) A filing fee established in RCW 46.17.005 must be distributed as follows:

(2010 Ed.)

(1) If paid to the county auditor or other agent or sub-agent appointed by the director, the fee must be distributed to the county treasurer and credited to the county current expense fund.

(2) If the fee is paid to another agent of the director, the fee must be used by the agent to defray his or her expenses in handling the application.

(3) If the fee is collected by the state patrol as agent for the director, the fee must be certified to the state treasurer and deposited to the credit of the state patrol highway account.

(4) If the fee is collected by the department of transportation as agent for the director, the fee must be certified to the state treasurer and deposited to the credit of the motor vehicle fund created in RCW 46.68.070.

(5) If the fee is collected by the director or branches of the department, the fee must be certified to the state treasurer and deposited to the credit of the highway safety fund, except that two dollars of the fee must be deposited into the multimodal transportation account if the fee is collected in conjunction with RCW 46.17.350(1) (c) or (k) or 46.17.355. [2010 c 161 § 819.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.405 Vehicle registration opt-out donations—Disposition. (*Effective July 1, 2011.*) All receipts from the voluntary donation received under RCW 46.16A.090(3) must be deposited in the state parks renewal and stewardship account established in RCW 79A.05.215 to be used for the operation and maintenance of state parks. [2010 c 161 § 806.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.410 Vehicle identification number inspection fee—Distribution. (*Effective July 1, 2011.*) The vehicle identification number inspection fee collected under RCW 46.17.130 must be distributed as follows:

(1) Fifteen dollars to the state patrol highway account created in RCW 46.68.030; and

(2) Fifty dollars to the motor vehicle fund created in RCW 46.68.070. [2010 c 161 § 812.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.415 Motor vehicle weight fee, motor home vehicle weight fee—Disposition. (*Effective July 1, 2011.*) (1) The motor vehicle weight fee imposed under RCW 46.17.365(1) must be deposited every July 1st as follows:

(a) Three million dollars to the freight mobility multimodal account created in RCW 46.68.310; and

(b) The remainder to the multimodal transportation account created in RCW 47.66.070.

(2) The motor vehicle weight fee:

(a) Must be used for transportation purposes;

(b) May not be used for the general support of state government; and

(c) Is imposed to provide funds to mitigate the impact of vehicle loads on the state roads and highways and is separate and distinct from other vehicle license fees. Proceeds from the fee may be used for transportation purposes, or for facilities and activities that reduce the number of vehicles or load weights on the state roads and highways.

(3) The motor home vehicle weight fee imposed under RCW 46.17.365(2) must be deposited in the multimodal transportation account created in RCW 47.66.070. [2010 c 161 § 813.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.420 Special license plate fees by account—Disposition. (Effective July 1, 2011.) (1) The department shall:

(a) Collect special license plate fees established under RCW 46.17.220 that were approved by the special license plate review board under RCW 46.18.200;

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fee amounts for each special license plate to the following appropriate account:

ACCOUNT	CONDITIONS FOR USE OF FUNDS
Gonzaga University alumni association	Scholarship funds to needy and qualified students attending or planning to attend Gonzaga University
Helping kids speak	Provide free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development
Law enforcement memorial	Provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers
Lighthouse environmental programs	Support selected Washington state lighthouses that are accessible to the public and staffed by volunteers; provide environmental education programs; provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration; encourage and support interpretive programs by lighthouse docents
Share the road	Promote bicycle safety and awareness education in communities throughout Washington
Ski & ride Washington	Promote winter snowsports, such as skiing and snowboarding, and related programs, such as ski and ride safety programs, underprivileged youth ski and ride programs, and active, healthy lifestyle programs
Washington state council of firefighters benevolent fund	Receive and disseminate funds for charitable purposes on behalf of members of the Washington state council of firefighters, their families, and others deemed in need

Washington's national park fund	Build awareness of Washington's national parks and support priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks
We love our pets	Support and enable the Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington state pets in order to reduce pet population

(3) Only the director or the director's designee may authorize expenditures from the accounts described in subsection (2) of this section. The accounts are subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) Funds in the special license plate accounts described in subsection (2) of this section must be disbursed subject to the conditions described in subsection (2) of this section and under contract between the department and qualified nonprofit organizations that provide the services described in subsection (2) of this section.

(5) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation operating in Washington that has received a determination of tax exempt status under 26 U.S.C. Sec. 501(c)(3). The qualified nonprofit organization must meet all the requirements under RCW 46.18.100(1). [2010 c 161 § 809.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.425 Special license plate fees by plate type—Disposition. (Effective July 1, 2011.) (1) The department shall:

(a) Collect special license plate fees established under RCW 46.17.220 that were approved by the special license plate review board under RCW 46.18.200;

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle fund until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fees to the following accounts by special license plate type:

SPECIAL LICENSE PLATE TYPE	ACCOUNT	CONDITIONS FOR USE OF FUNDS
Armed forces	RCW 43.60A.140	N/A
Endangered wildlife	RCW 77.12.170	Must be used only for the department of fish and wildlife's endangered wildlife program activities
Keep kids safe	RCW 43.121.100	As specified in RCW 43.121.050

Washington state parks	RCW 79A.05.059	Provide public educational opportunities and enhancement of Washington state parks
Washington's wildlife collection	RCW 77.12.170	Only for the department of fish and wildlife's game species management activities
Wild on Washington	RCW 77.12.170	Dedicated to the department of fish and wildlife's watchable wildlife activities, as defined in RCW 77.32.560

[2010 c 161 § 810.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.430 Special license plate fees by plate type—Baseball stadium license plates, collegiate license plates—Disposition. (Effective July 1, 2011.) (1) The department shall:

(a) Collect special license plates fees established under RCW 46.17.220(1) (c) and (e);

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the remaining special license plate fees to the following accounts by special license plate type:

SPECIAL LICENSE PLATE TYPE	ACCOUNT	PURPOSE
Baseball stadium	A county	To pay the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After the principal and interest payments on bonds have been made, the state treasurer shall credit the funds to the state general fund.
Collegiate	RCW 28B.10.890	Student scholarships

[2010 c 161 § 811.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.435 Personalized license plate fees—Disposition. (Effective July 1, 2011.) (1) All revenue derived from personalized license plate fees provided for in RCW 46.17.210 must be forwarded to the state treasurer and deposited as follows:

(a) Ten dollars to the state wildlife account and used for the management of resources associated with the nonconsumptive use of wildlife;

(b) Two dollars to the wildlife rehabilitation account created under RCW 77.12.471; and

(2010 Ed.)

(c) The remainder to the state wildlife account to be used for the preservation, protection, perpetuation, and enhancement of nongame species of wildlife including, but not limited to, song birds, raptors, protected wildlife, rare and endangered wildlife, aquatic life, and specialized-habitat types, both terrestrial and aquatic, as well as all unclassified marine fish, shellfish, and marine invertebrates.

(2) Administrative costs incurred by the department as a direct result of administering the personalized license plate program must be appropriated by the legislature from the state wildlife account from those funds deposited in the account resulting from the sale of personalized license plates. If the actual costs incurred by the department are less than that which has been appropriated by the legislature, the remainder must revert to the state wildlife account. [2010 c 161 § 821.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.440 Emergency medical services fee—Distribution. (Effective July 1, 2011.) The emergency medical services fee imposed under RCW 46.17.110 must be distributed as follows:

(1) If collected by a vehicle dealer, the vehicle dealer must keep two dollars and fifty cents as an administrative fee and the remainder must be deposited in the emergency medical services and trauma care system trust account created in RCW 70.168.040; and

(2) If not collected by a vehicle dealer, the fee must be deposited in the emergency medical services and trauma care system trust account created in RCW 70.168.040. [2010 c 161 § 820.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.445 Parking ticket surcharge—Distribution. (Effective July 1, 2011.) The parking ticket surcharge imposed under RCW 46.17.030 must be distributed as follows:

(1) Ten dollars to the motor vehicle fund created in RCW 46.68.070 to be used exclusively for the administrative costs of the department; and

(2) Five dollars to be retained by the department, county auditor or other agent, or subagent appointed by the director handling the renewal application to be used for the administration of the parking ticket program. [2010 c 161 § 816.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.450 Department temporary permit fee—Distribution. (Effective July 1, 2011.) The department temporary permit fee imposed under RCW 46.17.400(1)(b) must be distributed as follows:

(1) If collected by the department, the fee must be distributed under RCW 46.68.030; and

(2) If collected by the county auditor or other agent or subagent, the fee must be distributed to the county current expense fund. [2010 c 161 § 814.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.455 Vehicle trip permit fee—Distribution. (Effective July 1, 2011.) (1) The vehicle trip permit fee imposed under RCW 46.17.400(1)(h) must be distributed as follows:

(a) Five dollars to the state patrol highway account for commercial motor vehicle inspections;

(b) A one dollar excise tax to the state general fund;

(c) The amount of the filing fee imposed under RCW 46.17.005(1)(a) to be credited as required under RCW 46.68.400; and

(d) The remainder to the credit of the motor vehicle fund created in RCW 46.68.070 as an administrative fee.

(2) The administrative fee under subsection (1)(d) of this section must be increased or decreased in an equal amount if the amount of the filing fee imposed under RCW 46.17.005(1)(a) increases or decreases, so that the total trip permit fee is adjusted equally to compensate.

(3) The vehicle trip permit surcharge imposed under RCW 46.17.400(4) must be distributed as follows:

(a) The portion of the surcharge paid by motor carriers to the motor vehicle fund created in RCW 46.68.070 for the purpose of supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program; and

(b) The remainder to the motor vehicle fund created in RCW 46.68.070 for the purpose of supporting congestion relief programs. [2010 c 161 § 815.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.68.460 Special fuel trip permit fee—Distribution. (Effective July 1, 2011.) The special fuel trip permit fee imposed under RCW 46.17.400(1)(f) for special fuel trip permits issued under RCW 82.38.100 must be distributed as follows:

(1) One dollar to be retained by the county auditor or businesses appointed by the department to defray expenses incurred in handling and selling special fuel trip permits;

(2) Five dollars to the state patrol highway account to be used for commercial motor vehicle inspections;

(3) Five dollars to the motor vehicle fund to be distributed as follows:

(a) If paid by motor carriers, to be used for supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program;

(b) If paid by a person other than a motor carrier, to be used for supporting congestion relief programs; and

(4) Nineteen dollars to the credit of the motor vehicle fund created in RCW 46.68.070. [2010 c 161 § 817.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Chapter 46.70 RCW

DEALERS AND MANUFACTURERS

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Manufactured home safety and construction standards, inspections: RCW 43.22.431 through 43.22.434.

Retail installment sales of goods: Chapter 63.14 RCW.

Unfair business practices—Consumer protection: Chapter 19.86 RCW.

46.70.005 Declaration of purpose. The legislature finds and declares that the distribution, sale, and lease of vehicles in the state of Washington vitally affects the general economy of the state and the public interest and the public welfare, and that in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate and license vehicle manufacturers, distributors, or wholesalers and factory or distributor representatives, and to regulate and license dealers of vehicles doing business in Washington, in order to prevent frauds, impositions, and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of this state. [2001 c 272 § 1; 1986 c 241 § 1; 1973 1st ex.s. c 132 § 1; 1967 ex.s. c 74 § 1.]

Reviser's note: Throughout chapter 46.70 RCW the phrases "this act" and "this amendatory act" have been changed to "this chapter." This 1967 act or amendatory act [1967 ex.s. c 74] consisted of RCW 46.70.005 through 46.70.042, 46.70.051, 46.70.061, 46.70.081 through 46.70.083, 46.70.101 through 46.70.111, and 46.70.180 through 46.70.910, the 1967 amendments to RCW 46.70.060 and 46.70.070, and the repeal of RCW 46.70.010 through 46.70.050, 46.70.080, 46.70.100, and 46.70.110.

Additional notes found at www.leg.wa.gov

46.70.011 Definitions. (Effective until July 1, 2011.)

As used in this chapter:

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

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

(3) "Recreational vehicle" means a travel trailer, motor home, truck camper, or camping trailer that is primarily designed and used as temporary living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, and is not immobilized or permanently affixed to a mobile home lot.

(4) "Vehicle dealer" means any person, firm, association, corporation, or trust, not excluded by subsection (5) of this section, engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of new or used vehicles, or arranging or offering or attempting to solicit or negotiate on behalf of others, a sale, purchase, or exchange of an interest in new or used motor vehicles, irrespective of whether the motor vehicles are owned by that person. Vehicle dealers shall be classified as follows:

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

(b) A "mobile home and travel trailer dealer" is a vehicle dealer that deals in mobile homes, park trailers, or travel trailers, or more than one type of these vehicles;

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

(d) A "recreational vehicle dealer" is a vehicle dealer that deals in travel trailers, motor homes, truck campers, or camping trailers that are primarily designed and used as temporary living quarters, are either self-propelled or mounted on or drawn by another vehicle, are transient, are not occupied as a primary residence, and are not immobilized or permanently affixed to a mobile home lot.

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

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

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

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

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

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

(f) A real estate broker licensed under chapter 18.85 RCW, or an affiliated licensee, who, on behalf of another negotiates the purchase, sale, lease, or exchange of a manufactured or mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the manufactured or mobile home is, or will be, located; or

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

(h) Any bank, trust company, savings bank, mutual savings bank, savings and loan association, credit union, and any parent, subsidiary, or affiliate thereof, authorized to do business in this state under state or federal law with respect to the sale or other disposition of a motor vehicle owned and used in their business; or with respect to the acquisition and sale or other disposition of a motor vehicle in which the entity has acquired an interest as a lessor, lessee, or secured party; or

(i) Any person who is regularly engaged in the business of acquiring leases or installment contracts by assignment, with respect to the acquisition and sale or other disposition of a motor vehicle in which the person has acquired an interest as a result of the business.

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

(7) "Department" means the department of licensing, which shall administer and enforce the provisions of this chapter.

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

(9) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactures vehicles in whole or in part and further includes the terms:

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

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

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

(10) "Established place of business" means a location meeting the requirements of RCW 46.70.023(1) at which a vehicle dealer conducts business in this state.

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

(12) "Subagency" means any place of business of a vehicle dealer within the state, which place is physically and geographically separated from the principal place of business of the firm or any place of business of a vehicle dealer within the state, at which place the firm does business using a name other than the principal name of the firm, or both.

(13) "Temporary subagency" means a location other than the principal place of business or subagency within the state where a licensed vehicle dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten days for a specific purpose such as auto shows, shopping center promotions, tent sales, exhibitions, or similar merchandising ventures. No more than six temporary subagency licenses may be issued to a licensee in any twelve-month period.

(14) "Wholesale vehicle dealer" means a vehicle dealer who buys and sells other than at retail.

(15) "Retail vehicle dealer" means a vehicle dealer who may buy and sell at both wholesale and retail.

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

(17) "Auction" means a transaction conducted by means of exchanges between an auctioneer and the members of the audience, constituting a series of oral invitations for offers for the purchase of vehicles made by the auctioneer, offers to purchase by members of the audience, and the acceptance of the highest or most favorable offer to purchase.

(18) "Auction company" means a sole proprietorship, partnership, corporation, or other legal or commercial entity

licensed under chapter 18.11 RCW that only sells or offers to sell vehicles at auction or only arranges or sponsors auctions.

(19) "Buyer's agent" means any person, firm, partnership, association, limited liability company, limited liability partnership, or corporation retained or employed by a consumer to arrange for or to negotiate, or both, the purchase or lease of a new motor vehicle on behalf of the consumer, and who is paid a fee or receives other compensation from the consumer for its services.

(20) "New motor vehicle" means any motor vehicle that is self-propelled and is required to be registered and titled under Title 46 RCW, has not been previously titled to a retail purchaser or lessee, and is not a "used vehicle" as defined under RCW 46.04.660. [2006 c 364 § 1; 2001 c 272 § 2; 1998 c 46 § 1; 1996 c 194 § 1; 1993 c 175 § 1. Prior: 1989 c 337 § 11; 1989 c 301 § 1; 1988 c 287 § 1; 1986 c 241 § 2; 1981 c 305 § 2; 1979 c 158 § 186; 1979 c 11 § 3; prior: 1977 ex.s. c 204 § 2; 1977 ex.s. c 125 § 1; 1973 1st ex.s. c 132 § 2; 1969 ex.s. c 63 § 1; 1967 ex.s. c 74 § 3.]

46.70.011 Definitions. (Effective July 1, 2011.) As used in this chapter:

(1) "Auction" means a transaction conducted by means of exchanges between an auctioneer and the members of the audience, constituting a series of oral invitations for offers for the purchase of vehicles made by the auctioneer, offers to purchase by members of the audience, and the acceptance of the highest or most favorable offer to purchase.

(2) "Auction company" means a sole proprietorship, partnership, corporation, or other legal or commercial entity licensed under chapter 18.11 RCW that only sells or offers to sell vehicles at auction or only arranges or sponsors auctions.

(3) "Buyer's agent" means any person, firm, partnership, association, limited liability company, limited liability partnership, or corporation retained or employed by a consumer to arrange for or to negotiate, or both, the purchase or lease of a new motor vehicle on behalf of the consumer, and who is paid a fee or receives other compensation from the consumer for its services.

(4) "Department" means the department of licensing, which shall administer and enforce the provisions of this chapter.

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

(6) "Established place of business" means a location meeting the requirements of RCW 46.70.023(1) at which a vehicle dealer conducts business in this state.

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

(8) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactures vehicles in whole or in part and further includes the terms:

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

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

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

(9) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and which is required to be registered and titled under this title.

(10) "New motor vehicle" means any motor vehicle that is self-propelled and is required to be registered and titled under this title, has not been previously titled to a retail purchaser or lessee, and is not a "used vehicle" as defined under RCW 46.04.660.

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

(12) "Recreational vehicle" means a travel trailer, motor home, truck camper, or camping trailer that is primarily designed and used as temporary living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, and is not immobilized or permanently affixed to a mobile home lot.

(13) "Retail vehicle dealer" means a vehicle dealer who may buy and sell at both wholesale and retail.

(14) "Subagency" means any place of business of a vehicle dealer within the state, which place is physically and geographically separated from the principal place of business of the firm or any place of business of a vehicle dealer within the state, at which place the firm does business using a name other than the principal name of the firm, or both.

(15) "Temporary subagency" means a location other than the principal place of business or subagency within the state where a licensed vehicle dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten days for a specific purpose such as auto shows, shopping center promotions, tent sales, exhibitions, or similar merchandising ventures. No more than six temporary subagency licenses may be issued to a licensee in any twelve-month period.

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

(17) "Vehicle dealer" means any person, firm, association, corporation, or trust, not excluded by subsection (18) of this section, engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of

new or used vehicles, or arranging or offering or attempting to solicit or negotiate on behalf of others, a sale, purchase, or exchange of an interest in new or used motor vehicles, irrespective of whether the motor vehicles are owned by that person. Vehicle dealers shall be classified as follows:

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

(b) A "mobile home and travel trailer dealer" is a vehicle dealer that deals in mobile homes, park trailers, or travel trailers, or more than one type of these vehicles;

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

(d) A "recreational vehicle dealer" is a vehicle dealer that deals in travel trailers, motor homes, truck campers, or camping trailers that are primarily designed and used as temporary living quarters, are either self-propelled or mounted on or drawn by another vehicle, are transient, are not occupied as a primary residence, and are not immobilized or permanently affixed to a mobile home lot.

(18) "Vehicle dealer" does not include, nor do the licensing requirements of RCW 46.70.021 apply to, the following persons, firms, associations, or corporations:

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

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

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

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

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

(f) A real estate broker licensed under chapter 18.85 RCW, or an affiliated licensee, who, on behalf of another negotiates the purchase, sale, lease, or exchange of a manufactured or mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the manufactured or mobile home is, or will be, located; or

(g) Owners who are also operators of special highway construction equipment, as defined in RCW 46.04.551, or of the highway construction equipment for which a vehicle license and display vehicle license number plate is required; or

(h) Any bank, trust company, savings bank, mutual savings bank, savings and loan association, credit union, and any parent, subsidiary, or affiliate thereof, authorized to do business in this state under state or federal law with respect to the sale or other disposition of a motor vehicle owned and used in their business; or with respect to the acquisition and sale or other disposition of a motor vehicle in which the entity has acquired an interest as a lessor, lessee, or secured party; or

(i) Any person who is regularly engaged in the business of acquiring leases or installment contracts by assignment, with respect to the acquisition and sale or other disposition of

a motor vehicle in which the person has acquired an interest as a result of the business.

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

(20) "Wholesale vehicle dealer" means a vehicle dealer who buys and sells other than at retail. [2010 c 161 § 1130; 2006 c 364 § 1; 2001 c 272 § 2; 1998 c 46 § 1; 1996 c 194 § 1; 1993 c 175 § 1. Prior: 1989 c 337 § 11; 1989 c 301 § 1; 1988 c 287 § 1; 1986 c 241 § 2; 1981 c 305 § 2; 1979 c 158 § 186; 1979 c 11 § 3; prior: 1977 ex.s. c 204 § 2; 1977 ex.s. c 125 § 1; 1973 1st ex.s. c 132 § 2; 1969 ex.s. c 63 § 1; 1967 ex.s. c 74 § 3.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.70.021 License required for dealers or manufacturers—Penalties. (1) It is unlawful for any person, firm, or association to act as a vehicle dealer or vehicle manufacturer, to engage in business as such, serve in the capacity of such, advertise himself, herself, or themselves as such, solicit sales as such, or distribute or transfer vehicles for resale in this state, without first obtaining and holding a current license as provided in this chapter, unless the title of the vehicle is in the name of the seller.

(2) It is unlawful for any person other than a licensed vehicle dealer to display a vehicle for sale unless the registered owner or legal owner is the displayer or holds a notarized power of attorney.

(3)(a) Except as provided in (b) of this subsection, a person or firm engaged in buying and offering for sale, or buying and selling five or more vehicles in a twelve-month period, or in any other way engaged in dealer activity without holding a vehicle dealer license, is guilty of a gross misdemeanor, and upon conviction subject to a fine of up to five thousand dollars for each violation and up to one year in jail.

(b) A second offense is a class C felony punishable under chapter 9A.20 RCW.

(4) A violation of this section is also a per se violation of chapter 19.86 RCW and is considered a deceptive practice.

(5) The department of licensing, the Washington state patrol, the attorney general's office, and the department of revenue shall cooperate in the enforcement of this section.

(6) A distributor, factory branch, or factory representative shall not be required to have a vehicle manufacturer license so long as the vehicle manufacturer so represented is properly licensed pursuant to this chapter.

(7) Nothing in this chapter prohibits financial institutions from cooperating with vehicle dealers licensed under this chapter in dealer sales or leases. However, financial institutions shall not broker vehicles and cooperation is limited to organizing, promoting, and financing of such dealer sales or leases. [2003 c 53 § 249; 1993 c 307 § 4; 1988 c 287 § 2; 1986 c 241 § 3; 1973 1st ex.s. c 132 § 3; 1967 ex.s. c 74 § 4.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.70.023 Place of business. (1) An "established place of business" requires a permanent, enclosed commercial building located within the state of Washington easily accessible at all reasonable times. The business of a vehicle dealer must be lawfully carried on at an established place of business in accordance with the terms of all applicable building code, zoning, and other land-use regulatory ordinances. A vehicle dealer may display a vehicle for sale only at its established place of business, licensed subagency, or temporary subagency site, except at auction. The dealer shall keep the building open to the public so that the public may contact the vehicle dealer or the dealer's salespersons at all reasonable times. The books, records, and files necessary to conduct the business shall be kept and maintained at that place. The established place of business shall display an exterior sign with the business name and nature of the business, such as auto sales, permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. A room or rooms in a hotel, rooming house, or apartment house building or part of a single or multiple-unit dwelling house may not be considered an "established place of business" unless the ground floor of such a dwelling is devoted principally to and occupied for commercial purposes and the dealer offices are located on the ground floor. A mobile office or mobile home may be used as an office if it is connected to utilities and is set up in accordance with state law. A statewide trade association representing manufactured housing dealers shall be permitted to use a manufactured home as an office if the office complies with all other applicable building code, zoning, and other land-use regulatory ordinances. This subsection does not apply to auction companies that do not own vehicle inventory or sell vehicles from an auction yard.

(2) An auction company shall have office facilities within the state. The books, records, and files necessary to conduct the business shall be maintained at the office facilities. All storage facilities for inventory shall be listed with the department, and shall meet local zoning and land use ordinances. An auction company shall maintain a telecommunications system.

(3) Auction companies shall post their vehicle dealer license at each auction where vehicles are offered, and shall provide the department with the address of the auction at least three days before the auction.

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

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

(6) A subagency shall comply with all requirements of an established place of business, except that subagency records may be kept at the principal place of business designated by the dealer. Auction companies shall comply with the requirements in subsection (2) of this section.

(7) A temporary subagency shall meet all local zoning and building codes for the type of merchandising being conducted. The dealer license certificate shall be posted at the location. No other requirements of an established place of business apply to a temporary subagency. Auction companies are not required to obtain a temporary subagency license.

(8) A wholesale vehicle dealer shall have office facilities in a commercial building within this state, and all storage facilities for inventory shall be listed with the department, and shall meet local zoning and land use ordinances. A wholesale vehicle dealer shall maintain a telecommunications system. An exterior sign visible from the nearest street shall identify the business name and the nature of business. When two or more vehicle dealer businesses share a location, all records, office facilities, and inventory, if any, must be physically segregated and clearly identified.

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

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

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

(12) A vehicle dealer's license shall upon the death or incapacity of an individual vehicle dealer authorize the personal representative of such dealer, subject to payment of license fees, to continue the business for a period of six months from the date of the death or incapacity. [1997 c 432 § 1; 1996 c 282 § 1; 1995 c 7 § 1; 1993 c 307 § 5; 1991 c 339 § 28; 1989 c 301 § 2; 1986 c 241 § 4.]

46.70.025 Established place of business—Waiver of requirements. The director may by rule waive any requirements pertaining to a vehicle dealer's established place of business if such waiver both serves the purposes of this chapter and is necessary due to unique circumstances such as a location divided by a public street or a highly specialized type of business. [1986 c 199 § 1.]

46.70.027 Accountability of dealer for employees—Actions for damages on violation of chapter. A vehicle dealer is accountable for the dealer's employees, sales personnel, and managerial personnel while in the performance of their official duties. Any violations of this chapter or applicable provisions of chapter 46.12 or *46.16 RCW committed by any of these employees subjects the dealer to license penalties prescribed under RCW 46.70.101. A retail purchaser, consignor who is not a motor vehicle dealer, or a motor vehicle dealer who has purchased from a wholesale dealer, who has suffered a loss or damage by reason of any act by a dealer, salesperson, managerial person, or other employee of a dealership, that constitutes a violation of this chapter or applicable provisions of chapter 46.12 or *46.16 RCW may institute an action for recovery against the dealer and the surety bond as set forth in RCW 46.70.070. However, under this section, motor vehicle dealers who have purchased from wholesale dealers may only institute actions against wholesale dealers and their surety bonds. [1989 c 337 § 12; 1986 c 241 § 5.]

**Reviser's note:* Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

46.70.028 Consignment. Dealers who transact dealer business by consignment shall obtain a consignment contract for sale and shall comply with applicable provisions of chapter 46.70 RCW. The dealer shall place all funds received from the sale of the consigned vehicle in a trust account until the sale is completed, except that the dealer shall pay any outstanding liens against the vehicle from these funds. Where title has been delivered to the purchaser, the dealer shall pay the amount due a consignor within ten days after the sale. However, in the case of a consignment from a licensed vehicle dealer from any state, the wholesale auto auction shall pay the consignor within twenty days. [2000 c 131 § 2; 1989 c 337 § 13.]

Severability—2000 c 131: See note following RCW 46.70.115.

46.70.029 Listing dealers, transaction of business. Listing dealers shall transact dealer business by obtaining a listing agreement for sale, and the buyer's purchase of the mobile home shall be handled as dealer inventory. All funds from the purchaser shall be placed in a trust account until the sale is completed, except that the dealer shall pay any outstanding liens against the mobile home from these funds. Where title has been delivered to the purchaser, the listing dealer shall pay the amount due a seller within ten days after the sale of a listed mobile home. A complete account of all funds received and disbursed shall be given to the seller or consignor after the sale is completed. The sale of listed mobile homes imposes the same duty under RCW 46.70.122 on the listing dealer as any other sale. [2001 c 64 § 8; 1990 c 250 § 63; 1986 c 241 § 6.]

Additional notes found at www.leg.wa.gov

46.70.031 Application for license—Form. A vehicle dealer or vehicle manufacturer may apply for a license by filing with the department an application in such form as the department may prescribe. [1986 c 241 § 7; 1973 1st ex.s. c 132 § 4; 1967 ex.s. c 74 § 5.]

46.70.041 Application for license—Contents. (1)

Every application for a vehicle dealer license shall contain the following information to the extent it applies to the applicant:

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

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

(c) The qualification and business history of the applicant and any partner, officer, or director;

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

(e) Whether the applicant has been adjudged guilty of a crime which directly relates to the business for which the license is sought and the time elapsed since the conviction is less than ten years, or has suffered any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners;

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

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

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

(i) A certificate by a representative of the department, that the applicant's principal place of business and each sub-agency business location in the state of Washington meets the location requirements as required by this chapter. The certificate shall include proof of the applicant's ownership or lease of the real property where the applicant's principal place of business is established;

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

(k) The class of vehicles the vehicle dealer will be buying, selling, listing, exchanging, offering, brokering, leasing, auctioning, soliciting, or advertising, and which classification or classifications the dealer wishes to be designated as;

(l) Effective July 1, 2002, a certificate from the provider of each education program or test showing that the applicant has completed the education programs and passed the test required under RCW 46.70.079 if the applicant is a dealer subject to the education and test requirements;

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

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

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

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

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

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

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

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

(g) Any other information the department may reasonably require. [2001 c 272 § 3. Prior: 1993 c 307 § 6; 1993 c 175 § 2; 1990 c 250 § 64; 1986 c 241 § 8; 1979 c 158 § 187; 1977 ex.s. c 125 § 2; 1973 1st ex.s. c 132 § 5; 1971 ex.s. c 74 § 1; 1969 ex.s. c 63 § 2; 1967 ex.s. c 74 § 6.]

Requirements of "established place of business": RCW 46.70.023.

Additional notes found at www.leg.wa.gov

46.70.042 Application for license—Retention by department—Confidentiality.

Every application for license shall be retained by the department for a period of three years and shall be confidential information for the use of the department, the attorney general or the prosecuting attorney only: PROVIDED, That upon a showing of good cause therefor any court in which an action is pending by or against the applicant or licensee, may order the director to produce and permit the inspection and copying or photographing the application and any accompanying statements. [1967 ex.s. c 74 § 14.]

46.70.045 Denial of license. The director may deny a license under this chapter when the application is a subterfuge that conceals the real person in interest whose license has been denied, suspended, or revoked for cause under this chapter and the terms have not been fulfilled or a civil penalty has not been paid, or the director finds that the application was not filed in good faith. This section does not preclude the department from taking an action against a current licensee. [1997 c 432 § 2.]

46.70.051 Issuance of license—Private party dissemination of vehicle database. (Effective until July 1, 2011.)

(1) After the application has been filed, the fee paid, and bond posted, if required, the department shall, if no denial order is in effect and no proceeding is pending under RCW 46.70.101, issue the appropriate license, which license, in the case of a vehicle dealer, shall designate the classification of the dealer. Nothing prohibits a vehicle dealer from obtaining

licenses for more than one classification, and nothing prevents any vehicle dealer from dealing in other classes of vehicles on an isolated basis.

(2) An auction company licensed under chapter 18.11 RCW may sell at auction all classifications of vehicles under a motor vehicle dealer's license issued under this chapter including motor vehicles, miscellaneous type vehicles, and mobile homes and travel trailers.

(3) At the time the department issues a vehicle dealer license, the department shall provide to the dealer a current, up-to-date vehicle dealer manual that may be provided electronically setting forth the various statutes and rules applicable to vehicle dealers. In addition, at the time any such license is renewed under RCW 46.70.083, the department shall provide the dealer with any updates or current revisions to the vehicle dealer manual. These updates or current revisions may be provided electronically.

(4) The department may contract with responsible private parties to provide them elements of the vehicle database on a regular basis. The private parties may only disseminate this information to licensed vehicle dealers.

(a) Subject to the disclosure agreement provisions of RCW 46.12.380 and the requirements of Executive Order 97-01, the department may provide to the contracted private parties the following information:

(i) All vehicle and title data necessary to accurately disclose known title defects, brands, or flags and odometer discrepancies;

(ii) All registered and legal owner information necessary to determine true ownership of the vehicle and the existence of any recorded liens, including but not limited to liens of the department of social and health services or its successor; and

(iii) Any data in the department's possession necessary to calculate the motor vehicle excise tax, license, and registration fees including information necessary to determine the applicability of regional transit authority excise and use tax surcharges.

(b) The department may provide this information in any form the contracted private party and the department agree upon, but if the data is to be transmitted over the Internet or similar public network from the department to the contracted private party, it must be encrypted.

(c) The department shall give these contracted private parties advance written notice of any change in the information referred to in (a)(i), (ii), or (iii) of this subsection, including information pertaining to the calculation of motor vehicle excise taxes.

(d) The department shall revoke a contract made under this subsection (4) with a private party who disseminates information from the vehicle database to anyone other than a licensed vehicle dealer. A private party who obtains information from the vehicle database under a contract with the department and disseminates any of that information to anyone other than a licensed vehicle dealer is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(e) Nothing in this subsection (4) authorizes a vehicle dealer or any other organization or entity not otherwise appointed as a vehicle licensing subagent under RCW 46.01.140 to perform any of the functions of a vehicle licensing subagent so appointed. [2001 c 272 § 4; 1997 c 432 § 4;

(2010 Ed.)

1996 c 282 § 2; 1993 c 307 § 7; 1989 c 301 § 3; 1973 1st ex.s. c 132 § 6; 1971 ex.s. c 74 § 2; 1967 ex.s. c 74 § 7.]

46.70.051 Issuance of license—Private party dissemination of vehicle database. (Effective July 1, 2011.) (1) After the application has been filed, the fee paid, and bond posted, if required, the department shall, if no denial order is in effect and no proceeding is pending under RCW 46.70.101, issue the appropriate license, which license, in the case of a vehicle dealer, shall designate the classification of the dealer. Nothing prohibits a vehicle dealer from obtaining licenses for more than one classification, and nothing prevents any vehicle dealer from dealing in other classes of vehicles on an isolated basis.

(2) An auction company licensed under chapter 18.11 RCW may sell at auction all classifications of vehicles under a motor vehicle dealer's license issued under this chapter including motor vehicles, miscellaneous type vehicles, and mobile homes and travel trailers.

(3) At the time the department issues a vehicle dealer license, the department shall provide to the dealer a current, up-to-date vehicle dealer manual that may be provided electronically setting forth the various statutes and rules applicable to vehicle dealers. In addition, at the time any such license is renewed under RCW 46.70.083, the department shall provide the dealer with any updates or current revisions to the vehicle dealer manual. These updates or current revisions may be provided electronically.

(4) The department may contract with responsible private parties to provide them elements of the vehicle database on a regular basis. The private parties may only disseminate this information to licensed vehicle dealers.

(a) Subject to the disclosure agreement provisions of RCW 46.12.635 and the requirements of Executive Order 97-01, the department may provide to the contracted private parties the following information:

(i) All vehicle and title data necessary to accurately disclose known title defects, brands, or flags and odometer discrepancies;

(ii) All registered and legal owner information necessary to determine true ownership of the vehicle and the existence of any recorded liens, including but not limited to liens of the department of social and health services or its successor; and

(iii) Any data in the department's possession necessary to calculate the motor vehicle excise tax, license, and registration fees including information necessary to determine the applicability of regional transit authority excise and use tax surcharges.

(b) The department may provide this information in any form the contracted private party and the department agree upon, but if the data is to be transmitted over the Internet or similar public network from the department to the contracted private party, it must be encrypted.

(c) The department shall give these contracted private parties advance written notice of any change in the information referred to in (a)(i), (ii), or (iii) of this subsection, including information pertaining to the calculation of motor vehicle excise taxes.

(d) The department shall revoke a contract made under this subsection (4) with a private party who disseminates information from the vehicle database to anyone other than a

licensed vehicle dealer. A private party who obtains information from the vehicle database under a contract with the department and disseminates any of that information to anyone other than a licensed vehicle dealer is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(e) Nothing in this subsection (4) authorizes a vehicle dealer or any other organization or entity not otherwise appointed as a vehicle licensing subagent under RCW 46.01.140 to perform any of the functions of a vehicle licensing subagent so appointed. [2010 c 161 § 1131; 2001 c 272 § 4; 1997 c 432 § 4; 1996 c 282 § 2; 1993 c 307 § 7; 1989 c 301 § 3; 1973 1st ex.s. c 132 § 6; 1971 ex.s. c 74 § 2; 1967 ex.s. c 74 § 7.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

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

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

(b) Vehicle dealers, each subagency, and temporary subagency: One hundred dollars;

(c) Vehicle manufacturers: Five hundred dollars.

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

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

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

(c) Vehicle manufacturers: Two hundred fifty dollars.

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

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

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

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

(6) The fees prescribed in this section are in addition to any excise taxes imposed by chapter 82.44 RCW. [2002 c 352 § 23; 1990 c 250 § 65; 1986 c 241 § 10; 1986 c 241 § 9; 1979 ex.s. c 251 § 1; 1973 1st ex.s. c 132 § 7; 1967 ex.s. c 74 § 13.]

Effective dates—2002 c 352: See note following RCW 46.09.410.

Additional notes found at www.leg.wa.gov

46.70.070 Dealers—Bond required, exceptions—Actions—Cancellation of license. (1) Before issuing a vehicle dealer's license, the department shall require the applicant to file with the department a surety bond in the amount of:

(a) Thirty thousand dollars for motor vehicle dealers;

(b) Thirty thousand dollars for mobile home, park trailer, and travel trailer dealers;

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

Any retail purchaser, consignee who is not a motor vehicle dealer, or a motor vehicle dealer who has purchased from, sold to, or otherwise transacted business with a wholesale dealer, who has suffered any loss or damage by reason of any act by a dealer which constitutes a violation of this chapter shall have the right to institute an action for recovery against such dealer and the surety upon such bond. However, under this section, motor vehicle dealers who have purchased from, sold to, or otherwise transacted business with wholesale dealers may only institute actions against wholesale dealers and their surety bonds. Successive recoveries against said bond shall be permitted, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. Upon exhaustion of the penalty of said bond or cancellation of the bond by the surety the vehicle dealer license shall automatically be deemed canceled.

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

(3) Vehicle dealers shall maintain a bond for each business location in this state and bond coverage for all temporary subagencies. [2001 c 272 § 13; 1996 c 194 § 2; 1989 c 337 § 15; 1986 c 241 § 11; 1981 c 152 § 1; 1973 1st ex.s. c 132 § 8; 1971 ex.s. c 74 § 4; 1967 ex.s. c 74 § 27; 1961 c 239 § 1; 1961 c 12 § 46.70.070. Prior: 1959 c 166 § 19; 1951 c 150 § 8.]

46.70.075 Manufacturers—Bond required—Actions—Cancellation of license. Before issuing a manufacturer license to a manufacturer of mobile homes or travel trailers, the department shall require the applicant to file with the department a surety bond in the amount of forty thousand dollars in the case of a mobile home manufacturer and twenty thousand dollars in the case of a travel trailer manufacturer, running to the state and executed by a surety company authorized to do business in the state. Such bond shall be approved by the attorney general as to form and conditioned that the manufacturer shall conduct his or her business in conformity with the provisions of this chapter and with all standards set by the state of Washington or the federal government pertaining to the construction or safety of such vehicles. Any retail purchaser or vehicle dealer who has suffered any loss or damage by reason of breach of warranty or by any act by a manufacturer which constitutes a violation of this chapter or a violation of any standards set by the state of Washington or the federal government pertaining to construction or safety of such vehicles has the right to institute an action for recovery against such manufacturer and the surety upon such bond. Successive recoveries against the bond shall be permitted, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. Upon exhaustion of the penalty of the bond or cancellation of the bond by the surety the manufacturer license is automatically deemed canceled. [2010 c 8 § 9082; 1981 c 152 § 3; 1973 1st ex.s. c 132 § 9.]

46.70.079 Education requirements. (1) Except as provided in subsection (2) of this section, the following education requirements apply to an applicant for a vehicle dealer license under RCW 46.70.021:

(a) An applicant for a vehicle dealer license under RCW 46.70.021 must complete a minimum of eight hours of approved education programs described in subsection (3) of this section and pass a test prior to submitting an application for the license; and

(b) An applicant for a renewal of a vehicle dealer license under RCW 46.70.083 must complete a minimum of five hours per year in a licensing period of approved continuing education programs described in subsection (3) of this section prior to submitting an application for the renewal of the vehicle dealer license.

(2) The education and test requirements in subsection (1) of this section do not apply to an applicant for a vehicle dealer license under RCW 46.70.021 if the applicant is:

(a) A franchised dealer of new recreational vehicles;

(b) A nationally franchised or corporate-owned motor vehicle rental company;

(c) A dealer of manufactured dwellings;

(d) A national auction company that holds a vehicle dealer license and a wrecker license whose primary activity in this state is the sale or disposition of totaled vehicles; or

(e) A wholesale auto auction company that holds a vehicle dealer license.

(3) The education programs and test required in subsection (1) of this section shall be developed by motor vehicle industry organizations including, but not limited to, the state independent auto dealers association and the department of licensing.

(4) A new motor vehicle dealer, as defined under RCW 46.96.020, is deemed to have met the education and test requirements required for applicants for a vehicle dealer license under this section. [2001 c 272 § 12.]

Effective date—2001 c 272 § 12: "Section 12 of this act takes effect July 1, 2002." [2001 c 272 § 14.]

46.70.083 Expiration of license—Renewal—Certification of established place of business. The license of a vehicle dealer or a vehicle manufacturer expires on the date that is twelve consecutive months from the date of issuance. The license may be renewed by filing with the department prior to the expiration of the license, a renewal application containing such information as the department may require to indicate the number of vehicle sales transacted during the past year, and any material change in the information contained in the original application. Failure by the dealer to comply is grounds for denial of the renewal application or dealer license plate renewal.

The dealer's established place of business shall be certified by a representative of the department at least once every thirty-six months, or more frequently as determined necessary by the department. The certification will verify compliance with the requirements of this chapter for an established place of business. Failure by the dealer to comply at any time is grounds for license suspension or revocation, denial of the renewal application, or monetary assessment. [1993 c 307 § 8; 1991 c 140 § 2; 1990 c 250 § 66; 1986 c 241 § 12; 1985 c

(2010 Ed.)

109 § 1; 1973 1st ex.s. c 132 § 12; 1971 ex.s. c 74 § 6; 1967 ex.s. c 74 § 10.]

Additional notes found at www.leg.wa.gov

46.70.085 Licenses—Staggered renewal. Notwithstanding any provision of law to the contrary, the director may extend or diminish licensing periods of dealers and manufacturers for the purpose of staggering renewal periods. The extension or diminishment shall be by rule of the department adopted in accordance with chapter 34.05 RCW. [1990 c 250 § 67; 1985 c 109 § 2.]

Additional notes found at www.leg.wa.gov

46.70.090 License plates—Use. (1) The department shall issue a vehicle dealer license plate which shall be attached to the rear of the vehicle only and which is capable of distinguishing the classification of the dealer, to vehicle dealers properly licensed pursuant to this chapter and shall, upon application, issue manufacturer's license plates to manufacturers properly licensed pursuant to this chapter.

(2) The department shall issue to a vehicle dealer up to three vehicle dealer license plates. After the third dealer plate is issued, the department shall limit the number of dealer plates to six percent of the vehicles sold during the preceding license period. For an original license the vehicle dealer license applicant shall estimate the first year's sales or leases. The director or director's designee may waive these dealer plate issuance restrictions for a vehicle dealer if the waiver both serves the purposes of this chapter and is essential to the continuation of the business. The director shall adopt rules to implement this waiver.

(3) Motor vehicle dealer license plates may be used:

(a) To demonstrate motor vehicles held for sale or lease when operated by an individual holding a valid operator's license, if a dated demonstration permit, valid for no more than seventy-two hours, is carried in the vehicle at all times it is operated by any such individual.

(b) On motor vehicles owned, held for sale or lease, and which are in fact available for sale or lease by the firm when operated by an officer of the corporation, partnership, or proprietorship or by their spouses, or by an employee of the firm, if a card so identifying any such individual is carried in the vehicle at all times it is operated by such individual. Any such vehicle so operated may be used to transport the dealer's own tools, parts, and equipment of a total weight not to exceed five hundred pounds.

(c) On motor vehicles being tested for repair.

(d) On motor vehicles being moved to or from a motor vehicle dealer's place of business for sale.

(e) On motor vehicles being moved to or from motor vehicle service and repair facilities before sale or lease.

(f) On motor vehicles being moved to or from motor vehicle exhibitions within the state of Washington, if any such exhibition does not exceed a period of twenty days.

(4) Mobile home and travel trailer dealer license plates may be used:

(a) On units hauled to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer.

(b) On mobile homes hauled to a customer's location for set-up after sale.

(c) On travel trailers held for sale to demonstrate the towing capability of the vehicle if a dated demonstration permit, valid for not more than seventy-two hours, is carried with the vehicle at all times.

(d) On mobile homes being hauled from a customer's location if the requirements of RCW 46.44.170 and 46.44.175 are met.

(e) On any motor vehicle owned by the dealer which is used only to move vehicles legally bearing mobile home and travel trailer dealer license plates of the dealer so owning any such motor vehicle.

(f) On vehicles being moved to or from vehicle exhibitions within the state of Washington, if any such exhibition does not exceed a period of twenty days.

(5) Miscellaneous vehicle dealer license plates may be used:

(a) To demonstrate any miscellaneous vehicle: PRO-VIDED, That:

(i) No such vehicle may be demonstrated on a public highway unless the customer has an appropriate endorsement on his or her driver's license, if such endorsement is required to operate such vehicle; and

(ii) A dated demonstration permit, valid for no more than seventy-two hours, is carried with the vehicle at all times it is operated by any such individual.

(b) On vehicles owned, held for sale, and which are in fact available for sale, by the firm when operated by an officer of the corporation, partnership, or proprietorship or by a bona fide full-time employee of the firm, if a card so identifying such individual is carried in the vehicle at all times it is operated by him or her.

(c) On vehicles being tested for repair.

(d) On vehicles being transported to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer.

(e) On vehicles on which any other item sold or to be sold by the dealer is transported from the place of business of the manufacturer to the place of business of the dealer or to and from places of business of the dealer if such vehicle and such item are purchased or sold as one package.

(6) Manufacturers properly licensed pursuant to this chapter may apply for and obtain manufacturer license plates and may be used:

(a) On vehicles being moved to or from the place of business of a manufacturer to a vehicle dealer within this state who is properly licensed pursuant to this chapter.

(b) To test vehicles for repair.

(7) Vehicle dealer license plates and manufacturer license plates shall not be used for any purpose other than set forth in this section and specifically shall not be:

(a) Used on any vehicle not within the class for which the vehicle dealer or manufacturer license plates are issued unless specifically provided for in this section.

(b) Loaned to any person for any reason not specifically provided for in this section.

(c) Used on any vehicles for the transportation of any person, produce, freight, or commodities unless specifically provided for in this section, except there shall be permitted the use of such vehicle dealer license plates on a vehicle

transporting commodities in the course of a demonstration over a period not to exceed seventy-two consecutive hours from the commencement of such demonstration, if a representative of the dealer is present and accompanies such vehicle during the course of the demonstration.

(d) Used on any vehicle sold to a resident of another state to transport such vehicle to that other state in lieu of a trip permit or in lieu of vehicle license plates obtained from that other state.

(e) Used on any new vehicle unless the vehicle dealer has provided the department a current service agreement with the manufacturer or distributor of that vehicle as provided in RCW 46.70.041(1)(k).

(8) In addition to or in lieu of any sanction imposed by the director pursuant to RCW 46.70.101 for unauthorized use of vehicle dealer license plates or manufacturer license plates, the director may order that any or all vehicle dealer license plates or manufacturer license plates issued pursuant to this chapter be confiscated for such period as the director deems appropriate. [2001 c 272 § 5; 1994 c 262 § 10; 1992 c 222 § 2; 1991 c 140 § 1; 1983 c 3 § 123; 1981 c 152 § 4; 1973 1st ex.s. c 132 § 13; 1971 ex.s. c 74 § 7; 1969 ex.s. c 63 § 3; 1961 c 12 § 46.70.090. Prior: 1955 c 283 § 1; 1951 c 150 § 10.]

46.70.101 Denial, suspension, or revocation of licenses—Grounds. (*Effective until July 1, 2011.*) The director may by order deny, suspend, or revoke the license of any vehicle dealer or vehicle manufacturer or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if the director finds that the order is in the public interest and that the applicant or licensee:

(1) In the case of a vehicle dealer:

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

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

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

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

(iv) Has knowingly, or with reason to know, provided the department with false information relating to the number

of vehicle sales transacted during the past one year in order to obtain a vehicle dealer license plate;

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

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

(vii) Sells, exchanges, offers, brokers, auctions, solicits, or advertises a new or current model vehicle to which a factory new vehicle warranty attaches and fails to have a valid, written service agreement as required by this chapter, or having such agreement refuses to honor the terms of such agreement within a reasonable time or repudiates the same, except for sales by wholesale motor vehicle auction dealers to franchise motor vehicle dealers of the same make licensed under Title 46 RCW or franchise motor vehicle dealers of the same make licensed by any other state;

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

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

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

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

(xii) Fails to have a current certificate or registration with the department of revenue.

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

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

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

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

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

(v) Has willfully failed to deliver to a purchaser or owner a certificate of ownership to a vehicle which he or she has sold or leased;

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

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

(viii) Has engaged in practices inimical to the health or safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction or safety of vehicles, except for sales by wholesale motor vehicle auction dealers to motor vehicle dealers

and vehicle wreckers licensed under Title 46 RCW or motor vehicle dealers licensed by any other state;

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

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

(xi) Has sold any vehicle with actual knowledge that:

(A) It has any of the following brands on the title: "SALVAGE/REBUILT," "JUNK," or "DESTROYED"; or

(B) It has been declared totaled out by an insurance carrier and then rebuilt; or

(C) The vehicle title contains the specific comment that the vehicle is "rebuilt";

without clearly disclosing that brand or comment in writing.

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

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

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

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

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

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

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

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

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

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

(i) Fails to maintain one or more resident employees or agents to provide service or repairs to vehicles located within the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured and which are or have been sold or distributed in this state or transferred into this state for resale or for lease unless such manufacturer

requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;

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

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

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

(m) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183. [2001 c 272 § 6; 1998 c 282 § 7; 1996 c 282 § 3; 1991 c 140 § 3; 1989 c 337 § 16; 1986 c 241 § 13; 1981 c 152 § 5; 1977 ex.s. c 125 § 3; 1973 1st ex.s. c 132 § 14; 1969 ex.s. c 63 § 4; 1967 ex.s. c 74 § 11.]

46.70.101 Denial, suspension, or revocation of licenses—Grounds. (Effective July 1, 2011.) The director may by order deny, suspend, or revoke the license of any vehicle dealer or vehicle manufacturer or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if the director finds that the order is in the public interest and that the applicant or licensee:

(1) In the case of a vehicle dealer:

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

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

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

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

(iv) Has knowingly, or with reason to know, provided the department with false information relating to the number of vehicle sales transacted during the past one year in order to obtain a vehicle dealer license plate;

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

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

(vii) Sells, exchanges, offers, brokers, auctions, solicits, or advertises a new or current model vehicle to which a factory new vehicle warranty attaches and fails to have a valid, written service agreement as required by this chapter, or having such agreement refuses to honor the terms of such agreement within a reasonable time or repudiates the same, except for sales by wholesale motor vehicle auction dealers to franchise motor vehicle dealers of the same make licensed under this title or franchise motor vehicle dealers of the same make licensed by any other state;

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

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

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

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

(xii) Fails to have a current certificate or registration with the department of revenue.

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

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

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

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

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

(v) Has willfully failed to deliver to a purchaser or owner a certificate of title to a vehicle which he or she has sold or leased;

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

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

(viii) Has engaged in practices inimical to the health and safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction or safety of vehicles, except for sales by wholesale motor vehicle auction dealers to motor vehicle dealers and vehicle wreckers licensed under this title or motor vehicle dealers licensed by any other state;

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

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

(xi) Has sold any vehicle with actual knowledge that:

(A) It has any of the following brands on the title: "SALVAGE/REBUILT," "JUNK," or "DESTROYED"; or

(B) It has been declared totaled out by an insurance carrier and then rebuilt; or

(C) The vehicle title contains the specific comment that the vehicle is "rebuilt"; without clearly disclosing that brand or comment in writing.

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

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

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

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

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

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

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

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

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

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

(i) Fails to maintain one or more resident employees or agents to provide service or repairs to vehicles located within the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured and which are or have been sold or distributed in this state or transferred into this state for resale or for lease unless such manufacturer requires warranty service to be performed by all of its dealers

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pursuant to a current service agreement on file with the department;

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

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

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

(m) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183. [2010 c 161 § 1132; 2001 c 272 § 6; 1998 c 282 § 7; 1996 c 282 § 3; 1991 c 140 § 3; 1989 c 337 § 16; 1986 c 241 § 13; 1981 c 152 § 5; 1977 ex.s. c 125 § 3; 1973 1st ex.s. c 132 § 14; 1969 ex.s. c 63 § 4; 1967 ex.s. c 74 § 11.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.70.102 Denial, suspension, or revocation of licenses—Notice, hearing, procedure. Upon the entry of the order under RCW 46.70.101 the director shall promptly notify the applicant or licensee that the order has been entered and of the reasons therefor and that if requested by the applicant or licensee within fifteen days after the receipt of the director's notification, the matter will be promptly set down for hearing pursuant to chapter 34.05 RCW. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, or his or her personal representative, after notice of and opportunity for hearing, may modify or vacate the order, or extend it until final determination. No final order may be entered under RCW 46.70.101 denying or revoking a license without appropriate prior notice to the applicant or licensee, opportunity for hearing, and written findings of fact and conclusions of law. [2010 c 8 § 9083; 1986 c 241 § 14; 1967 ex.s. c 74 § 12.]

46.70.111 Investigations or proceedings—Powers of director or designees—Penalty. For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by him or her may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

(1) In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court of competent jurisdiction

tion, upon application by the director, may issue to that person an order requiring him or her to appear before the director, or the officer designated by him or her, to produce documentary or other evidence touching the matter under investigation or in question. The failure to obey an order of the court may be punishable by contempt. [2010 c 8 § 9084; 1967 ex.s. c 74 § 15.]

46.70.115 Cease and desist orders—Penalty, "curbstoning" defined. (1) If it appears to the director that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter, or a rule adopted or an order issued under this chapter, the director may issue an order directing the person to cease and desist from continuing the act or practice. Reasonable notice of and opportunity for a hearing shall be given. The director may issue a temporary order pending a hearing. The temporary order shall remain in effect until ten days after the hearing is held and shall become final if the person to whom the notice is addressed does not request a hearing within fifteen days after receipt of the notice.

(2) The director may levy and collect a civil penalty, in an amount not to exceed one thousand dollars for each violation, against a person found by the director to be curbstoning, as that term is defined in subsection (3) of this section. A person against whom a civil penalty has been imposed must receive reasonable notice and an opportunity for a hearing on the issue. The civil penalty is due ten days after issuance of a final order.

(3) For the purposes of subsection (2) of this section, "curbstoning" means a person or firm engaged in buying and offering for sale, or buying and selling, five or more vehicles that are each less than thirty years old in a twelve-month period without holding a vehicle dealer license. For the purpose of subsections (1) and (2) of this section, "curbstoning" does not include the sale of equipment or vehicles used in farming as defined in RCW 46.04.183 and sold by a farmer as defined in RCW 46.04.182. [2000 c 131 § 1; 1986 c 241 § 15.]

Severability—2000 c 131: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2000 c 131 § 3.]

46.70.120 Record of transactions. A dealer shall complete and maintain for a period of at least five years a record of the purchase and sale or lease of all vehicles purchased, sold, or leased by him or her. The records shall consist of:

- (1) The license and title numbers of the state in which the last license was issued;
- (2) A description of the vehicle;
- (3) The name and address of the person from whom purchased;
- (4) The name of the legal owner, if any;
- (5) The name and address of the purchaser or lessee;
- (6) If purchased from a dealer, the name, business address, dealer license number, and resale tax number of the dealer;
- (7) The price paid for the vehicle and the method of payment;

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

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

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

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

(12) Any additional information the department may require. However, the department may not require a dealer to collect or retain the hardback copy of a temporary license permit after the permanent license plates for a vehicle have been provided to the purchaser or lessee, if the dealer maintains some other copy of the temporary license permit together with a log of the permits issued.

Such records shall be maintained separate from all other business records of the dealer. Records older than two years may be kept at a location other than the dealer's place of business if those records are made available in hard copy for inspection within three calendar days, exclusive of Saturday, Sunday, or a legal holiday, after a request by the director or the director's authorized agent. Records kept at the vehicle dealer's place of business must be available for inspection by the director or the director's authorized agent during normal business hours.

Dealers may maintain their recordkeeping and filing systems in accordance with their own particular business needs and practices. Nothing in this chapter requires dealers to maintain their records in any particular order or manner, as long as the records identified in this section are maintained in the dealership's recordkeeping system. [2001 c 272 § 7; 1996 c 282 § 4; 1990 c 238 § 7; 1986 c 241 § 16; 1973 1st ex.s. c 132 § 15; 1961 c 12 § 46.70.120. Prior: 1951 c 150 § 15.]

Odometer disclosure statement: RCW 46.12.124.

Additional notes found at www.leg.wa.gov

46.70.122 Duty when purchaser or transferee is a dealer. (Effective until July 1, 2011.) (1) If the purchaser or transferee is a dealer he or she shall, on selling, leasing, or otherwise disposing of the vehicle, promptly execute the assignment and warranty of title, in such form as the director shall prescribe.

(2) The assignment and warranty shall show any secured party holding a security interest created or reserved at the time of resale or lease, to which shall be attached the assigned certificates of ownership and license registration received by the dealer. The dealer shall mail or deliver them to the department with the transferee's application for the issuance of new certificates of ownership and license registration. The title certificate issued for a vehicle possessed by a dealer and subject to a security interest shall be delivered to the secured party who upon request of the dealer's transferee shall, unless the transfer was a breach of the security agreement, either deliver the certificate to the transferee for transmission to the department, or upon receipt from the transferee of the owner's bill of sale or sale document, the transferee's application for a new certificate and the required fee, mail or

deliver to the department. Failure of a dealer to deliver the title certificate to the secured party does not affect perfection of the security interest. [2001 c 272 § 8; 1990 c 238 § 5; 1975 c 25 § 11; 1972 ex.s. c 99 § 3; 1967 c 140 § 2; 1961 c 12 § 46.12.120. Prior: 1959 c 166 § 10; prior: 1947 c 164 § 4(c); 1937 c 188 § 6(c); Rem. Supp. 1947 § 6312-6(c). Formerly RCW 46.12.120.]

Definitions: RCW 46.12.005.

Additional notes found at www.leg.wa.gov

46.70.122 Duty when purchaser or transferee is a dealer. (*Effective July 1, 2011.*) (1) If the purchaser or transferee is a dealer he or she shall, on selling, leasing, or otherwise disposing of the vehicle, promptly execute the assignment and warranty of title, in such form as the director shall prescribe.

(2) The assignment and warranty shall show any secured party holding a security interest created or reserved at the time of resale or lease, to which shall be attached the assigned certificate of title and registration certificate received by the dealer. The dealer shall mail or deliver them to the department with the transferee's application for the issuance of new certificate of title and registration certificate. The certificate of title issued for a vehicle possessed by a dealer and subject to a security interest shall be delivered to the secured party who upon request of the dealer's transferee shall, unless the transfer was a breach of the security agreement, either deliver the certificate to the transferee for transmission to the department, or upon receipt from the transferee of the owner's bill of sale or sale document, the transferee's application for a new certificate and the required fee, mail or deliver to the department. Failure of a dealer to deliver the certificate of title to the secured party does not affect perfection of the security interest. [2010 c 161 § 1133; 2001 c 272 § 8; 1990 c 238 § 5; 1975 c 25 § 11; 1972 ex.s. c 99 § 3; 1967 c 140 § 2; 1961 c 12 § 46.12.120. Prior: 1959 c 166 § 10; prior: 1947 c 164 § 4(c); 1937 c 188 § 6(c); Rem. Supp. 1947 § 6312-6(c). Formerly RCW 46.12.120.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.70.124 Evidence of ownership for dealers' used vehicles—Consignments. (*Effective until July 1, 2011.*) Vehicle dealers shall possess a separate certificate of ownership or other evidence of ownership approved by the department for each used vehicle kept in the dealer's possession. Evidence of ownership shall be either in the name of the dealer or in the name of the dealer's immediate vendor properly assigned. In the case of consigned vehicles, the vehicle dealer may possess a completed consignment contract that includes a guaranteed title from the seller in lieu of the required certificate of ownership. [1994 c 262 § 11; 1990 c 250 § 29; 1961 c 12 § 46.12.140. Prior: 1959 c 166 § 12; prior: 1947 c 164 § 4(e); 1937 c 188 § 6(e); Rem. Supp. 1947 § 6312-6(e). Formerly RCW 46.12.140.]

Additional notes found at www.leg.wa.gov

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46.70.124 Evidence of ownership for dealers' used vehicles—Consignments. (*Effective July 1, 2011.*) A vehicle dealer shall possess a separate certificate of title or other evidence of ownership approved by the department for each used vehicle kept in the dealer's possession. Evidence of ownership shall be either in the name of the dealer or in the name of the dealer's immediate vendor properly assigned. In the case of consigned vehicles, the vehicle dealer may possess a completed consignment contract that includes a guaranteed title from the seller in lieu of the required certificate of title. [2010 c 161 § 1134; 1994 c 262 § 11; 1990 c 250 § 29; 1961 c 12 § 46.12.140. Prior: 1959 c 166 § 12; prior: 1947 c 164 § 4(e); 1937 c 188 § 6(e); Rem. Supp. 1947 § 6312-6(e). Formerly RCW 46.12.140.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.70.125 Used vehicles—Asking price, posting or disclosure. A vehicle dealer who sells used vehicles shall either display on the vehicle, or disclose upon request, the written asking price of a specific vehicle offered for sale by the dealer as of that time.

A violation of this section is an unfair business practice under chapter 19.86 RCW, the Consumer Protection Act, and the provisions of chapter 46.70 RCW. [1986 c 165 § 1.]

46.70.130 Details of charges must be furnished buyer or mortgagor. (1) Before the execution of a contract or chattel mortgage or the consummation of the sale or lease of any vehicle, the seller must furnish the buyer or lessee an itemization in writing signed by the seller separately disclosing to the buyer or lessee the finance charge, insurance costs, taxes, and other charges which are paid or to be paid by the buyer or lessee.

(2) Notwithstanding subsection (1) of this section, an itemization of the various license and title fees paid or to be paid by the buyer or lessee, which itemization must be the same as that disclosed on the registration/application for title document issued by the department, may be required only on the title application at the time the application is submitted for title transfer. A vehicle dealer may not be required to separately or individually itemize the license and title fees on any other document, including but not limited to the purchase order and lease agreement. No fee itemization may be required on the temporary permit. [2001 c 272 § 9; 1996 c 282 § 5; 1973 1st ex.s. c 132 § 16; 1961 c 12 § 46.70.130. Prior: 1951 c 150 § 16.]

46.70.132 Manufactured home sale—Implied warranty. (1) In addition to the requirements contained in RCW 46.70.135, each sale of a new manufactured home in this state is made with an implied warranty that the manufactured home conforms in all material aspects to applicable federal and state laws and regulations establishing standards of safety or quality, and with implied warranties of merchantability and fitness for a particular purpose as permanent housing in the climate of the state.

(2) The implied warranties contained in this section may not be waived, limited, or modified. Any provision that

attempts to waive, limit, or modify the implied warranties contained in this section is void and unenforceable. [1994 c 284 § 9.]

Additional notes found at www.leg.wa.gov

46.70.134 Manufactured home installation—Warranty, state installation code. Any dealer, manufacturer, or contractor who installs a manufactured home warrants that the manufactured home is installed in accordance with the state installation code, chapter 296-150B WAC. The warranty contained in this section may not be waived, limited, or modified. Any provision attempting to waive, limit, or modify the warranty contained in this section is void and unenforceable. This section does not apply when the manufactured home is installed by the purchaser of the home. [1994 c 284 § 10.]

Additional notes found at www.leg.wa.gov

46.70.135 Mobile homes—Warranties and inspections—Delivery—Occupancy—Advertising of dimensions. (*Effective until July 1, 2011.*) Mobile home manufacturers and mobile home dealers who sell mobile homes to be assembled on site and used as residences in this state shall conform to the following requirements:

(1) No new manufactured home may be sold unless the purchaser is provided with a manufacturer's written warranty for construction of the home in compliance with the Magnuson-Moss Warranty Act (88 Stat. 2183; 15 U.S.C. Sec. 47 et seq.; 15 U.S.C. Sec. 2301 et seq.).

(2) No new manufactured home may be sold unless the purchaser is provided with a dealer's written warranty for all installation services performed by the dealer.

(3) The warranties required by subsections (1) and (2) of this section shall be valid for a minimum of one year measured from the date of delivery and shall not be invalidated by resale by the original purchaser to a subsequent purchaser or by the certificate of ownership being eliminated or not issued as described in chapter 65.20 RCW. Copies of the warranties shall be given to the purchaser upon signing a purchase agreement and shall include an explanation of remedies available to the purchaser under state and federal law for breach of warranty, the name and address of the federal department of housing and urban development and the state departments of licensing and labor and industries, and a brief description of the duties of these agencies concerning mobile homes.

(4) Warranty service shall be completed within forty-five days after the owner gives written notice of the defect unless there is a bona fide dispute between the parties. Warranty service for a defect affecting health or safety shall be completed within seventy-two hours of receipt of written notice. Warranty service shall be performed on site and a written work order describing labor performed and parts used shall be completed and signed by the service agent and the owner. If the owner's signature cannot be obtained, the reasons shall be described on the work order. Work orders shall be retained by the dealer or manufacturer for a period of three years.

(5) Before delivery of possession of the home to the purchaser, an inspection shall be performed by the dealer or his

or her agent and by the purchaser or his or her agent which shall include a test of all systems of the home to insure proper operation, unless such systems test is delayed pursuant to this subsection. At the time of the inspection, the purchaser shall be given copies of all documents required by state or federal agencies to be supplied by the manufacturer with the home which have not previously been provided as required under subsection (3) of this section, and the dealer shall complete any required purchaser information card and forward the card to the manufacturer. A purchaser is deemed to have taken delivery of the manufactured home when all three of the following events have occurred: (a) The contractual obligations between the purchaser and the seller have been met; (b) the inspection of the home is completed; and (c) the systems test of the home has been completed subsequent to the installation of the home, or fifteen days has elapsed since the transport of the home to the site where it will be installed, whichever is earlier. Occupancy of the manufactured home shall only occur after the systems test has occurred and all required utility connections have been approved after inspection.

(6) Manufacturer and dealer advertising which states the dimensions of a home shall not include the length of the draw bar assembly in a listed dimension, and shall state the square footage of the actual floor area. [1994 c 284 § 11; 1989 c 343 § 22; 1981 c 304 § 36.]

Manufactured home installation and warranty service: RCW 43.22.440, 43.22.442.

Manufactured home safety and construction standards, inspections, etc.: RCW 43.22.431 through 43.22.434.

Additional notes found at www.leg.wa.gov

46.70.135 Mobile homes—Warranties and inspections—Delivery—Occupancy—Advertising of dimensions. (*Effective July 1, 2011.*) Mobile home manufacturers and mobile home dealers who sell mobile homes to be assembled on site and used as residences in this state shall conform to the following requirements:

(1) No new manufactured home may be sold unless the purchaser is provided with a manufacturer's written warranty for construction of the home in compliance with the Magnuson-Moss Warranty Act (88 Stat. 2183; 15 U.S.C. Sec. 47 et seq.; 15 U.S.C. Sec. 2301 et seq.).

(2) No new manufactured home may be sold unless the purchaser is provided with a dealer's written warranty for all installation services performed by the dealer.

(3) The warranties required by subsections (1) and (2) of this section shall be valid for a minimum of one year measured from the date of delivery and shall not be invalidated by resale by the original purchaser to a subsequent purchaser or by the certificate of title being eliminated or not issued as described in chapter 65.20 RCW. Copies of the warranties shall be given to the purchaser upon signing a purchase agreement and shall include an explanation of remedies available to the purchaser under state and federal law for breach of warranty, the name and address of the federal department of housing and urban development and the state departments of licensing and labor and industries, and a brief description of the duties of these agencies concerning mobile homes.

(4) Warranty service shall be completed within forty-five days after the owner gives written notice of the defect

unless there is a bona fide dispute between the parties. Warranty service for a defect affecting health or safety shall be completed within seventy-two hours of receipt of written notice. Warranty service shall be performed on site and a written work order describing labor performed and parts used shall be completed and signed by the service agent and the owner. If the owner's signature cannot be obtained, the reasons shall be described on the work order. Work orders shall be retained by the dealer or manufacturer for a period of three years.

(5) Before delivery of possession of the home to the purchaser, an inspection shall be performed by the dealer or his or her agent and by the purchaser or his or her agent which shall include a test of all systems of the home to insure proper operation, unless such systems test is delayed pursuant to this subsection. At the time of the inspection, the purchaser shall be given copies of all documents required by state or federal agencies to be supplied by the manufacturer with the home which have not previously been provided as required under subsection (3) of this section, and the dealer shall complete any required purchaser information card and forward the card to the manufacturer. A purchaser is deemed to have taken delivery of the manufactured home when all three of the following events have occurred: (a) The contractual obligations between the purchaser and the seller have been met; (b) the inspection of the home is completed; and (c) the systems test of the home has been completed subsequent to the installation of the home, or fifteen days has elapsed since the transport of the home to the site where it will be installed, whichever is earlier. Occupancy of the manufactured home shall only occur after the systems test has occurred and all required utility connections have been approved after inspection.

(6) Manufacturer and dealer advertising which states the dimensions of a home shall not include the length of the draw bar assembly in a listed dimension, and shall state the square footage of the actual floor area. [2010 c 161 § 1135; 1994 c 284 § 11; 1989 c 343 § 22; 1981 c 304 § 36.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Manufactured home installation and warranty service: RCW 43.22.440, 43.22.442.

Manufactured home safety and construction standards, inspections, etc.: RCW 43.22.431 through 43.22.434.

Additional notes found at www.leg.wa.gov

46.70.137 Violations relating to mobile/manufactured homes. See RCW 18.27.117.

46.70.140 Handling "hot" vehicles—Unreported motor "switches"—Unauthorized use of dealer plates—Penalty. Any vehicle dealer who knowingly or with reason to know, buys or receives, sells or disposes of, conceals or has in the dealer's possession, any vehicle from which the motor or serial number has been removed, defaced, covered, altered, or destroyed, or any dealer, who removes from or installs in any motor vehicle registered with the department by motor block number, a new or used motor block without immediately notifying the department of such fact upon a form provided by the department, or any vehicle dealer who loans or permits the use of vehicle dealer license plates by

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any person not entitled to the use thereof, is guilty of a gross misdemeanor. [1993 c 307 § 9; 1973 1st ex.s. c 132 § 17; 1971 ex.s. c 74 § 8; 1967 c 32 § 79; 1961 c 12 § 46.70.140. Prior: 1951 c 150 § 11.]

46.70.160 Rules and regulations. The director may make any reasonable rules and regulations not inconsistent with the provisions of chapter 46.70 RCW relating to the enforcement and proper operation thereof. [1961 c 12 § 46.70.160. Prior: 1959 c 166 § 21.]

46.70.170 Penalty for violations. It is a misdemeanor for any person to violate any of the provisions of this chapter, except where expressly provided otherwise, and the rules adopted as provided under this chapter. [1986 c 241 § 17; 1965 c 68 § 5.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

46.70.180 Unlawful acts and practices. (Effective until July 1, 2011.) Each of the following acts or practices is unlawful:

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

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

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

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

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

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

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

(ii) However, an amount not to exceed the applicable amount provided in (iii)(A) and (B) of this subsection (2)(a) per vehicle sale or lease may be charged by a dealer to recover administrative costs for collecting motor vehicle

excise taxes, licensing and registration fees and other agency fees, verifying and clearing titles, transferring titles, perfecting, releasing, or satisfying liens or other security interests, and other administrative and documentary services rendered by a dealer in connection with the sale or lease of a vehicle and in carrying out the requirements of this chapter or any other provisions of state law.

(iii) A dealer may charge under (a)(ii) of this subsection:

(A) As of July 26, 2009, through June 30, 2014, an amount not to exceed one hundred fifty dollars; and

(B) As of July 1, 2014, an amount not to exceed fifty dollars.

(b) A dealer may charge the documentary service fee in (a) of this subsection under the following conditions:

(i) The documentary service fee is disclosed in writing to a prospective purchaser or lessee before the execution of a purchase and sale or lease agreement;

(ii) The dealer discloses to the purchaser or lessee in writing that the documentary service fee is a negotiable fee. The disclosure must be written in a typeface that is at least as large as the typeface used in the standard text of the document that contains the disclosure and that is bold faced, capitalized, underlined, or otherwise set out from the surrounding material so as to be conspicuous. The dealer shall not represent to the purchaser or lessee that the fee or charge is required by the state to be paid by either the dealer or prospective purchaser or lessee;

(iii) The documentary service fee is separately designated from the selling price or capitalized cost of the vehicle and from any other taxes, fees, or charges; and

(iv) Dealers disclose in any advertisement that a documentary service fee in an amount provided in (iv)(A) and (B) of this subsection (2)(b) may be added to the sale price or the capitalized cost:

(A) As of July 26, 2009, through June 30, 2014, an amount up to one hundred fifty dollars; and

(B) As of July 1, 2014, an amount up to fifty dollars.

For the purposes of this subsection (2), the term "documentary service fee" means the optional amount charged by a dealer to provide the services specified in (a) of this subsection.

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

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Entering into a written contract, written purchase order or agreement, retail installment sales agreement, note and security agreement, or written lease agreement, hereinafter collectively referred to as contract or lease, signed by the prospective buyer or lessee of a vehicle, which:

(a) Is subject to any conditions or the dealer's or his or her authorized representative's future acceptance, and the dealer fails or refuses within four calendar days, exclusive of Saturday, Sunday, or legal holiday, and prior to any further

negotiations with said buyer or lessee to inform the buyer or lessee either: (i) That the dealer unconditionally accepts the contract or lease, having satisfied, removed, or waived all conditions to acceptance or performance, including, but not limited to, financing, assignment, or lease approval; or (ii) that the dealer rejects the contract or lease, thereby automatically voiding the contract or lease, as long as such voiding does not negate commercially reasonable contract or lease provisions pertaining to the return of the subject vehicle and any physical damage, excessive mileage after the demand for return of the vehicle, and attorneys' fees authorized by law, and tenders the refund of any initial payment or security made or given by the buyer or lessee, including, but not limited to, any down payment, and tenders return of the trade-in vehicle, key, other trade-in, or certificate of title to a trade-in. Tender may be conditioned on return of the subject vehicle if previously delivered to the buyer or lessee.

The provisions of this subsection (4)(a) do not impair, prejudice, or abrogate the rights of a dealer to assert a claim against the buyer or lessee for misrepresentation or breach of contract and to exercise all remedies available at law or in equity, including those under chapter 62A.9A RCW, if the dealer, bank, or other lender or leasing company discovers that approval of the contract or financing or approval of the lease was based upon material misrepresentations made by the buyer or lessee, including, but not limited to, misrepresentations regarding income, employment, or debt of the buyer or lessee, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation. A dealer shall not be in violation of this subsection (4)(a) if the buyer or lessee made a material misrepresentation to the dealer, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation.

When a dealer informs a buyer or lessee under this subsection (4)(a) regarding the unconditional acceptance or rejection of the contract, lease, or financing by an electronic mail message, the dealer must also transmit the communication by any additional means;

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer or lessee as part of the purchase price or lease, for any reason except:

(i) Failure to disclose that the vehicle's certificate of ownership has been branded for any reason, including, but not limited to, status as a rebuilt vehicle as provided in RCW 46.12.050 and 46.12.075; or

(ii) Substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

(iii) Excessive additional miles or a discrepancy in the mileage. "Excessive additional miles" means the addition of five hundred miles or more, as reflected on the vehicle's odometer, between the time the vehicle was first valued by the dealer for purposes of determining its trade-in value and the time of actual delivery of the vehicle to the dealer. "A discrepancy in the mileage" means (A) a discrepancy between the mileage reflected on the vehicle's odometer and

the stated mileage on the signed odometer statement; or (B) a discrepancy between the mileage stated on the signed odometer statement and the actual mileage on the vehicle; or

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

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

(6) For any vehicle dealer or vehicle salesperson to refuse to furnish, upon request of a prospective purchaser or lessee, for vehicles previously registered to a business or governmental entity, the name and address of the business or governmental entity.

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

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such permit on any one vehicle. However, a dealer may issue a second temporary permit on a vehicle if the following conditions are met:

(a) The lienholder fails to deliver the vehicle title to the dealer within the required time period;

(b) The dealer has satisfied the lien; and

(c) The dealer has proof that payment of the lien was made within two calendar days, exclusive of Saturday, Sunday, or a legal holiday, after the sales contract has been executed by all parties and all conditions and contingencies in the sales contract have been met or otherwise satisfied.

(9) For a dealer, salesperson, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser or lessee prior to the delivery of the bargained-for vehicle, to commingle the "on deposit" funds with assets of the dealer, salesperson, or mobile home manufacturer instead of holding the "on deposit" funds as trustee in a separate trust account until the purchaser or lessee has taken delivery of the bargained-for vehicle. Delivery of a manufactured home shall be deemed to occur in accordance with RCW 46.70.135(5). Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate trust account which equals his or her customary total customer deposits for vehicles for future delivery. For purposes of this section, "on deposit" funds received from a purchaser of a manufactured home means those funds that a seller requires a purchaser to advance before ordering the manufactured home, but does not include any loan proceeds or moneys that might have been paid on an installment contract.

(10) For a dealer or manufacturer to fail to comply with the obligations of any written warranty or guarantee given by the dealer or manufacturer requiring the furnishing of goods and services or repairs within a reasonable period of time, or to fail to furnish to a purchaser or lessee, all parts which attach to the manufactured unit including but not limited to

the undercarriage, and all items specified in the terms of a sales or lease agreement signed by the seller and buyer or lessee.

(11) For a vehicle dealer to pay to or receive from any person, firm, partnership, association, or corporation acting, either directly or through a subsidiary, as a buyer's agent for consumers, any compensation, fee, purchase moneys or funds that have been deposited into or withdrawn out of any account controlled or used by any buyer's agent, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle.

(12) For a buyer's agent, acting directly or through a subsidiary, to pay to or to receive from any motor vehicle dealer any compensation, fee, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle. In addition, it is unlawful for any buyer's agent to engage in any of the following acts on behalf of or in the name of the consumer:

(a) Receiving or paying any purchase moneys or funds into or out of any account controlled or used by any buyer's agent;

(b) Signing any vehicle purchase orders, sales contracts, leases, odometer statements, or title documents, or having the name of the buyer's agent appear on the vehicle purchase order, sales contract, lease, or title; or

(c) Signing any other documentation relating to the purchase, sale, lease, or transfer of any new motor vehicle.

It is unlawful for a buyer's agent to use a power of attorney obtained from the consumer to accomplish or effect the purchase, sale, lease, or transfer of ownership documents of any new motor vehicle by any means which would otherwise be prohibited under (a) through (c) of this subsection. However, the buyer's agent may use a power of attorney for physical delivery of motor vehicle license plates to the consumer.

Further, it is unlawful for a buyer's agent to engage in any false, deceptive, or misleading advertising, disseminated in any manner whatsoever, including but not limited to making any claim or statement that the buyer's agent offers, obtains, or guarantees the lowest price on any motor vehicle or words to similar effect.

(13) For a buyer's agent to arrange for or to negotiate the purchase, or both, of a new motor vehicle through an out-of-state dealer without disclosing in writing to the customer that the new vehicle would not be subject to chapter 19.118 RCW. This subsection also applies to leased vehicles. In addition, it is unlawful for any buyer's agent to fail to have a written agreement with the customer that: (a) Sets forth the terms of the parties' agreement; (b) discloses to the customer the total amount of any fees or other compensation being paid by the customer to the buyer's agent for the agent's services; and (c) further discloses whether the fee or any portion of the fee is refundable.

(14) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.93 RCW, to:

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

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

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

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

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

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

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and subsection (14)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW.

(15) Unlawful transfer of an ownership interest in a motor vehicle as defined in RCW 19.116.050.

(16) To knowingly and intentionally engage in collusion with a registered owner of a vehicle to repossess and return or resell the vehicle to the registered owner in an attempt to

avoid a suspended license impound under chapter 46.55 RCW. However, compliance with chapter 62A.9A RCW in repossessing, selling, leasing, or otherwise disposing of the vehicle, including providing redemption rights to the debtor, is not a violation of this section.

(17)(a) For a dealer to enter into a new motor vehicle sales contract without disclosing in writing to a buyer of the new motor vehicle, or to a dealer in the case of an unregistered motor vehicle, any known damage and repair to the new motor vehicle if the damage exceeds five percent of the manufacturer's suggested retail price as calculated at the dealer's authorized warranty rate for labor and parts, or one thousand dollars, whichever amount is greater. A manufacturer or new motor vehicle dealer is not required to disclose to a dealer or buyer that glass, tires, bumpers, or cosmetic parts of a new motor vehicle were damaged at any time if the damaged item has been replaced with original or comparable equipment. A replaced part is not part of the cumulative damage required to be disclosed under this subsection.

(b) A manufacturer is required to provide the same disclosure to a dealer of any known damage or repair as required in (a) of this subsection.

(c) If disclosure of any known damage or repair is not required under this section, a buyer may not revoke or rescind a sales contract due to the fact that the new motor vehicle was damaged and repaired before completion of the sale.

(d) As used in this section:

(i) "Cosmetic parts" means parts that are attached by and can be replaced in total through the use of screws, bolts, or other fasteners without the use of welding or thermal cutting, and includes windshields, bumpers, hoods, or trim panels.

(ii) "Manufacturer's suggested retail price" means the retail price of the new motor vehicle suggested by the manufacturer, and includes the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment physically attached to the new motor vehicle at the time of delivery to the new motor vehicle dealer that is not included within the retail price suggested by the manufacturer for the new motor vehicle. [2009 c 123 § 1; 2009 c 49 § 1; 2007 c 155 § 2; 2006 c 289 § 1; 2003 c 368 § 1. Prior: 2001 c 272 § 10; 2001 c 64 § 9; 1999 c 398 § 10; 1997 c 153 § 1; 1996 c 194 § 3; 1995 c 256 § 26; 1994 c 284 § 13; 1993 c 175 § 3; 1990 c 44 § 14; 1989 c 415 § 20; 1986 c 241 § 18; 1985 c 472 § 13; 1981 c 152 § 6; 1977 ex.s. c 125 § 4; 1973 1st ex.s. c 132 § 18; 1969 c 112 § 1; 1967 ex.s. c 74 § 16.]

Reviser's note: This section was amended by 2009 c 49 § 1 and by 2009 c 123 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2007 c 155: See note following RCW 46.16.045.

Prospective application—2006 c 289: "This act applies prospectively only and not retroactively. It applies only to causes of action that arise (if change is substantive) or that are commenced (if change is procedural) on or after June 7, 2006." [2006 c 289 § 2.]

Certificate of ownership—Failure to transfer within specified time: RCW 46.12.101.

Glass—Limited windows—Vehicle sale requirements: RCW 46.37.430.

Odometers—Disconnecting, resetting, turning back, replacing without notifying purchaser: RCW 46.37.540 through 46.37.570.

Tires—Vehicle sale requirements: RCW 46.37.425.

Additional notes found at www.leg.wa.gov

46.70.180 Unlawful acts and practices. (*Effective July 1, 2011.*) Each of the following acts or practices is unlawful:

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

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

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

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

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

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

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

(ii) However, an amount not to exceed the applicable amount provided in (iii)(A) and (B) of this subsection (2)(a) per vehicle sale or lease may be charged by a dealer to recover administrative costs for collecting motor vehicle excise taxes, licensing and registration fees and other agency fees, verifying and clearing titles, transferring titles, perfecting, releasing, or satisfying liens or other security interests, and other administrative and documentary services rendered by a dealer in connection with the sale or lease of a vehicle and in carrying out the requirements of this chapter or any other provisions of state law.

(iii) A dealer may charge under (a)(ii) of this subsection:

(A) As of July 26, 2009, through June 30, 2014, an amount not to exceed one hundred fifty dollars; and

(B) As of July 1, 2014, an amount not to exceed fifty dollars.

(b) A dealer may charge the documentary service fee in (a) of this subsection under the following conditions:

(i) The documentary service fee is disclosed in writing to a prospective purchaser or lessee before the execution of a purchase and sale or lease agreement;

(ii) The dealer discloses to the purchaser or lessee in writing that the documentary service fee is a negotiable fee. The disclosure must be written in a typeface that is at least as

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large as the typeface used in the standard text of the document that contains the disclosure and that is bold faced, capitalized, underlined, or otherwise set out from the surrounding material so as to be conspicuous. The dealer shall not represent to the purchaser or lessee that the fee or charge is required by the state to be paid by either the dealer or prospective purchaser or lessee;

(iii) The documentary service fee is separately designated from the selling price or capitalized cost of the vehicle and from any other taxes, fees, or charges; and

(iv) Dealers disclose in any advertisement that a documentary service fee in an amount provided in (iv)(A) and (B) of this subsection (2)(b) may be added to the sale price or the capitalized cost:

(A) As of July 26, 2009, through June 30, 2014, an amount up to one hundred fifty dollars; and

(B) As of July 1, 2014, an amount up to fifty dollars.

For the purposes of this subsection (2), the term "documentary service fee" means the optional amount charged by a dealer to provide the services specified in (a) of this subsection.

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

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Entering into a written contract, written purchase order or agreement, retail installment sales agreement, note and security agreement, or written lease agreement, hereinafter collectively referred to as contract or lease, signed by the prospective buyer or lessee of a vehicle, which:

(a) Is subject to any conditions or the dealer's or his or her authorized representative's future acceptance, and the dealer fails or refuses within four calendar days, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer or lessee to inform the buyer or lessee either: (i) That the dealer unconditionally accepts the contract or lease, having satisfied, removed, or waived all conditions to acceptance or performance, including, but not limited to, financing, assignment, or lease approval; or (ii) that the dealer rejects the contract or lease, thereby automatically voiding the contract or lease, as long as such voiding does not negate commercially reasonable contract or lease provisions pertaining to the return of the subject vehicle and any physical damage, excessive mileage after the demand for return of the vehicle, and attorneys' fees authorized by law, and tenders the refund of any initial payment or security made or given by the buyer or lessee, including, but not limited to, any down payment, and tenders return of the trade-in vehicle, key, other trade-in, or certificate of title to a trade-in. Tender may be conditioned on return of the subject vehicle if previously delivered to the buyer or lessee.

The provisions of this subsection (4)(a) do not impair, prejudice, or abrogate the rights of a dealer to assert a claim against the buyer or lessee for misrepresentation or breach of

contract and to exercise all remedies available at law or in equity, including those under chapter 62A.9A RCW, if the dealer, bank, or other lender or leasing company discovers that approval of the contract or financing or approval of the lease was based upon material misrepresentations made by the buyer or lessee, including, but not limited to, misrepresentations regarding income, employment, or debt of the buyer or lessee, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation. A dealer shall not be in violation of this subsection (4)(a) if the buyer or lessee made a material misrepresentation to the dealer, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation.

When a dealer informs a buyer or lessee under this subsection (4)(a) regarding the unconditional acceptance or rejection of the contract, lease, or financing by an electronic mail message, the dealer must also transmit the communication by any additional means;

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer or lessee as part of the purchase price or lease, for any reason except:

(i) Failure to disclose that the vehicle's certificate of title has been branded for any reason, including, but not limited to, status as a rebuilt vehicle as provided in RCW 46.12.540 and 46.12.560; or

(ii) Substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

(iii) Excessive additional miles or a discrepancy in the mileage. "Excessive additional miles" means the addition of five hundred miles or more, as reflected on the vehicle's odometer, between the time the vehicle was first valued by the dealer for purposes of determining its trade-in value and the time of actual delivery of the vehicle to the dealer. "A discrepancy in the mileage" means (A) a discrepancy between the mileage reflected on the vehicle's odometer and the stated mileage on the signed odometer statement; or (B) a discrepancy between the mileage stated on the signed odometer statement and the actual mileage on the vehicle; or

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

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

(6) For any vehicle dealer or vehicle salesperson to refuse to furnish, upon request of a prospective purchaser or lessee, for vehicles previously registered to a business or governmental entity, the name and address of the business or governmental entity.

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

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

than one such permit on any one vehicle. However, a dealer may issue a second temporary permit on a vehicle if the following conditions are met:

(a) The lienholder fails to deliver the vehicle title to the dealer within the required time period;

(b) The dealer has satisfied the lien; and

(c) The dealer has proof that payment of the lien was made within two calendar days, exclusive of Saturday, Sunday, or a legal holiday, after the sales contract has been executed by all parties and all conditions and contingencies in the sales contract have been met or otherwise satisfied.

(9) For a dealer, salesperson, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser or lessee prior to the delivery of the bargained-for vehicle, to commingle the "on deposit" funds with assets of the dealer, salesperson, or mobile home manufacturer instead of holding the "on deposit" funds as trustee in a separate trust account until the purchaser or lessee has taken delivery of the bargained-for vehicle. Delivery of a manufactured home shall be deemed to occur in accordance with RCW 46.70.135(5). Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate trust account which equals his or her customary total customer deposits for vehicles for future delivery. For purposes of this section, "on deposit" funds received from a purchaser of a manufactured home means those funds that a seller requires a purchaser to advance before ordering the manufactured home, but does not include any loan proceeds or moneys that might have been paid on an installment contract.

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

(11) For a vehicle dealer to pay to or receive from any person, firm, partnership, association, or corporation acting, either directly or through a subsidiary, as a buyer's agent for consumers, any compensation, fee, purchase moneys or funds that have been deposited into or withdrawn out of any account controlled or used by any buyer's agent, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle.

(12) For a buyer's agent, acting directly or through a subsidiary, to pay to or to receive from any motor vehicle dealer any compensation, fee, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle. In addition, it is unlawful for any buyer's agent to engage in any of the following acts on behalf of or in the name of the consumer:

(a) Receiving or paying any purchase moneys or funds into or out of any account controlled or used by any buyer's agent;

(b) Signing any vehicle purchase orders, sales contracts, leases, odometer statements, or title documents, or having the name of the buyer's agent appear on the vehicle purchase order, sales contract, lease, or title; or

(c) Signing any other documentation relating to the purchase, sale, lease, or transfer of any new motor vehicle.

It is unlawful for a buyer's agent to use a power of attorney obtained from the consumer to accomplish or effect the purchase, sale, lease, or transfer of ownership documents of any new motor vehicle by any means which would otherwise be prohibited under (a) through (c) of this subsection. However, the buyer's agent may use a power of attorney for physical delivery of motor vehicle license plates to the consumer.

Further, it is unlawful for a buyer's agent to engage in any false, deceptive, or misleading advertising, disseminated in any manner whatsoever, including but not limited to making any claim or statement that the buyer's agent offers, obtains, or guarantees the lowest price on any motor vehicle or words to similar effect.

(13) For a buyer's agent to arrange for or to negotiate the purchase, or both, of a new motor vehicle through an out-of-state dealer without disclosing in writing to the customer that the new vehicle would not be subject to chapter 19.118 RCW. This subsection also applies to leased vehicles. In addition, it is unlawful for any buyer's agent to fail to have a written agreement with the customer that: (a) Sets forth the terms of the parties' agreement; (b) discloses to the customer the total amount of any fees or other compensation being paid by the customer to the buyer's agent for the agent's services; and (c) further discloses whether the fee or any portion of the fee is refundable.

(14) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.93 RCW, to:

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

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

(2010 Ed.)

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

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

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

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

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and subsection (14)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW.

(15) Unlawful transfer of an ownership interest in a motor vehicle as defined in RCW 19.116.050.

(16) To knowingly and intentionally engage in collusion with a registered owner of a vehicle to repossess and return or resell the vehicle to the registered owner in an attempt to avoid a suspended license impound under chapter 46.55 RCW. However, compliance with chapter 62A.9A RCW in repossessing, selling, leasing, or otherwise disposing of the vehicle, including providing redemption rights to the debtor, is not a violation of this section.

(17)(a) For a dealer to enter into a new motor vehicle sales contract without disclosing in writing to a buyer of the new motor vehicle, or to a dealer in the case of an unregistered motor vehicle, any known damage and repair to the new motor vehicle if the damage exceeds five percent of the manufacturer's suggested retail price as calculated at the dealer's authorized warranty rate for labor and parts, or one thousand dollars, whichever amount is greater. A manufacturer or new motor vehicle dealer is not required to disclose to a dealer or buyer that glass, tires, bumpers, or cosmetic parts of a new motor vehicle were damaged at any time if the damaged item has been replaced with original or comparable equipment. A replaced part is not part of the cumulative damage required to be disclosed under this subsection.

(b) A manufacturer is required to provide the same disclosure to a dealer of any known damage or repair as required in (a) of this subsection.

(c) If disclosure of any known damage or repair is not required under this section, a buyer may not revoke or rescind a sales contract due to the fact that the new motor vehicle was damaged and repaired before completion of the sale.

(d) As used in this section:

(i) "Cosmetic parts" means parts that are attached by and can be replaced in total through the use of screws, bolts, or other fasteners without the use of welding or thermal cutting, and includes windshields, bumpers, hoods, or trim panels.

(ii) "Manufacturer's suggested retail price" means the retail price of the new motor vehicle suggested by the manufacturer, and includes the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment physically attached to the new motor vehicle at the time of delivery to the new motor vehicle dealer that is not included within the retail price suggested by the manufacturer for the new motor vehicle. [2010 c 161 § 1136. Prior: 2009 c 123 § 1; 2009 c 49 § 1; 2007 c 155 § 2; 2006 c 289 § 1; 2003 c 368 § 1; prior: 2001 c 272 § 10; 2001 c 64 § 9; 1999 c 398 § 10; 1997 c 153 § 1; 1996 c 194 § 3; 1995 c 256 § 26; 1994 c 284 § 13; 1993 c 175 § 3; 1990 c 44 § 14; 1989 c 415 § 20; 1986 c 241 § 18; 1985 c 472 § 13; 1981 c 152 § 6; 1977 ex.s. c 125 § 4; 1973 1st ex.s. c 132 § 18; 1969 c 112 § 1; 1967 ex.s. c 74 § 16.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Effective date—2007 c 155: See note following RCW 46.16A.300.

Prospective application—2006 c 289: "This act applies prospectively only and not retroactively. It applies only to causes of action that arise (if change is substantive) or that are commenced (if change is procedural) on or after June 7, 2006." [2006 c 289 § 2.]

Certificate of title—Failure to transfer within specified time: RCW 46.12.650.

Glass—Limited windows—Vehicle sale requirements: RCW 46.37.430.

Odometers—Disconnecting, resetting, turning back, replacing without notifying purchaser: RCW 46.37.540 through 46.37.570.

Tires—Vehicle sale requirements: RCW 46.37.425.

Additional notes found at www.leg.wa.gov

46.70.183 Notice of bankruptcy proceedings. Any vehicle dealer or manufacturer, by or against whom a petition in bankruptcy has been filed, shall, within ten days of the filing, notify the department of the proceedings in bankruptcy, including the identity and location of the court in which the proceedings are pending. [1981 c 152 § 7.]

46.70.190 Civil actions for violations—Injunctions—Claims under Federal Automobile Dealer Franchise Act—Time limitation. Any person who is injured in his or her business or property by a violation of this chapter, or any person so injured because he or she refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of this chapter, may bring a civil action in the superior court to enjoin further violations, to recover the actual damages sustained by him or her together with the costs of the suit, including a reasonable attorney's fee.

[Title 46 RCW—page 420]

If a new motor vehicle dealer recovers a judgment or has a claim dismissed with prejudice against a manufacturer under RCW 46.96.040 or 46.96.050(3) or this section, the new motor vehicle dealer is precluded from pursuing that same claim or recovering judgment for that same claim against the same manufacturer under the federal Automobile Dealer Franchise Act, 15 U.S.C. Sections 1221 through 1225, but only to the extent that the damages recovered by or denied to the new motor vehicle dealer are the same as the damages being sought under the federal Automobile Dealer Franchise Act. Likewise, if a new motor vehicle dealer recovers a judgment or has a claim dismissed with prejudice against a manufacturer under the federal Automobile Dealer Franchise Act, the dealer is precluded from pursuing that same claim or recovering judgment for that same claim against the same manufacturer under this chapter, but only to the extent that the damages recovered by or denied to the dealer are the same as the damages being sought under this chapter.

A civil action brought in the superior court pursuant to the provisions of this section must be filed no later than one year following the alleged violation of this chapter. [2010 c 8 § 9085; 1989 c 415 § 21; 1986 c 241 § 19; 1973 1st ex.s. c 132 § 19; 1967 ex.s. c 74 § 21.]

Additional notes found at www.leg.wa.gov

46.70.220 Duties of attorney general and prosecuting attorneys to act on violations—Limitation of civil actions. The director may refer such evidence as may be available concerning violations of this chapter or of any rule or order hereunder to the attorney general or the proper prosecuting attorney, who may in his or her discretion, with or without such a reference, in addition to any other action they might commence, bring an action in the name of the state against any person to restrain and prevent the doing of any act or practice herein prohibited or declared unlawful: PROVIDED, That this chapter shall be considered in conjunction with chapters 9.04, 19.86, and 63.14 RCW and the powers and duties of the attorney general and the prosecuting attorney as they may appear in the aforementioned chapters, shall apply against all persons subject to this chapter: PROVIDED FURTHER, That any action to enforce a claim for civil damages under chapter 19.86 RCW shall be forever barred unless commenced within six years after the cause of action accrues. [2010 c 8 § 9086; 1967 ex.s. c 74 § 19.]

46.70.230 Duties of attorney general and prosecuting attorneys to act on violations—Assurance of compliance—Filing. In the enforcement of this chapter, the attorney general and/or any said prosecuting attorney may accept an assurance of compliance with the provisions of this chapter from any person deemed in violation hereof. Any such assurance shall be in writing and be filed with and subject to the approval of the superior court of the county in which the alleged violator resides or has his or her principal place of business, or in Thurston county. [2010 c 8 § 9087; 1967 ex.s. c 74 § 20.]

46.70.240 Penalties—Jurisdiction. Any person who violates the terms of any court order, or temporary or perma-

ment injunction issued pursuant to this chapter, shall forfeit and pay a civil penalty of not more than twenty-five thousand dollars. For the purpose of this section the superior court issuing any injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general and/or the prosecuting attorney acting in the name of the state, or any person who pursuant to RCW 46.70.190 has secured the injunction violated, may petition for the recovery of civil penalties. [1967 ex.s. c 74 § 22.]

46.70.250 Personal service of process outside state.

Personal service of any process in an action under this chapter may be made upon any person outside the state if such person has engaged in conduct in violation of this chapter which has had the impact in this state which this chapter repehends. Such person shall be deemed to have thereby submitted himself or herself to the jurisdiction of the courts of this state within the meaning of RCW 4.28.180 and 4.28.185. [2010 c 8 § 9088; 1967 ex.s. c 74 § 23.]

46.70.260 Application of chapter to existing and future franchises and contracts. The provisions of this chapter shall be applicable to all franchises and contracts existing between vehicle dealers and manufacturers or factory branches and to all future franchises and contracts. [1986 c 241 § 22; 1967 ex.s. c 74 § 24.]

46.70.270 Provisions of chapter cumulative—Violation of RCW 46.70.180 deemed civil. The provisions of this chapter shall be cumulative to existing laws: PROVIDED, That the violation of RCW 46.70.180 shall be construed as exclusively civil and not penal in nature. [1967 ex.s. c 74 § 25.]

46.70.290 Mobile homes and persons engaged in distribution and sale. The provisions of chapter 46.70 RCW shall apply to the distribution and sale of mobile homes and to mobile home dealers, distributors, manufacturers, factory representatives, or other persons engaged in such distribution and sale to the same extent as for motor vehicles. [1993 c 307 § 10; 1971 ex.s. c 231 § 23.]

Additional notes found at www.leg.wa.gov

46.70.300 Chapter exclusive—Local business and occupation tax not prevented. (1) The provisions of this chapter relating to the licensing and regulation of vehicle dealers and manufacturers shall be exclusive, and no county, city, or other political subdivision of this state shall enact any laws, rules, or regulations licensing or regulating vehicle dealers or manufacturers.

(2) This section shall not be construed to prevent a political subdivision of this state from levying a business and occupation tax upon vehicle dealers or manufacturers maintaining an office within that political subdivision if a business and occupation tax is levied by such a political subdivision upon other types of businesses within its boundaries. [1993 c 307 § 11; 1981 c 152 § 2.]

(2010 Ed.)

46.70.310 Consumer Protection Act. Any violation of this chapter is deemed to affect the public interest and constitutes a violation of chapter 19.86 RCW. [1986 c 241 § 23.]

46.70.320 Buyer's agents. The regulation of buyers' agents is a matter affecting the public interest for the purpose of applying chapter 19.86 RCW. Activities of buyers' agents prohibited under RCW 46.70.180 (11), (12), or (13) are not reasonable in relation to the development and preservation of business. A violation of RCW 46.70.180 (11), (12), or (13) constitutes an unfair or deceptive act or practice in trade or commerce for the purpose of applying chapter 19.86 RCW. [1993 c 175 § 4.]

46.70.330 Wholesale motor vehicle auction dealers.

(1) A wholesale motor vehicle auction dealer may:

- (a) Sell any classification of motor vehicle;
- (b) Sell only to motor vehicle dealers and vehicle wreckers licensed under Title 46 RCW by the state of Washington or licensed by any other state; or
- (c) Sell a motor vehicle belonging to the United States government, the state of Washington, or a political subdivision to nonlicensed persons as may be required by the contracting public agency. However, a publicly owned "wrecked vehicle" as defined in RCW 46.80.010 may be sold to motor vehicle dealers and vehicle wreckers licensed under Title 46 RCW by the state of Washington or licensed by any other state.

(2) If the wholesale motor vehicle auction dealer knows that a vehicle is a "wrecked vehicle" as defined by RCW 46.80.010, the dealer must disclose this fact on the bill of sale. [1998 c 282 § 2.]

46.70.340 Issuance of temporary subagency licenses for recreational vehicle shows.

(1)(a) Before the department may issue a temporary subagency license to a recreational vehicle dealer engaged in offering new or new and used recreational vehicles for sale at a recreational vehicle show, a recreational vehicle dealer of new or new and used recreational vehicles shall submit to the department a manufacturer's written authorization for the sale and specifying the dates of the show, the location of the show, and the identity of the manufacturer's brand or model names of the new or used recreational vehicles.

(b) The department may issue a temporary subagency license if the location of the show is within fifty miles of the recreational vehicle dealer's established place of business or permanent location. The department may issue a temporary subagency license for a show outside fifty miles of the recreational vehicle dealer's established place of business or permanent location only if the product represented is new and is within the factory designated sales territory for each brand of new recreational vehicles to be offered for sale, and only those specific brands of new recreational vehicles may be offered for sale under the terms of the temporary subagency license.

(2) Whenever three or fewer recreational vehicle dealers participate in a show under a temporary subagency license issued under this section, each recreational vehicle dealer shall conspicuously include all of the following information

in all advertising and promotional materials designed to attract the public to attend the show:

(a) Each recreational vehicle dealer's business name and the location of the recreational vehicle dealer's established place of business must be printed in a size equivalent to the second largest type used in the advertisement and must be placed at the top of the advertisement; and

(b) The manufacturer's brand or model names of those new recreational vehicles being offered for sale; and

(c) If the recreational vehicles being offered for sale are used, the word "used" must immediately precede the identification of the brand name of the model or be immediately adjacent to the depiction of used vehicles.

(3) Notwithstanding other provisions of this chapter, no more than two temporary subagency licenses may be issued to a recreational vehicle dealer engaged in offering new or new and used recreational vehicles for sale for events with three or fewer recreational vehicle dealers participating, and no more than six temporary subagency licenses may be issued to a recreational vehicle dealer in any twelve-month period for events including four or more recreational vehicle dealers.

(4) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this section are not reasonable in relation to the development and preservation of business. A violation of this section is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW. [2006 c 364 § 2.]

46.70.900 Liberal construction. All provisions of this chapter shall be liberally construed to the end that deceptive practices or commission of fraud or misrepresentation in the sale, lease, barter, or disposition of vehicles in this state may be prohibited and prevented, and irresponsible, unreliable, or dishonest persons may be prevented from engaging in the business of selling, leasing, bartering, or otherwise dealing in vehicles in this state and reliable persons may be encouraged to engage in the business of selling, leasing, bartering and otherwise dealing in vehicles in this state: PROVIDED, That this chapter shall not apply to printers, publishers, or broadcasters who in good faith print, publish or broadcast material without knowledge of its deceptive character. [2001 c 272 § 11; 1973 1st ex.s. c 132 § 20; 1967 ex.s. c 74 § 2.]

46.70.910 Severability—1967 ex.s. c 74. If any provision of this amendatory act is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the amendatory act and the applicability thereof to persons and circumstances shall not be affected thereby. [1967 ex.s. c 74 § 28.]

46.70.920 Severability—1973 1st ex.s. c 132. If any provision of this 1973 amendatory act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this 1973 amendatory act and the applicability thereof to

persons and circumstances shall not be affected thereby. [1973 1st ex.s. c 132 § 21.]

Chapter 46.71 RCW AUTOMOTIVE REPAIR

Sections

46.71.005	Legislative recognition.
46.71.011	Definitions.
46.71.015	Estimates—Invoices—Recordkeeping requirements.
46.71.021	Disposition of replaced parts.
46.71.025	Estimate required—Alternatives—Authorization to exceed.
46.71.031	Required signs.
46.71.035	Failure to comply with estimate requirements.
46.71.041	Liens barred for failure to comply.
46.71.045	Unlawful acts or practices.
46.71.051	Copy of warranty.
46.71.060	Retention of price estimates and invoices.
46.71.070	Consumer Protection Act—Defense.
46.71.080	Notice of chapter to vehicle owners.
46.71.090	Notice of chapter to repair facilities.

Vehicle warranties (Lemon law): Chapter 19.118 RCW.

46.71.005 Legislative recognition. The automotive repair industry supports good communication between auto repair facilities and their customers. The legislature recognizes that improved communications and accurate representations between automotive repair facilities and the customers will: Increase consumer confidence; reduce the likelihood of disputes arising; clarify repair facility lien interests; and promote fair and nondeceptive practices, thereby enhancing the safety and reliability of motor vehicles serviced by auto repair facilities in the state of Washington. [1993 c 424 § 1.]

Additional notes found at www.leg.wa.gov

46.71.011 Definitions. For purposes of this chapter:

(1) An "aftermarket body part" or "nonoriginal equipment manufacturer body part" is an exterior body panel or nonstructural body component manufactured by someone other than the original equipment manufacturer and supplied through suppliers other than those in the manufacturer's normal distribution channels.

(2) "Automotive repair" includes but is not limited to:

(a) All repairs to vehicles subject to *chapter 46.16 RCW that are commonly performed in a repair facility by a motor vehicle technician including the diagnosis, installation, exchange, or repair of mechanical or electrical parts or units for any vehicle, the performance of any electrical or mechanical adjustment to any vehicle, or the performance of any service work required for routine maintenance or repair of any vehicle. However, commercial fleet repair or maintenance transactions involving two or more vehicles or ongoing service or maintenance contracts involving vehicles used primarily for business purposes are not included;

(b) All work in facilities that perform one or more specialties within the automotive repair service industry including, but not limited to, body collision repair, refinishing, brake, electrical, exhaust repair or installation, frame, uni-body, front-end, radiators, tires, transmission, tune-up, and windshield; and

(c) The removal, replacement, or repair of exterior body panels, the removal, replacement, or repair of structural and nonstructural body components, the removal, replacement, or

repair of collision damaged suspension components, and the refinishing of automotive components.

(3) "Automotive repair facility" or "repair facility" means any person, firm, association, or corporation who for compensation engages in the business of automotive repair or diagnosis, or both, of malfunctions of motor vehicles subject to licensure under *chapter 46.16 RCW and repair and refinishing auto-body collision damage as well as overall refinishing and cosmetic repairs.

(4) A "rebuilt" part consists of a used assembly that has been dismantled and inspected with only the defective parts being replaced.

(5) A "remanufactured" part consists of a used assembly that has been dismantled with the core parts being remachined and all other parts replaced with new parts so as to provide performance comparable to that found originally. [1993 c 424 § 2.]

*Reviser's note: Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Additional notes found at www.leg.wa.gov

46.71.015 Estimates—Invoices—Recordkeeping requirements. (1) Except as otherwise provided in RCW 46.71.025, all estimates that exceed one hundred dollars shall be in writing and include the following information: The date; the name, address, and telephone number of the repair facility; the name, address, and telephone number, if available, of the customer or the customer's designee; if the vehicle is delivered for repair, the year, make, and model of the vehicle, the vehicle license plate number or last eight digits of the vehicle identification number, and the odometer reading of the vehicle; a description of the problem reported by the customer or the specific repairs requested by the customer; and a choice of alternatives described in RCW 46.71.025.

(2) Whether or not a written estimate is required, parts and labor provided by an automotive repair facility shall be clearly and accurately recorded in writing on an invoice and shall include, in addition to the information listed in subsection (1) of this section, the following information: A description of the repair or maintenance services performed on the vehicle; a list of all parts supplied, identified by name and part number, if available, part kit description or recognized package or shop supplies, if any, and an indication whether the parts supplied are rebuilt, or used, if applicable or where collision repair is involved, aftermarket body parts or non-original equipment manufacturer body parts, if applicable; the price per part charged, if any, and the total amount charged for all parts; the total amount charged for all labor, if any; and the total charge. Parts and labor do not need to be separately disclosed if pricing is expressed as an advertised special by the job, a prediscovered written repair menu item, or a routine service package.

(3) Notwithstanding subsection (2) of this section, if the repair work is performed under warranty or without charge to the customer, other than an applicable deductible, the repair facility shall provide either an itemized list of the parts supplied, or describe the service performed on the vehicle, but the repair facility is not required to provide any pricing information for parts or labor.

(2010 Ed.)

(4) A copy of the estimate, unless waived, shall be provided to the customer or customer's designee prior to providing parts or labor as required under RCW 46.71.025. A copy of the invoice shall be provided to the customer upon completion of the repairs.

(5) Only material omissions, under this section, are actionable in a court of law or equity. [1993 c 424 § 3.]

Additional notes found at www.leg.wa.gov

46.71.021 Disposition of replaced parts. Except for parts covered by a manufacturer's or other warranty or parts that must be returned to a distributor, remanufacturer, or rebuilder, the repair facility shall return replaced parts to the customer at the time the work is completed if the customer requested the parts at the time of authorization of the repair. If a customer at the time of authorization of the repair requests the return of a part that must be returned to the manufacturer, remanufacturer, distributor, recycler, or rebuilder, or must be disposed of as required by law, the repair facility shall offer to show the part to the customer. The repair facility need not show a replaced part if no charge is being made for the replacement part. [1993 c 424 § 4.]

Additional notes found at www.leg.wa.gov

46.71.025 Estimate required—Alternatives—Authorization to exceed. (1) Except as provided in subsection (3) of this section, a repair facility prior to providing parts or labor shall provide the customer or the customer's designee with a written price estimate of the total cost of the repair, including parts and labor, or where collision repair is involved, aftermarket body parts or nonoriginal equipment manufacturer body parts, if applicable, or offer the following alternatives:

"YOU ARE ENTITLED TO A WRITTEN PRICE ESTIMATE FOR THE REPAIRS YOU HAVE AUTHORIZED. YOU ARE ALSO ENTITLED TO REQUIRE THE REPAIR FACILITY TO OBTAIN YOUR ORAL OR WRITTEN AUTHORIZATION TO EXCEED THE WRITTEN PRICE ESTIMATE. YOUR SIGNATURE OR INITIALS WILL INDICATE YOUR SELECTION.

1. I request an estimate in writing before you begin repairs. Contact me if the price will exceed this estimate by more than ten percent.
2. Proceed with repairs but contact me if the price will exceed \$.
3. I do not want a written estimate.

..... (Initial or signature)
Date: Time:"

(2) The repair facility may not charge the customer more than one hundred ten percent, exclusive of retail sales tax, of the total shown on the written price estimate. Neither of these limitations apply if, before providing additional parts or labor the repair facility obtains either the oral or written authorization of the customer, or the customer's designee, to exceed the written price estimate. The repair facility or its representative shall note on the estimate the date and time of obtaining an oral authorization, the additional parts and labor required,

the estimated cost of the additional parts and labor, or where collision repair is involved, aftermarket body parts or non-original equipment manufacturer body parts, if applicable, the name or identification number of the employee who obtains the authorization, and the name and telephone number of the person authorizing the additional costs.

(3) A written estimate shall not be required when the customer's motor vehicle or component has been brought to an automotive repair facility's regular place of business without face-to-face contact between the customer and the repair facility. Face-to-face contact means actual in-person discussion between the customer or his or her designee and the agent or employee of the automotive repair facility authorized to intake vehicles or components. However, prior to providing parts and labor, the repair facility must obtain either the oral or written authorization of the customer or the customer's designee. The repair facility or its representative shall note on the estimate or repair order the date and time of obtaining an oral authorization, the total amount authorized, the name or identification number of the employee who obtains the authorization, and the name of the person authorizing the repairs. [1993 c 424 § 5.]

Additional notes found at www.leg.wa.gov

46.71.031 Required signs. An automotive repair facility shall post in a prominent place on the business premises one or more signs, readily visible to customers, in the following form:

"YOUR CUSTOMER RIGHTS

YOU ARE ENTITLED BY LAW TO:

1. A WRITTEN ESTIMATE FOR REPAIRS WHICH WILL COST MORE THAN ONE HUNDRED DOLLARS, UNLESS WAIVED OR ABSENT FACE-TO-FACE CONTACT (SEE ITEM 4 BELOW);
2. RETURN OR INSPECTION OF ALL REPLACED PARTS, IF REQUESTED AT TIME OF REPAIR AUTHORIZATION;
3. AUTHORIZE ORALLY OR IN WRITING ANY REPAIRS WHICH EXCEED THE ESTIMATED TOTAL PRESALES TAX COST BY MORE THAN TEN PERCENT;
4. AUTHORIZE ANY REPAIRS ORALLY OR IN WRITING IF YOUR VEHICLE IS LEFT WITH THE REPAIR FACILITY WITHOUT FACE-TO-FACE CONTACT BETWEEN YOU AND THE REPAIR FACILITY PERSONNEL.

IF YOU HAVE AUTHORIZED A REPAIR IN ACCORDANCE WITH THE ABOVE INFORMATION YOU ARE REQUIRED TO PAY FOR THE COSTS OF THE REPAIR PRIOR TO TAKING THE VEHICLE FROM THE PREMISES."

The first line of each sign shall be in letters not less than one and one-half inch in height and the remaining lines shall be in letters not less than one-half inch in height. [1993 c 424 § 6.]

Additional notes found at www.leg.wa.gov

46.71.035 Failure to comply with estimate requirements. An automotive repair facility that fails to comply with the estimate requirements of RCW 46.71.025 is barred from recovering in an action to recover for automotive repairs any amount in excess of one hundred ten percent of the amount authorized by the customer, or the customer's designee, unless the repair facility proves by a preponderance of the evidence that its conduct was reasonable, necessary, and justified under the circumstances. In an action to recover for automotive repairs the prevailing party may, at the discretion of the court, recover the costs of the action and reasonable attorneys' fees. [1993 c 424 § 7.]

Additional notes found at www.leg.wa.gov

46.71.041 Liens barred for failure to comply. A repair facility that fails to comply with RCW 46.71.021, 46.71.025, or 46.71.031 is barred from asserting a possessory or chattel lien for the amount of the unauthorized parts or labor upon the motor vehicle or component. [1993 c 424 § 8.]

Additional notes found at www.leg.wa.gov

46.71.045 Unlawful acts or practices. Each of the following acts or practices are unlawful:

(1) Advertising that is false, deceptive, or misleading. A single or isolated media mistake does not constitute a false, deceptive, or misleading statement or misrepresentation under this section;

(2) Materially understating or misstating the estimated price for a specified repair procedure;

(3) Retaining payment from a customer for parts not delivered or installed or a labor operation or repair procedure that has not actually been performed;

(4) Unauthorized operation of a customer's vehicle for purposes not related to repair or diagnosis;

(5) Failing or refusing to provide a customer, upon request, a copy, at no charge, of any document signed by the customer;

(6) Retaining duplicative payment from both the customer and the warranty or extended service contract provider for the same covered component, part, or labor;

(7) Charging a customer for unnecessary repairs. For purposes of this subsection "unnecessary repairs" means those for which there is no reasonable basis for performing the service. A reasonable basis includes, but is not limited to: (a) That the repair service is consistent with specifications established by law or the manufacturer of the motor vehicle, component, or part; (b) that the repair is in accordance with accepted industry standards; or (c) that the repair was performed at the specific request of the customer. [1993 c 424 § 9.]

Additional notes found at www.leg.wa.gov

46.71.051 Copy of warranty. The repair facility shall make available, upon request, a copy of any express warranty provided by the repair facility to the customer that covers repairs performed on the vehicle. [1993 c 424 § 10.]

Additional notes found at www.leg.wa.gov

46.71.060 Retention of price estimates and invoices. Every automotive repair facility shall retain and make avail-

able for inspection, upon request by the customer or the customer's authorized representative, true copies of the written price estimates and invoices required under this chapter for at least one year after the date on which the repairs were performed. [1993 c 424 § 11; 1982 c 62 § 7; 1977 ex.s. c 280 § 6.]

Additional notes found at www.leg.wa.gov

46.71.070 Consumer Protection Act—Defense. The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW. Violations of this chapter are not reasonable in relation to the development and preservation of business. A violation of this chapter is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW. In an action under chapter 19.86 RCW due to an automotive repair facility's charging a customer an amount in excess of one hundred ten percent of the amount authorized by the customer, a violation shall not be found if the automotive repair facility proves by a preponderance of the evidence that its conduct was reasonable, necessary, and justified under the circumstances.

Notwithstanding RCW 46.64.050, no violation of this chapter shall give rise to criminal liability under that section. [1993 c 424 § 12; 1982 c 62 § 9; 1977 ex.s. c 280 § 7.]

Additional notes found at www.leg.wa.gov

46.71.080 Notice of chapter to vehicle owners. Whenever a vehicle license renewal form under *RCW 46.16.210 is given to the registered owner of any vehicle, the department of licensing shall give to the owner written notice of the provisions of this chapter in a manner prescribed by the director of licensing. [1982 c 62 § 10.]

*Reviser's note: RCW 46.16.210 was recodified as RCW 46.16A.110 pursuant to 2010 c 161 § 1215, effective July 1, 2011.

46.71.090 Notice of chapter to repair facilities. When the department of revenue issues a registration certificate under RCW 82.32.030 to an automotive repair facility, it shall give written notice to the person of the requirements of this chapter in a manner prescribed by the director of revenue. The department of revenue shall thereafter give the notice on an annual basis in conjunction with the business and occupation tax return provided to each person holding a registration certificate as an automotive repair facility. [1993 c 424 § 13; 1982 c 62 § 11.]

Additional notes found at www.leg.wa.gov

Chapter 46.72 RCW
TRANSPORTATION OF PASSENGERS IN
FOR HIRE VEHICLES

Sections

46.72.001	Finding and intent.
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46.72.030	Permit fee—Issuance—Display.
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46.72.080	Substitution of security—New certificate.
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46.72.130	Nonresident taxicabs—Permit—Fee—Compliance.
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46.72.150	Nonresident taxicabs—Reciprocity.
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46.72.170	Joint regulation.
46.72.180	Uniform regulation of business and professions act.

Age of drivers of for hire vehicles: RCW 46.20.045.

Taxicab companies, local regulation: Chapter 81.72 RCW.

46.72.001 Finding and intent. The legislature finds and declares that privately operated for hire transportation service is a vital part of the transportation system within the state. Consequently, the safety, reliability, and stability of privately operated for hire transportation services are matters of statewide importance. The regulation of privately operated for hire transportation services is thus an essential governmental function. Therefore, it is the intent of the legislature to permit political subdivisions of the state to regulate for hire transportation services without liability under federal anti-trust laws. [1996 c 87 § 17.]

46.72.010 Definitions. When used in this chapter:

(1) The term "for hire vehicle" includes all vehicles used for the transportation of passengers for compensation, except auto stages, school buses operating exclusively under a contract to a school district, ride-sharing vehicles under chapter 46.74 RCW, limousine carriers licensed under chapter 46.72A RCW, vehicles used by nonprofit transportation providers for elderly or handicapped persons and their attendants under chapter 81.66 RCW, vehicles used by auto transportation companies licensed under chapter 81.68 RCW, vehicles used to provide courtesy transportation at no charge to and from parking lots, hotels, and rental offices, and vehicles used by charter party carriers of passengers and excursion service carriers licensed under chapter 81.70 RCW;

(2) The term "for hire operator" means and includes any person, concern, or entity engaged in the transportation of passengers for compensation in for hire vehicles. [1996 c 87 § 18; 1991 c 99 § 1; 1979 c 111 § 14; 1961 c 12 § 46.72.010. Prior: 1947 c 253 § 1; Rem. Supp. 1947 § 6386-1. Formerly RCW 81.72.010.]

Additional notes found at www.leg.wa.gov

46.72.020 Permit required—Form of application. No for hire operator shall cause operation of a for hire vehicle upon any highway of this state without first obtaining a permit from the director of licensing, except for those for hire operators regulated by cities or counties in accordance with chapter 81.72 RCW. Application for a permit shall be made on forms provided by the director and shall include (1) the name and address of the owner or owners, and if a corporation, the names and addresses of the principal officers thereof; (2) city, town or locality in which any vehicle will be operated; (3) name and motor number of any vehicle to be operated; (4) the endorsement of a city official authorizing an operator under a law or ordinance requiring a license; and (5) such other information as the director may require. [1992 c 114 § 1; 1979 c 158 § 188; 1967 c 32 § 80; 1961 c 12 §

46.72.020. Prior: 1947 c 253 § 2; Rem. Supp. 1947 § 6386-2; prior: 1915 c 57 § 1; RRS § 6382. Formerly RCW 81.72.020.]

46.72.030 Permit fee—Issuance—Display. Application for a permit shall be forwarded to the director with a fee. Upon receipt of such application and fee, the director shall, if such application be in proper form, issue a permit authorizing the applicant to operate for hire vehicles upon the highways of this state until such owner ceases to do business as such, or until the permit is suspended or revoked. Such permit shall be displayed in a conspicuous place in the principal place of business of the owner. [1992 c 114 § 2; 1967 c 32 § 81; 1961 c 12 § 46.72.030. Prior: 1947 c 253 § 3; Rem. Supp. 1947 § 6386-3; prior: 1933 c 73 § 1, part; 1915 c 57 § 2, part; RRS § 6383, part. Formerly RCW 81.72.030.]

46.72.040 Surety bond. Before a permit is issued every for hire operator shall be required to deposit and thereafter keep on file with the director a surety bond running to the state of Washington covering each and every for hire vehicle as may be owned or leased by him or her and used in the conduct of his or her business as a for hire operator. Such bond shall be in the sum of one hundred thousand dollars for any recovery for death or personal injury by one person, and three hundred thousand dollars for all persons killed or receiving personal injury by reason of one act of negligence, and twenty-five thousand dollars for damage to property of any person other than the assured, with a good and sufficient surety company licensed to do business in this state as surety and to be approved by the director, conditioned for the faithful compliance by the principal of said bond with the provisions of this chapter, and to pay all damages which may be sustained by any person injured by reason of any careless negligence or unlawful act on the part of said principal, his or her agents or employees in the conduct of said business or in the operation of any motor propelled vehicle used in transporting passengers for compensation on any public highway of this state. [2010 c 8 § 9089; 1973 c 15 § 1; 1967 c 32 § 82; 1961 c 12 § 46.72.040. Prior: 1947 c 253 § 4; Rem. Supp. 1947 § 6386-4; prior: 1933 c 73 § 1, part; 1915 c 57 § 2, part; RRS § 6383, part. Formerly RCW 81.72.040.]

46.72.050 Liability coverage—Right of action saved. In lieu of the surety bond as provided in this chapter, there may be deposited and kept on file and in force with the director a public liability insurance policy covering each and every motor vehicle operated or intended to be so operated, executed by an insurance company licensed and authorized to write such insurance policies in the state of Washington, assuring the applicant for a permit against property damage and personal liability to the public, with the premiums paid and payment noted thereon. Said policy of insurance shall provide a minimum coverage equal and identical to the coverage required by the aforesaid surety bond, specified under the provisions of RCW 46.72.040. No provisions of this chapter shall be construed to limit the right of any injured person to any private right of action against a for hire operator as herein defined. [1973 c 15 § 2; 1967 c 32 § 83; 1961 c

12 § 46.72.050. Prior: 1947 c 253 § 5; Rem. Supp. 1947 § 6386-5. Formerly RCW 81.72.050.]

46.72.060 Right of action—Limitation of recovery. *(Effective until July 1, 2011.)* Every person having a cause of action for damages against any person, firm, or corporation receiving a permit under the provisions of this chapter, for injury, damages, or wrongful death caused by any careless, negligent, or unlawful act of any such person, firm, or corporation or his or her or its agents or employees in conducting or carrying on said business or in operating any motor propelled vehicle for the carrying and transporting of passengers over and along any public street, road, or highway shall have a cause of action against the principal and surety upon the bond or the insurance company and the insured for all damages sustained, and in any such action the full amount of damages sustained may be recovered against the principal, but the recovery against the surety shall be limited to the amount of the bond. [2010 c 8 § 9090; 1961 c 12 § 46.72.060. Prior: 1947 c 253 § 6; Rem. Supp. 1947 § 6386-6; prior: 1929 c 27 § 1; 1927 c 161 § 1; 1915 c 57 § 3; RRS § 6384. Formerly RCW 81.72.060.]

46.72.060 Right of action—Limitation of recovery. *(Effective July 1, 2011.)* Every person having a cause of action for damages against any person, firm, or corporation receiving a permit under the provisions of this chapter, for injury, damages, or wrongful death caused by any careless, negligent, or unlawful act of any such person, firm, or corporation or his or her or its agents or employees in conducting or carrying on said business or in operating any motor propelled vehicle for the carrying and transporting of passengers on any public street, road, or highway shall have a cause of action against the principal and surety upon the bond or the insurance company and the insured for all damages sustained, and in any such action the full amount of damages sustained may be recovered against the principal, but the recovery against the surety shall be limited to the amount of the bond. [2010 c 161 § 1137; 2010 c 8 § 9090, 1961 c 12 § 46.72.060. Prior: 1947 c 253 § 6; Rem. Supp. 1947 § 6386-6; prior: 1929 c 27 § 1; 1927 c 161 § 1; 1915 c 57 § 3; RRS § 6384. Formerly RCW 81.72.060.]

Reviser's note: This section was amended by 2010 c 8 § 9090 and by 2010 c 161 § 1137, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

46.72.070 Certificate—Fee. The director shall approve and file all bonds and policies of insurance. The director shall, upon receipt of fees and after approving the bond or policy, furnish the owner with an appropriate certificate which must be carried in a conspicuous place in the vehicle at all times during for hire operation. A for hire operator shall secure a certificate for each for hire vehicle operated and pay therefor a fee for each vehicle so registered. Such permit or certificate shall expire on June 30th of each year, and may be annually renewed upon payment of a fee. [1992 c 114 § 3;

1967 c 32 § 84; 1961 c 12 § 46.72.070. Prior: 1947 c 253 § 7; Rem. Supp. 1947 § 6386-7. Formerly RCW 81.72.070.]

46.72.080 Substitution of security—New certificate.

In the event the owner substitutes a policy or bond after a for hire certificate has been issued, a new certificate shall be issued to the owner. The owner shall submit the substituted bond or policy to the director for approval, together with a fee. If the director approves the substituted policy or bond, a new certificate shall be issued. In the event any certificate has been lost, destroyed or stolen, a duplicate thereof may be obtained by filing an affidavit of loss and paying a fee. [1992 c 114 § 4; 1967 c 32 § 85; 1961 c 12 § 46.72.080. Prior: 1947 c 253 § 8; Rem. Supp. 1947 § 6386-8. Formerly RCW 81.72.080.]

46.72.100 Unprofessional conduct—Bond/insurance policy—Penalty.

(1) In addition to the unprofessional conduct specified in RCW 18.235.130, the director may take disciplinary action if he or she has good reason to believe that one of the following is true of the operator or the applicant for a permit or certificate: (a) He or she is guilty of committing two or more offenses for which mandatory revocation of driver's license is provided by law; (b) he or she has been convicted of vehicular homicide or vehicular assault; (c) he or she is intemperate or addicted to the use of narcotics.

(2) Any for hire operator who operates a for hire vehicle without first having filed a bond or insurance policy and having received a for hire permit and a for hire certificate as required by this chapter is guilty of a gross misdemeanor, and upon conviction shall be punished by imprisonment in jail for a period not exceeding ninety days or a fine of not exceeding five hundred dollars, or both fine and imprisonment. [2003 c 53 § 250; 2002 c 86 § 293; 1983 c 164 § 8; 1967 c 32 § 86; 1961 c 12 § 46.72.100. Prior: 1947 c 253 § 9; Rem. Supp. 1947 § 6386-9; prior: 1915 c 57 § 4; RRS § 6385. Formerly RCW 81.72.100.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective dates—2002 c 86: See note following RCW 18.08.340.

Part headings not law—Severability—2002 c 86: See RCW 18.235.902 and 18.235.903.

46.72.110 Fees to highway safety fund. All fees received by the director under the provisions of this chapter shall be transmitted by him or her, together with a proper identifying report, to the state treasurer to be deposited by the state treasurer in the highway safety fund. [2010 c 8 § 9091; 1967 c 32 § 87; 1961 c 12 § 46.72.110. Prior: 1947 c 253 § 10; Rem. Supp. 1947 § 6386-10. Formerly RCW 81.72.110.]

46.72.120 Rules. The director is empowered to make and enforce such rules and regulations, including the setting of fees, as may be consistent with and necessary to carry out the provisions of this chapter. [1992 c 114 § 5; 1967 c 32 § 88; 1961 c 12 § 46.72.120. Prior: 1947 c 253 § 11; Rem. Supp. 1947 § 6386-11. Formerly RCW 81.72.120.]

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46.72.130 Nonresident taxicabs—Permit—Fee—Compliance. No operator of a taxicab licensed or possessing a permit in another state to transport passengers for hire, and principally engaged as a for hire operator in another state, shall cause the operation of a taxicab upon any highway of this state without first obtaining an annual permit from the director upon an application accompanied with an annual fee for each taxicab. The issuance of a permit shall be further conditioned upon compliance with this chapter. [1992 c 114 § 6; 1967 c 32 § 89; 1961 c 12 § 46.72.130. Prior: 1953 c 12 § 1; 1951 c 219 § 1. Formerly RCW 81.72.130.]

46.72.140 Nonresident taxicabs—Permit required for entry. All law enforcement officers shall refuse every taxicab entry into this state which does not have a certificate from the director on the vehicle. [1967 c 32 § 90; 1961 c 12 § 46.72.140. Prior: 1951 c 219 § 2. Formerly RCW 81.72.140.]

46.72.150 Nonresident taxicabs—Reciprocity. RCW 46.72.130 and 46.72.140 shall be inoperative to operators of taxicabs residing and licensed in any state which allows Washington operators of taxicabs to use such state's highways free from such regulations. [1961 c 12 § 46.72.150. Prior: 1951 c 219 § 3. Formerly RCW 81.72.150.]

46.72.160 Local regulation. Cities, counties, and port districts may license, control, and regulate all for hire vehicles operating within their respective jurisdictions. The power to regulate includes:

- (1) Regulating entry into the business of providing for hire vehicle transportation services;
- (2) Requiring a license to be purchased as a condition of operating a for hire vehicle and the right to revoke, cancel, or refuse to reissue a license for failure to comply with regulatory requirements;
- (3) Controlling the rates charged for providing for hire vehicle transportation service and the manner in which rates are calculated and collected;
- (4) Regulating the routes and operations of for hire vehicles, including restricting access to airports;
- (5) Establishing safety and equipment requirements; and
- (6) Any other requirements adopted to ensure safe and reliable for hire vehicle transportation service. [1996 c 87 § 19.]

46.72.170 Joint regulation. The department, a city, county, or port district may enter into cooperative agreements with any other city, town, county, or port district for the joint regulation of for hire vehicles. Cooperative agreements may provide for, but are not limited to, the granting, revocation, and suspension of joint for hire vehicle licenses. [1996 c 87 § 20.]

46.72.180 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 294.]

Effective dates—2002 c 86: See note following RCW 18.08.340.

Part headings not law—Severability—2002 c 86: See RCW 18.235.902 and 18.235.903.

Chapter 46.72A RCW LIMOUSINES

Sections

46.72A.010	Finding and intent.
46.72A.020	Office required—Exception.
46.72A.030	Regulation—Inspection.
46.72A.040	State preemption.
46.72A.050	Business license, vehicle certificates required.
46.72A.060	Insurance—Amount—Penalty.
46.72A.070	Vehicle certificates—Issuance of new or duplicate certificate—Penalty.
46.72A.080	Advertising—Penalty.
46.72A.090	Chauffeurs—Criteria for.
46.72A.100	Unprofessional conduct—Sanctions—Chauffeur.
46.72A.110	Deposit of fees.
46.72A.120	Rules and fees.
46.72A.130	Continued operation of existing limousines.
46.72A.140	Uniform regulation of business and professions act.

46.72A.010 Finding and intent. The legislature finds and declares that privately operated limousine transportation service is a vital part of the transportation system within the state and provides prearranged transportation services to state residents, tourists, and out-of-state business people. Consequently, the safety, reliability, and stability of privately operated limousine transportation services are matters of statewide importance. The regulation of privately operated limousine transportation services is thus an essential governmental function. Therefore, it is the intent of the legislature to permit the department and a port district in a county with a population of one million or more to regulate limousine transportation services without liability under federal antitrust laws. [1996 c 87 § 4.]

Additional notes found at www.leg.wa.gov

46.72A.020 Office required—Exception. All limousine carriers must operate from a main office and may have satellite offices. However, no office may be solely in a vehicle of any type. All arrangements for the carrier's services must be made through its offices and dispatched to the carrier's vehicles. Under no circumstances may customers or customers' agents make arrangements for immediate rental of a carrier's vehicle with the driver of the vehicle, even if the driver is an owner or officer of the company, with the single exception of stand-hail limousines only at a facility owned and operated by a port district in a county with a population of one million or more that are licensed and restricted by the rules and policies set forth by the port district. [1996 c 87 § 5.]

46.72A.030 Regulation—Inspection. (1) The department, in conjunction with the Washington state patrol, shall regulate limousine carriers with respect to entry, safety of equipment, chauffeur qualifications, and operations. The department shall adopt rules and require such reports as are necessary to carry out this chapter.

(2) In addition, a port district in a county with a population of one million or more may regulate limousine carriers with respect to entry, safety of equipment, chauffeur qualifications, and operations. The county in which the port district

is located may adopt ordinances and rules to assist the port district in enforcement of limousine regulations only at port facilities. In no event may this be construed to grant the county the authority to regulate limousines within its jurisdiction. The port district may not set limousine rates, but the limousine carriers shall file their rates and schedules with the port district.

(3) The department, a port district in a county with a population of at least one million, or a county in which the port district is located may enter into cooperative agreements for the joint regulation of limousines.

(4) The Washington state patrol shall annually conduct a vehicle inspection of each limousine licensed under this chapter, except when a port district regulates limousine carriers under subsection (2) of this section, that port district or county in which the port [district] is located shall conduct the annual vehicle inspection. The patrol, the port district, or the county may impose an annual vehicle inspection fee. [1996 c 87 § 6.]

46.72A.040 State preemption. Except when a port district regulates limousine carriers under RCW 46.72A.030, the state of Washington fully occupies and preempts the entire field of regulation over limousine carriers as regulated by this chapter. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to limousine carriers that are consistent with this chapter. [1996 c 87 § 7.]

46.72A.050 Business license, vehicle certificates required. No limousine carrier may operate a limousine upon the highways of this state without first obtaining a business license from the department. The applicant shall forward an application for a business license to the department along with a fee established by rule. Upon approval of the application, the department shall issue a business license and unified business identifier authorizing the carrier to operate limousines upon the highways of this state.

In addition, a limousine carrier shall annually obtain, upon payment of the appropriate fee, a vehicle certificate for each limousine operated by the carrier. [1996 c 87 § 8.]

46.72A.060 Insurance—Amount—Penalty. (1) The department shall require limousine carriers to obtain and continue in effect, liability and property damage insurance from a company licensed to sell liability insurance in this state for each limousine used to transport persons for compensation.

(2) The department shall fix the amount of the insurance policy or policies, giving consideration to the character and amount of traffic, the number of persons affected, and the degree of danger that the proposed operation involves. The limousine carrier must maintain the liability and property damage insurance in force on each motor-propelled vehicle while so used.

(3) Failure to file and maintain in effect the insurance required under this section is a gross misdemeanor. [2003 c 53 § 251; 1996 c 87 § 9.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.72A.070 Vehicle certificates—Issuance of new or duplicate certificate—Penalty. (1) If the limousine carrier substitutes a liability and property damage insurance policy after a vehicle certificate has been issued, a new vehicle certificate is required. The limousine carrier shall submit the substituted policy to the department for approval, together with a fee. If the department approves the substituted policy, the department shall issue a new vehicle certificate.

(2) If a vehicle certificate has been lost, destroyed, or stolen, a duplicate vehicle certificate may be obtained by filing an affidavit of loss and paying a fee.

(3)(a) Except as provided in (b) of this subsection, a limousine carrier who operates a vehicle without first having received a vehicle certificate as required by this chapter is guilty of a misdemeanor.

(b) A second or subsequent offense is a gross misdemeanor. [2003 c 53 § 252; 1996 c 87 § 10.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.72A.080 Advertising—Penalty. (1) No limousine carrier may advertise without listing the carrier's unified business identifier issued by the department in the advertisement and specifying the type of service offered as provided in RCW 46.04.274. No limousine carrier may advertise or hold itself out to the public as providing taxicab transportation services.

(2) All advertising, contracts, correspondence, cards, signs, posters, papers, and documents that show a limousine carrier's name or address shall list the carrier's unified business identifier and the type of service offered. The alphabetized listing of limousine carriers appearing in the advertising sections of telephone books or other directories and all advertising that shows the carrier's name or address must show the carrier's current unified business identifier.

(3) Advertising in the alphabetical listing in a telephone directory need not contain the carrier's certified business identifier.

(4) Advertising by electronic transmission need not contain the carrier's unified business identifier if the carrier provides it to the person selling the advertisement and it is recorded in the advertising contract.

(5) It is a gross misdemeanor for a person to (a) falsify a unified business identifier or use a false or inaccurate unified business identifier; (b) fail to specify the type of service offered; or (c) advertise or otherwise hold itself out to the public as providing taxicab transportation services in connection with a solicitation or identification as an authorized limousine carrier. [1997 c 193 § 1; 1996 c 87 § 11.]

46.72A.090 Chauffeurs—Criteria for. The limousine carrier shall certify to the appropriate regulating authority that each chauffeur hired to operate a limousine meets the following criteria: (1) Is at least twenty-one years of age; (2) holds a valid Washington state driver's license; (3) has successfully completed a training course approved by the department; (4) has successfully passed a written examination; (5) has successfully completed a background check performed by the Washington state patrol; and (6) has submitted a medical certificate certifying the individual's fitness as a chauffeur. Upon initial application and every three years thereafter,

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a chauffeur must file a physician's certification with the limousine carrier validating the individual's fitness to drive a limousine. The department shall determine the scope of the examination. The director may require a chauffeur to be reexamined at any time.

The limousine carrier shall keep on file and make available for inspection all documents required by this section. [1996 c 87 § 12.]

46.72A.100 Unprofessional conduct—Sanctions—Chauffeur. The director may impose any of the sanctions specified in RCW 18.235.110 for unprofessional conduct as described in RCW 18.235.130 or if one of the following is true of a chauffeur hired to drive a limousine including where such a chauffeur is also the carrier: (1) The person has been convicted of an offense of such a nature as to indicate that he or she is unfit to qualify as a chauffeur; (2) the person is guilty of committing two or more offenses for which mandatory revocation of a driver's license is provided by law; (3) the person has been convicted of vehicular homicide or vehicular assault; (4) the person is intemperate or addicted to narcotics. [2002 c 86 § 295; 1996 c 87 § 13.]

Effective dates—2002 c 86: See note following RCW 18.08.340.

Part headings not law—Severability—2002 c 86: See RCW 18.235.902 and 18.235.903.

46.72A.110 Deposit of fees. The department shall transmit all fees received under this chapter, together with a proper identifying report, to the state treasurer to be deposited by the state treasurer in the master license fund. [1996 c 87 § 14.]

46.72A.120 Rules and fees. The department may adopt and enforce such rules, including the setting of fees, as may be consistent with and necessary to carry out this chapter. The fees must approximate the cost of administration. [1996 c 87 § 15.]

46.72A.130 Continued operation of existing limousines. A vehicle operated as a limousine under *chapter 81.90 RCW before April 1, 1996, may continue to operate as a limousine even though it may not meet the definition of limousine in RCW 46.04.274 as long as the owner is the same as the registered owner on April 1, 1996, and the vehicle and limousine carrier otherwise comply with this chapter. [1996 c 87 § 16.]

***Reviser's note:** Chapter 81.90 RCW was repealed by 1996 c 87 § 23.

46.72A.140 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 296.]

Effective dates—2002 c 86: See note following RCW 18.08.340.

Part headings not law—Severability—2002 c 86: See RCW 18.235.902 and 18.235.903.

Chapter 46.73 RCW PRIVATE CARRIER DRIVERS

Sections

46.73.010	Qualifications and hours of service.
46.73.020	Federal funds as necessary condition.
46.73.030	Penalty.

Rules of court: Monetary penalty schedule—IRLJ 6.2.

46.73.010 Qualifications and hours of service. The Washington state patrol may adopt rules establishing standards for qualifications and hours of service of drivers for private carriers as defined by *RCW 81.80.010(6). Such standards shall correlate with and, as far as reasonable, conform to the regulations contained in Title 49 C.F.R., Chapter 3, Subchapter B, Parts 391 and 395, on July 28, 1985. [2005 c 319 § 120; 1985 c 333 § 1.]

***Reviser's note:** Due to the alphabetization of RCW 81.80.010 pursuant to RCW 1.08.015(2)(k), subsection (6) was changed to subsection (9).

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

46.73.020 Federal funds as necessary condition. The delegation of rule-making authority contained in RCW 46.73.010 is conditioned upon the continued receipt of federal funds or grants for the support of state enforcement of such rules. Within ninety days of finding that federal funds or grants are withdrawn or not renewed, the Washington state patrol and the Washington utilities and transportation commission shall repeal any and all rules adopted under RCW 46.73.010. [1985 c 333 § 2.]

46.73.030 Penalty. A violation of any rule adopted by the Washington state patrol under RCW 46.73.010 is a traffic infraction. [1985 c 333 § 3.]

Chapter 46.74 RCW RIDE SHARING

Sections

46.74.010	Definitions.
46.74.020	Exclusion from for hire vehicle laws.
46.74.030	Operators.

Acquisition and disposal of vehicle for commuter ride sharing by city employees: RCW 35.21.810.

Public utility tax exemption: RCW 82.16.047.

State-owned vehicles used for commuter ride sharing: RCW 43.41.130.

46.74.010 Definitions. The definitions set forth in this section shall apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "Commuter ride sharing" means a car pool or van pool arrangement whereby one or more fixed groups not exceeding fifteen persons each including the drivers, and (a) not fewer than five persons including the drivers, or (b) not fewer than four persons including the drivers where at least two of those persons are confined to wheelchairs when riding, are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, each group

in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institution.

(2) "Flexible commuter ride sharing" means a car pool or van pool arrangement whereby a group of at least two but not exceeding fifteen persons including the driver is transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, where the driver is also on the way to or from his or her place of employment or educational or other institution.

(3) "Persons with special transportation needs" means those persons defined in *RCW 81.66.010(4).

(4) "Ride sharing for persons with special transportation needs" means an arrangement whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider, as defined in *RCW 81.66.010(3), serving persons with special needs, in a passenger motor vehicle as defined by the department to include small buses, cutaways, and modified vans not more than twenty-eight feet long: PROVIDED, That the driver need not be a person with special transportation needs.

(5) "Ride-sharing operator" means the person, entity, or concern, not necessarily the driver, responsible for the existence and continuance of commuter ride sharing, flexible commuter ride sharing, or ride sharing for persons with special transportation needs. The term "ride-sharing operator" includes but is not limited to an employer, an employer's agent, an employer-organized association, a state agency, a county, a city, a public transportation benefit area, or any other political subdivision that owns or leases a ride-sharing vehicle.

(6) "Ride-sharing promotional activities" means those activities involved in forming a commuter ride-sharing arrangement or a flexible commuter ride-sharing arrangement, including but not limited to receiving information from existing and prospective ride-sharing participants, sharing that information with other existing and prospective ride-sharing participants, matching those persons with other existing or prospective ride-sharing participants, and making assignments of persons to ride-sharing arrangements. [2009 c 557 § 5. Prior: 1997 c 250 § 8; 1997 c 95 § 1; 1996 c 244 § 2; 1979 c 111 § 1.]

Reviser's note: *(1) Due to the alphabetization of RCW 81.66.010 pursuant to RCW 1.08.015(2)(k), subsections (3) and (4) were changed to subsections (4) and (3) respectively.

(2) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Additional notes found at www.leg.wa.gov

46.74.020 Exclusion from for hire vehicle laws. Ride-sharing vehicles are not deemed for hire vehicles and do not fall within the provisions of chapter 46.72 RCW or any other provision of Title 46 RCW affecting for hire vehicles, whether or not the ride-sharing operator receives compensation. [1979 c 111 § 2.]

Additional notes found at www.leg.wa.gov

46.74.030 Operators. The operator and the driver of a commuter ride-sharing vehicle or a flexible commuter ride-sharing vehicle shall be held to a reasonable and ordinary standard of care, and are not subject to ordinances or regulations which relate exclusively to the regulation of drivers or owners of motor vehicles operated for hire, or other common carriers or public transit carriers. No person, entity, or concern may, as a result of engaging in ride-sharing promotional activities, be liable for civil damages arising directly or indirectly (1) from the maintenance and operation of a commuter ride-sharing or flexible commuter ride-sharing vehicle; or (2) from an intentional act of another person who is participating or proposing to participate in a commuter ride-sharing or flexible commuter ride-sharing arrangement, unless the ride-sharing operator or promoter had prior, actual knowledge that the intentional act was likely to occur and had a reasonable ability to prevent the act from occurring. [1997 c 250 § 9; 1996 c 244 § 3; 1979 c 111 § 3.]

Additional notes found at www.leg.wa.gov

Chapter 46.76 RCW

MOTOR VEHICLE TRANSPORTERS

Sections

46.76.010	License required—Exceptions—"Driveaway or towaway methods" defined.
46.76.020	Application for license.
46.76.030	Issuance of license—Plates.
46.76.040	License and plate fees.
46.76.050	Expiration, renewal—Fee.
46.76.055	Staggering renewal periods.
46.76.060	Display of plates—Nontransferability.
46.76.065	Grounds for denial, suspension, or revocation of license.
46.76.067	Compliance with chapter 81.80 RCW.
46.76.070	Rules.
46.76.080	Penalty.

46.76.010 License required—Exceptions—"Driveaway or towaway methods" defined. It shall be unlawful for any person, firm, partnership, association, or corporation to engage in the business of delivering by the driveaway or towaway methods vehicles not his or her own and of a type required to be registered under the laws of this state, without procuring a transporter's license in accordance with the provisions of this chapter.

This shall not apply to motor freight carriers or operations regularly licensed under the provisions of chapter 81.80 RCW to haul such vehicles on trailers or semitrailers.

Driveaway or towaway methods means the delivery service rendered by a motor vehicle transporter wherein motor vehicles are driven singly or in combinations by the towbar, saddlemount or fullmount methods or any lawful combinations thereof, or where a truck or truck-tractor draws or tows a semitrailer or trailer. [2010 c 8 § 9092; 1961 c 12 § 46.76.010. Prior: 1957 c 107 § 1; 1953 c 155 § 1; 1947 c 97 § 1; Rem. Supp. 1947 § 6382-75.]

46.76.020 Application for license. Application for a transporter's license shall be made on a form provided for that purpose by the director of licensing and when executed shall be forwarded to the director together with the proper fee. The application shall contain the name and address of the applicant, state whether or not the license will be used to

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provide towing services for monetary compensation as described in RCW 46.55.025 and, if so, whether or not the applicant is a registered tow truck operator, and contain other information as the director may require. [2008 c 19 § 1; 1979 c 158 § 189; 1967 c 32 § 91; 1961 c 12 § 46.76.020. Prior: 1947 c 97 § 2; Rem. Supp. 1947 § 6382-76.]

46.76.030 Issuance of license—Plates. Upon receiving an application for transporter's license the director, if satisfied that the applicant is entitled thereto, shall issue a proper certificate of license registration and a distinctive set of license plates and shall transmit the fees obtained therefor with a proper identifying report to the state treasurer, who shall deposit such fees in the motor vehicle fund. The certificate of license registration and license plates issued by the director shall authorize the holder of the license to drive or tow any motor vehicle or trailers upon the public highways. [1967 c 32 § 92; 1961 c 12 § 46.76.030. Prior: 1947 c 97 § 3; Rem. Supp. 1947 § 6382-77.]

46.76.040 License and plate fees. The fee for an original transporter's license is twenty-five dollars. Transporter license number plates bearing an appropriate symbol and serial number shall be attached to all vehicles being delivered in the conduct of the business licensed under this chapter. The plates may be obtained for a fee of two dollars for each set. [1990 c 250 § 68; 1961 c 12 § 46.76.040. Prior: 1957 c 107 § 2; 1947 c 97 § 4; Rem. Supp. 1947 § 6382-78.]

Additional notes found at www.leg.wa.gov

46.76.050 Expiration, renewal—Fee. A transporter's license expires on the date assigned by the director, and may be renewed by filing a proper application and paying an annual fee of fifteen dollars. [1985 c 109 § 3; 1961 c 12 § 46.76.050. Prior: 1947 c 97 § 5; Rem. Supp. 1947 § 6382-79.]

46.76.055 Staggering renewal periods. Notwithstanding any provision of law to the contrary, the director may extend or diminish the licensing period of transporters for the purpose of staggering renewal periods. The extension or diminishment shall be by rule of the department adopted in accordance with chapter 34.05 RCW. [1985 c 109 § 4.]

46.76.060 Display of plates—Nontransferability. Transporter's license plates shall be conspicuously displayed on all vehicles being delivered by the driveaway or towaway methods. These plates shall not be loaned to or used by any person other than the holder of the license or his or her employees. [2010 c 8 § 9093; 1961 c 12 § 46.76.060. Prior: 1957 c 107 § 3; 1947 c 97 § 6; Rem. Supp. 1947 § 6382-80.]

46.76.065 Grounds for denial, suspension, or revocation of license. The following conduct shall be sufficient grounds pursuant to RCW 34.05.422 for the director or a designee to deny, suspend, or revoke the license of a motor vehicle transporter:

(1) Using transporter plates for driveaway or towaway of any vehicle owned by such transporter;

(2) Knowingly, as that term is defined in RCW 9A.08.010(1)(b), having possession of a stolen vehicle or a vehicle with a defaced, missing, or obliterated manufacturer's identification serial number;

(3) Loaning transporter plates;

(4) Using transporter plates for any purpose other than as provided under RCW 46.76.010; or

(5) Violation of provisions of this chapter or of rules and regulations adopted relating to enforcement and proper operation of this chapter. [1977 ex.s. c 254 § 1.]

46.76.067 Compliance with chapter 81.80 RCW. (1) Any person or organization that transports any mobile home or other vehicle for hire shall comply with this chapter and chapter 81.80 RCW. Persons or organizations that do not have a valid permit or meet other requirements under chapter 81.80 RCW shall not be issued a transporter license or transporter plates to transport mobile homes or other vehicles. RCW 46.76.065(5) applies to persons or organizations that have transporter licenses or plates and do not meet the requirements of chapter 81.80 RCW.

(2) This section does not apply to mobile home manufacturers or dealers that are licensed and delivering the mobile home under chapter 46.70 RCW. [1988 c 239 § 4.]

46.76.070 Rules. The director may make any reasonable rules or regulations not inconsistent with the provisions of this chapter relating to the enforcement and proper operation of this chapter. [1967 c 32 § 93; 1961 c 12 § 46.76.070. Prior: 1947 c 97 § 7; Rem. Supp. 1947 § 6382-81.]

46.76.080 Penalty. The violation of any provision of this chapter is a traffic infraction. In addition to any other penalty imposed upon a violator of the provisions of this chapter, the director may confiscate any transporter license plates used in connection with such violation. [1979 ex.s. c 136 § 96; 1961 c 12 § 46.76.080. Prior: 1947 c 97 § 8; Rem. Supp. 1947 § 6382-82.]

Additional notes found at www.leg.wa.gov

Chapter 46.79 RCW

HULK HAULERS AND SCRAP PROCESSORS

Sections

46.79.010	Definitions.
46.79.020	Transporting junk vehicles to scrap processor—Removal of parts, restrictions.
46.79.030	Application for license, renewal—Form—Signature—Contents.
46.79.040	Application forwarded with fees—Issuance of license—Disposition of fees—Display of license.
46.79.050	License expiration—Renewal fee—Surrender of license, when.
46.79.055	Staggering renewal periods.
46.79.060	Special license plates—Fee.
46.79.070	Acts subject to penalties.
46.79.080	Rules.
46.79.090	Inspection of premises and records—Certificate of inspection.
46.79.100	Other provisions to comply with chapter.
46.79.110	Chapter not to prohibit individual towing of vehicles to wreckers or processors.
46.79.120	Unlicensed hulk hauling or scrap processing—Penalty.
46.79.130	Wholesale motor vehicle auction dealers.

46.79.010 Definitions. The definitions set forth in this section apply throughout this chapter unless the context indicates otherwise.

(1) "Junk vehicle" means a motor vehicle certified under RCW 46.55.230 as meeting all the following requirements:

(a) Is three years old or older;

(b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable;

(d) Is without a valid, current registration plate;

(e) Has a fair market value equal only to the value of the scrap in it.

(2) "Scrap processor" means a licensed establishment that maintains a hydraulic baler and shears, or a shredder for recycling salvage.

(3) "Demolish" means to destroy completely by use of a hydraulic baler and shears, or a shredder.

(4) "Hulk hauler" means any person who deals in vehicles for the sole purpose of transporting and/or selling them to a licensed vehicle wrecker or scrap processor in substantially the same form in which they are obtained. A hulk hauler may not sell secondhand motor vehicle parts to anyone other than a licensed vehicle wrecker or scrap processor, except for those parts specifically enumerated in RCW 46.79.020(2), as now or hereafter amended, which may be sold to a licensed vehicle wrecker or disposed of at a public facility for waste disposal.

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

(6) "Major component parts" include engines and short blocks, frames, transmissions or transfer cases, cabs, doors, front or rear differentials, front or rear clips, quarter panels or fenders, bumpers, truck beds or boxes, seats, and hoods. [2001 c 64 § 10; 1990 c 250 § 69; 1983 c 142 § 2; 1979 c 158 § 190; 1971 ex.s. c 110 § 1.]

Additional notes found at www.leg.wa.gov

46.79.020 Transporting junk vehicles to scrap processor—Removal of parts, restrictions. Any hulk hauler or scrap processor licensed under the provisions of this chapter may:

(1) Notwithstanding any other provision of law, transport any flattened or junk vehicle whether such vehicle is from in state or out of state, to a scrap processor upon obtaining the certificate of title or release of interest from the owner or an affidavit of sale from the landowner who has complied with RCW 46.55.230. The scrap processor shall forward such document(s) to the department, together with a monthly report of all vehicles acquired from other than a licensed automobile wrecker, and no further identification shall be necessary.

(2) Prepare vehicles and vehicle salvage for transportation and delivery to a scrap processor or vehicle wrecker only by removing the following vehicle parts:

(a) Gas tanks;

(b) Vehicle seats containing springs;

(c) Tires;

(d) Wheels;

(e) Scrap batteries;

(f) Scrap radiators.

Such parts may not be removed if they will be accepted by a scrap processor or wrecker. Such parts may be removed only at a properly zoned location, and all preparation activity, vehicles, and vehicle parts shall be obscured from public view. Storage is limited to two vehicles or the parts thereof which are authorized by this subsection, and any such storage may take place only at a properly zoned location. Any vehicle parts removed under the authority of this subsection shall be lawfully disposed of at or through a public facility or service for waste disposal or by sale to a licensed vehicle wrecker. [2001 c 64 § 11; 1990 c 250 § 70; 1987 c 62 § 1; 1983 c 142 § 3; 1979 c 158 § 191; 1971 ex.s. c 110 § 2.]

Additional notes found at www.leg.wa.gov

46.79.030 Application for license, renewal—Form—Signature—Contents. Application for a hulk hauler's license or a scrap processor's license or renewal of a hulk hauler's license or a scrap processor's license shall be made on a form for this purpose, furnished by the director, and shall be signed by the applicant or his or her authorized agent and shall include the following information:

(1) Name and address of the person, firm, partnership, association, or corporation under which name the business is to be conducted;

(2) Names and residence address of all persons having an interest in the business or, if the owner is a corporation, the names and addresses of the officers thereof;

(3) Certificate of approval of the chief of police of any city or town, wherever located, having a population of over five thousand persons and in all other instances a member of the state patrol certifying that the applicant can be found at the address shown on the application; and

(4) Any other information that the director may require. [2010 c 8 § 9094; 1971 ex.s. c 110 § 3.]

46.79.040 Application forwarded with fees—Issuance of license—Disposition of fees—Display of license. Application for a hulk hauler's license, together with a fee of ten dollars, or application for a scrap processor's license, together with a fee of twenty-five dollars, shall be forwarded to the director. Upon receipt of the application the director shall, if the application be in order, issue the license applied for authorizing him or her to do business as such and forward the fee, together with an itemized and detailed report, to the state treasurer, to be deposited in the motor vehicle fund. Upon receiving the certificate the owner shall cause it to be prominently displayed at the address shown in his or her application, where it may be inspected by an investigating officer at any time. [2010 c 8 § 9095; 1971 ex.s. c 110 § 4.]

46.79.050 License expiration—Renewal fee—Surrender of license, when. A license issued pursuant to this chapter expires on the date assigned by the director, and may be renewed by filing a proper application and payment of a fee of ten dollars.

Whenever a hulk hauler or scrap processor ceases to do business or the license has been suspended or revoked, the license shall immediately be surrendered to the director. [1985 c 109 § 5; 1983 c 142 § 4; 1971 ex.s. c 110 § 5.]

(2010 Ed.)

46.79.055 Staggering renewal periods. Notwithstanding any provision of law to the contrary, the director may extend or diminish the licensing period of hulk haulers and scrap processors for the purpose of staggering renewal periods. The extension or diminishment shall be by rule of the department adopted in accordance with chapter 34.05 RCW. [1985 c 109 § 6.]

46.79.060 Special license plates—Fee. The hulk hauler or scrap processor shall obtain a special set of license plates in addition to the regular licenses and plates required for the operation of vehicles owned and/or operated by him or her and used in the conduct of his or her business. Such special license shall be displayed on the operational vehicles and shall be in lieu of a trip permit or current license on any vehicle being transported. The fee for these plates shall be five dollars for the original plates and two dollars for each additional set of plates bearing the same license number. [2010 c 8 § 9096; 1971 ex.s. c 110 § 6.]

46.79.070 Acts subject to penalties. The director may by order pursuant to the provisions of chapter 34.05 RCW, deny, suspend, or revoke the license of any hulk hauler or scrap processor or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed five hundred dollars per violation, whenever the director finds that the applicant or licensee:

(1) Removed a vehicle or vehicle major component part from property without obtaining both the written permission of the property owner and documentation approved by the department for acquiring vehicles, junk vehicles, or major component parts thereof;

(2) Acquired, disposed of, or possessed a vehicle or major component part thereof when he or she knew that such vehicle or part had been stolen or appropriated without the consent of the owner;

(3) Sold, bought, received, concealed, had in his or her possession, or disposed of a vehicle or major component part thereof having a missing, defaced, altered, or covered manufacturer's identification number, unless approved by a law enforcement officer;

(4) Committed forgery or made any material misrepresentation on any document relating to the acquisition, disposition, registration, titling, or licensing of a vehicle pursuant to Title 46 RCW;

(5) Committed any dishonest act or omission which has caused loss or serious inconvenience as a result of the acquisition or disposition of a vehicle or any major component part thereof;

(6) Failed to comply with any of the provisions of this chapter or other applicable law relating to registration and certificates of title of vehicles and any other document releasing any interest in a vehicle;

(7) Been authorized to remove a particular vehicle or vehicles and failed to take all remnants and debris from those vehicles from that area unless requested not to do so by the person authorizing the removal;

(8) Removed parts from a vehicle at other than an approved location or removed or sold parts or vehicles beyond the scope authorized by this chapter or any rule adopted hereunder;

(9) Been adjudged guilty of a crime which directly relates to the business of a hulk hauler or scrap processor and the time elapsed since the adjudication is less than five years. For the purposes of this section adjudged guilty means, in addition to a final conviction in either a federal, state, or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the imposition of sentence is deferred or the penalty is suspended; or

(10) Been the holder of a license issued pursuant to this chapter which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid. [1990 c 250 § 71; 1983 c 142 § 5; 1971 ex.s. c 110 § 7.]

Additional notes found at www.leg.wa.gov

46.79.080 Rules. The director is hereby authorized to promulgate and adopt reasonable rules and regulations not in conflict with provisions hereof for the proper operation and enforcement of this chapter. [1971 ex.s. c 110 § 8.]

46.79.090 Inspection of premises and records—Certificate of inspection. It shall be the duty of the chiefs of police, or the Washington state patrol, in cities having a population of over five thousand persons, and in all other cases the Washington state patrol, to make periodic inspection of the hulk hauler's or scrap processor's premises and records provided for in this chapter, and furnish a certificate of inspection to the director in such manner as may be determined by the director: PROVIDED, That the above inspection in any instance can be made by an authorized representative of the department.

The department is hereby authorized to enlist the services and cooperation of any law enforcement officer or state agency of another state to inspect the premises of any hulk hauler or scrap processor whose established place of business is in that other state but who is licensed to transport automobile hulks within Washington state. [1983 c 142 § 6; 1971 ex.s. c 110 § 9.]

46.79.100 Other provisions to comply with chapter. Any municipality or political subdivision of this state which now has or subsequently makes provision for the regulation of hulk haulers or scrap processors shall comply strictly with the provisions of this chapter. [1971 ex.s. c 110 § 10.]

46.79.110 Chapter not to prohibit individual towing of vehicles to wreckers or processors. Nothing contained in this chapter shall be construed to prohibit any individual not engaged in business as a hulk hauler or scrap processor from towing any vehicle owned by him or her to any vehicle wrecker or scrap processor. [2001 c 64 § 12; 1983 c 142 § 7; 1971 ex.s. c 110 § 11.]

46.79.120 Unlicensed hulk hauling or scrap processing—Penalty. Any hulk hauler or scrap processor who engages in the business of hulk hauling or scrap processing

without holding a current license issued by the department for authorization to do so, or, holding such a license, exceeds the authority granted by that license, is guilty of a gross misdemeanor. [1983 c 142 § 8.]

46.79.130 Wholesale motor vehicle auction dealers.

(1) A wholesale motor vehicle auction dealer may:

(a) Sell any classification of motor vehicle;

(b) Sell only to motor vehicle dealers and vehicle wreckers licensed under Title 46 RCW by the state of Washington or licensed by any other state; or

(c) Sell a motor vehicle belonging to the United States government, the state of Washington, or a political subdivision to nonlicensed persons as may be required by the contracting public agency. However, a publicly owned "wrecked vehicle" as defined in RCW 46.80.010 may be sold to motor vehicle dealers and vehicle wreckers licensed under Title 46 RCW by the state of Washington or licensed by any other state.

(2) If the wholesale motor vehicle auction dealer knows that a vehicle is a "wrecked vehicle" as defined by RCW 46.80.010, the dealer must disclose this fact on the bill of sale. [1998 c 282 § 4.]

**Chapter 46.80 RCW
VEHICLE WRECKERS**

Sections

46.80.005	Legislative declaration.
46.80.010	Definitions.
46.80.020	License required—Penalty.
46.80.030	Application for license—Contents.
46.80.040	Issuance of license—Fee.
46.80.050	Expiration, renewal—Fee.
46.80.060	License plates—Fee—Display.
46.80.070	Bond.
46.80.080	Records—Penalty.
46.80.090	Reports to department—Evidence of ownership.
46.80.100	Cancellation of bond.
46.80.110	License penalties, civil fines, criminal penalties.
46.80.121	False or unqualified applications.
46.80.130	All storage at place of business—Screening required—Penalty.
46.80.140	Rules.
46.80.150	Inspection of licensed premises and records.
46.80.160	Municipal compliance.
46.80.170	Violations—Penalties.
46.80.180	Cease and desist orders—Fines.
46.80.190	Subpoenas.
46.80.200	Wholesale motor vehicle auction dealers.
46.80.900	Liberal construction.

Hulk haulers and scrap processors: Chapter 46.79 RCW.

46.80.005 Legislative declaration. The legislature finds and declares that the distribution and sale of vehicle parts in the state of Washington vitally affects the general economy of the state and the public interest and the public welfare, and that in order to promote the public interest and the public welfare and in the exercise of its police power, it is necessary to regulate and license vehicle wreckers and dismantlers, the buyers-for-resale, and the sellers of secondhand vehicle components doing business in Washington, in order to prevent the sale of stolen vehicle parts, to prevent frauds, impositions, and other abuses, and to preserve the investments and properties of the citizens of this state. [1995 c 256 § 3; 1977 ex.s. c 253 § 1.]

Additional notes found at www.leg.wa.gov

46.80.010 Definitions. (Effective until July 1, 2011.)

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

(1) "Core" means a major component part received by a vehicle wrecker in exchange for a like part sold by the wrecker, is not resold as a major component part except for scrap metal value or for remanufacture, and the wrecker maintains records for three years from the date of acquisition to identify the name of the person from whom the core was received.

(2) "Established place of business" means a building or enclosure which the vehicle wrecker occupies either continuously or at regular periods and where his or her books and records are kept and business is transacted and which must conform with zoning regulations.

(3) "Interim owner" means the owner of a vehicle who has the original certificate of ownership for the vehicle, which certificate has been released by the person named on the certificate and assigned to the person offering to sell the vehicle to the wrecker.

(4) "Major component part" includes at least each of the following vehicle parts: (a) Engines and short blocks; (b) frame; (c) transmission and/or transfer case; (d) cab; (e) door; (f) front or rear differential; (g) front or rear clip; (h) quarter panel; (i) truck bed or box; (j) seat; (k) hood; (l) bumper; (m) fender; and (n) airbag. The director may supplement this list by rule.

(5) "Vehicle wrecker" means every person, firm, partnership, association, or corporation engaged in the business of buying, selling, or dealing in vehicles of a type required to be licensed under the laws of this state, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of a vehicle, or who buys or sells integral secondhand parts of component material thereof, in whole or in part, or who deals in secondhand vehicle parts.

(6) "Wrecked vehicle" means a vehicle which is disassembled or dismantled or a vehicle which is acquired with the intent to dismantle or disassemble and never again to operate as a vehicle, or a vehicle which has sustained such damage that its cost to repair exceeds the fair market value of a like vehicle which has not sustained such damage, or a damaged vehicle whose salvage value plus cost to repair equals or exceeds its fair market value, if repaired, or a vehicle which has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state for which the salvage value plus cost to repair exceeds its fair market value, if repaired; further, it is presumed that a vehicle is a wreck if it has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state. [2010 c 8 § 9097; 1999 c 278 § 1; 1995 c 256 § 4; 1977 ex.s. c 253 § 2; 1961 c 12 § 46.80.010. Prior: 1947 c 262 § 1; Rem. Supp. 1947 § 8326-40.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Additional notes found at www.leg.wa.gov

46.80.010 Definitions. (Effective July 1, 2011.) The definitions set forth in this section apply throughout this chapter.

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(1) "Core" means a major component part received by a vehicle wrecker in exchange for a like part sold by the vehicle wrecker, is not resold as a major component part except for scrap metal value or for remanufacture, and the vehicle wrecker maintains records for three years from the date of acquisition to identify the name of the person from whom the core was received.

(2) "Established place of business" means a building or enclosure which the vehicle wrecker occupies either continuously or at regular periods and where his or her books and records are kept and business is transacted and which must conform with zoning regulations.

(3) "Interim owner" means the owner of a vehicle who has the original certificate of title for the vehicle, which certificate has been released by the person named on the certificate and assigned to the person offering to sell the vehicle to the wrecker.

(4) "Major component part" includes at least each of the following vehicle parts: (a) Engines and short blocks; (b) frame; (c) transmission and/or transfer case; (d) cab; (e) door; (f) front or rear differential; (g) front or rear clip; (h) quarter panel; (i) truck bed or box; (j) seat; (k) hood; (l) bumper; (m) fender; and (n) airbag. The director may supplement this list by rule.

(5) "Vehicle wrecker" means every person, firm, partnership, association, or corporation engaged in the business of buying, selling, or dealing in vehicles of a type required to be registered under the laws of this state, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of a vehicle, or who buys or sells integral secondhand parts of component material thereof, in whole or in part, or who deals in secondhand vehicle parts.

(6) "Wrecked vehicle" means a vehicle which is disassembled or dismantled or a vehicle which is acquired with the intent to dismantle or disassemble and never again to operate as a vehicle, or a vehicle which has sustained such damage that its cost to repair exceeds the fair market value of a like vehicle which has not sustained such damage, or a damaged vehicle whose salvage value plus cost to repair equals or exceeds its fair market value, if repaired, or a vehicle which has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state for which the salvage value plus cost to repair exceeds its fair market value, if repaired; further, it is presumed that a vehicle is a wreck if it has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state. [2010 c 161 § 1138; 2010 c 8 § 9097; 1999 c 278 § 1; 1995 c 256 § 4; 1977 ex.s. c 253 § 2; 1961 c 12 § 46.80.010. Prior: 1947 c 262 § 1; Rem. Supp. 1947 § 8326-40.]

Reviser's note: (1) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(2) This section was amended by 2010 c 8 § 9097 and by 2010 c 161 § 1138, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.80.020 License required—Penalty. (1) It is unlawful for a person to engage in the business of wrecking vehicles without having first applied for and received a license.

(2)(a) Except as provided in (b) of this subsection, a person or firm engaged in the unlawful activity described in this section is guilty of a gross misdemeanor.

(b) A second or subsequent offense is a class C felony punishable according to chapter 9A.20 RCW. [2003 c 53 § 253; 1995 c 256 § 5; 1979 c 158 § 192; 1977 ex.s. c 253 § 3; 1971 ex.s. c 7 § 1; 1967 c 32 § 94; 1961 c 12 § 46.80.020. Prior: 1947 c 262 § 2; Rem. Supp. 1947 § 8326-41.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

46.80.030 Application for license—Contents. Application for a vehicle wrecker's license or renewal of a vehicle wrecker's license shall be made on a form for this purpose, furnished by the department of licensing, and shall be signed by the vehicle wrecker or his or her authorized agent and shall include the following information:

(1) Name and address of the person, firm, partnership, association, or corporation under which name the business is to be conducted;

(2) Names and residence address of all persons having an interest in the business or, if the owner is a corporation, the names and addresses of the officers thereof;

(3) Certificate of approval of the chief of police of any city or town having a population of over five thousand persons and in all other instances a member of the Washington state patrol certifying that:

(a) The applicant has an established place of business at the address shown on the application; and

(b) In the case of a renewal of a vehicle wrecker's license, the applicant is in compliance with this chapter and the provisions of Title 46 RCW, relating to registration and certificates of title: PROVIDED, That the above certifications in any instance can be made by an authorized representative of the department of licensing;

(4) Any other information that the department may require. [2010 c 8 § 9098; 2001 c 64 § 13; 1990 c 250 § 72; 1979 c 158 § 193; 1977 ex.s. c 253 § 4; 1971 ex.s. c 7 § 2; 1967 ex.s. c 13 § 1; 1967 c 32 § 95; 1961 c 12 § 46.80.030. Prior: 1947 c 262 § 3; Rem. Supp. 1947 § 8326-42.]

Additional notes found at www.leg.wa.gov

46.80.040 Issuance of license—Fee. The application, together with a fee of twenty-five dollars, and a surety bond as provided in RCW 46.80.070, shall be forwarded to the department. Upon receipt of the application the department shall, if the application is in order, issue a vehicle wrecker's license authorizing the wrecker to do business as such and forward the fee to the state treasurer, to be deposited in the motor vehicle fund. Upon receiving the certificate the owner shall cause it to be prominently displayed in the place of business, where it may be inspected by an investigating officer at any time. [1995 c 256 § 6; 1971 ex.s. c 7 § 3; 1967 c 32 § 96; 1961 c 12 § 46.80.040. Prior: 1947 c 262 § 4; Rem. Supp. 1947 § 8326-43.]

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46.80.050 Expiration, renewal—Fee. A license issued on this application remains in force until suspended or revoked and may be renewed annually upon reapplication according to RCW 46.80.030 and upon payment of a fee of ten dollars. A vehicle wrecker who fails or neglects to renew the license before the assigned expiration date shall pay the fee for an original vehicle wrecker license as provided in this chapter.

Whenever a vehicle wrecker ceases to do business as such or the license has been suspended or revoked, the wrecker shall immediately surrender the license to the department. [1995 c 256 § 7; 1985 c 109 § 7; 1971 ex.s. c 7 § 4; 1967 ex.s. c 13 § 2; 1967 c 32 § 97; 1961 c 12 § 46.80.050. Prior: 1947 c 262 § 5; Rem. Supp. 1947 § 8326-44.]

46.80.060 License plates—Fee—Display. The vehicle wrecker shall obtain a special set of license plates in addition to the regular licenses and plates required for the operation of such vehicles. The special plates must be displayed on vehicles owned and/or operated by the wrecker and used in the conduct of the business. The fee for these plates shall be five dollars for the original plates and two dollars for each additional set of plates bearing the same license number. A wrecker with more than one licensed location in the state may use special plates bearing the same license number for vehicles operated out of any of the licensed locations. [1995 c 256 § 8; 1961 c 12 § 46.80.060. Prior: 1957 c 273 § 21; 1947 c 262 § 6; Rem. Supp. 1947 § 8326-45.]

46.80.070 Bond. Before issuing a vehicle wrecker's license, the department shall require the applicant to file with the department a surety bond in the amount of one thousand dollars, running to the state of Washington and executed by a surety company authorized to do business in the state of Washington. The bond shall be approved as to form by the attorney general and conditioned upon the wrecker conducting the business in conformity with the provisions of this chapter. Any person who has suffered any loss or damage by reason of fraud, carelessness, neglect, violation of the terms of this chapter, or misrepresentation on the part of the wrecking company, may institute an action for recovery against the vehicle wrecker and surety upon the bond. However, the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. [1995 c 256 § 9; 1977 ex.s. c 253 § 5; 1971 ex.s. c 7 § 5; 1967 c 32 § 98; 1961 c 12 § 46.80.070. Prior: 1947 c 262 § 7; Rem. Supp. 1947 § 8326-46.]

Additional notes found at www.leg.wa.gov

46.80.080 Records—Penalty. (1) Every vehicle wrecker shall maintain books or files in which the wrecker shall keep a record and a description of:

(a) Every vehicle wrecked, dismantled, disassembled, or substantially altered by the wrecker; and

(b) Every major component part acquired by the wrecker; together with a bill of sale signed by a seller whose identity has been verified and the name and address of the person, firm, or corporation from whom the wrecker purchased the vehicle or part. Major component parts other than

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cores shall be further identified by the vehicle identification number of the vehicle from which the part came.

(2) The record shall also contain the following data regarding the wrecked or acquired vehicle or vehicle that is the source of a major component part other than a core:

- (a) The certificate of title number (if previously titled in this or any other state);
- (b) Name of state where last registered;
- (c) Number of the last license number plate issued;
- (d) Name of vehicle;
- (e) Motor or identification number and serial number of the vehicle;
- (f) Date purchased;
- (g) Disposition of the motor and chassis;
- (h) Yard number assigned by the licensee to the vehicle or major component part, which shall also appear on the identified vehicle or part; and
- (i) Such other information as the department may require.

(3) The records shall also contain a bill of sale signed by the seller for other minor component parts acquired by the licensee, identifying the seller by name, address, and date of sale.

(4) The records shall be maintained by the licensee at his or her established place of business for a period of three years from the date of acquisition.

(5) The record is subject to inspection at all times during regular business hours by members of the police department, sheriff's office, members of the Washington state patrol, or officers or employees of the department.

(6) A vehicle wrecker shall also maintain a similar record of all disabled vehicles that have been towed or transported to the vehicle wrecker's place of business or to other places designated by the owner of the vehicle or his or her representative. This record shall specify the name and description of the vehicle, name of owner, number of license plate, condition of the vehicle and place to which it was towed or transported.

(7) Failure to comply with this section is a gross misdemeanor. [1999 c 278 § 2; 1995 c 256 § 10; 1977 ex.s. c 253 § 6; 1971 ex.s. c 7 § 6; 1967 c 32 § 99; 1961 c 12 § 46.80.080. Prior: 1947 c 262 § 8; Rem. Supp. 1947 § 8326-47.]

Additional notes found at www.leg.wa.gov

46.80.090 Reports to department—Evidence of ownership. (Effective until July 1, 2011.) Within thirty days after acquiring a vehicle, the vehicle wrecker shall furnish a written report to the department. This report shall be in such form as the department shall prescribe and shall be accompanied by evidence of ownership as determined by the department. No vehicle wrecker may acquire a vehicle, including a vehicle from an interim owner, without first obtaining evidence of ownership as determined by the department. For a vehicle from an interim owner, the evidence of ownership may not require that a title be issued in the name of the interim owner as required by RCW 46.12.101. The vehicle wrecker shall furnish a monthly report of all acquired vehicles. This report shall be made on forms prescribed by the department and contain such information as the department may require. This statement shall be signed by the vehicle

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wrecker or an authorized representative and the facts therein sworn to before a notary public, or before an officer or employee of the department designated by the director to administer oaths or acknowledge signatures, pursuant to RCW 46.01.180. [1999 c 278 § 3; 1995 c 256 § 11; 1979 c 158 § 194; 1977 ex.s. c 253 § 7; 1971 ex.s. c 7 § 7; 1967 c 32 § 100; 1961 c 12 § 46.80.090. Prior: 1947 c 262 § 9; Rem. Supp. 1947 § 8326-48.]

Additional notes found at www.leg.wa.gov

46.80.090 Reports to department—Evidence of ownership. (Effective July 1, 2011.) Within thirty days after acquiring a vehicle, the vehicle wrecker shall furnish a written report to the department. This report shall be in such form as the department shall prescribe and shall be accompanied by evidence of ownership as determined by the department. No vehicle wrecker may acquire a vehicle, including a vehicle from an interim owner, without first obtaining evidence of ownership as determined by the department. For a vehicle from an interim owner, the evidence of ownership may not require that a title be issued in the name of the interim owner as required by RCW 46.12.650. The vehicle wrecker shall furnish a monthly report of all acquired vehicles. This report shall be made on forms prescribed by the department and contain such information as the department may require. This statement shall be signed by the vehicle wrecker or an authorized representative and the facts therein sworn to before a notary public, or before an officer or employee of the department designated by the director to administer oaths or acknowledge signatures, pursuant to RCW 46.01.180. [2010 c 161 § 1139; 1999 c 278 § 3; 1995 c 256 § 11; 1979 c 158 § 194; 1977 ex.s. c 253 § 7; 1971 ex.s. c 7 § 7; 1967 c 32 § 100; 1961 c 12 § 46.80.090. Prior: 1947 c 262 § 9; Rem. Supp. 1947 § 8326-48.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.80.100 Cancellation of bond. If, after issuing a vehicle wrecker's license, the bond is canceled by the surety in a method provided by law, the department shall immediately notify the principal covered by the bond and afford the principal the opportunity of obtaining another bond before the termination of the original. If the principal fails, neglects, or refuses to obtain a replacement, the director may cancel or suspend the vehicle wrecker's license. Notice of cancellation of the bond may be accomplished by sending a notice by first-class mail using the last known address in department records for the principal covered by the bond and recording the transmittal on an affidavit of first-class mail. [1995 c 256 § 12; 1977 ex.s. c 253 § 8; 1967 c 32 § 101; 1961 c 12 § 46.80.100. Prior: 1947 c 262 § 10; Rem. Supp. 1947 § 8326-49.]

Additional notes found at www.leg.wa.gov

46.80.110 License penalties, civil fines, criminal penalties. (1) The director or a designee may, pursuant to the provisions of chapter 34.05 RCW, by order deny, suspend, or revoke the license of a vehicle wrecker, or assess a civil fine

of up to five hundred dollars for each violation, if the director finds that the applicant or licensee has:

(a) Acquired a vehicle or major component part other than by first obtaining title or other documentation as provided by this chapter;

(b) Willfully misrepresented the physical condition of any motor or integral part of a vehicle;

(c) Sold, had in the wrecker's possession, or disposed of a vehicle or any part thereof when he or she knows that the vehicle or part has been stolen, or appropriated without the consent of the owner;

(d) Sold, bought, received, concealed, had in the wrecker's possession, or disposed of a vehicle or part thereof having a missing, defaced, altered, or covered manufacturer's identification number, unless approved by a law enforcement officer;

(e) Committed forgery or misstated a material fact on any title, registration, or other document covering a vehicle that has been reassembled from parts obtained from the disassembling of other vehicles;

(f) Committed any dishonest act or omission that the director has reason to believe has caused loss or serious inconvenience as a result of a sale of a vehicle or part thereof;

(g) Failed to comply with any of the provisions of this chapter or with any of the rules adopted under it, or with any of the provisions of Title 46 RCW relating to registration and certificates of title of vehicles;

(h) Procured a license fraudulently or dishonestly;

(i) Been convicted of a crime that directly relates to the business of a vehicle wrecker and the time elapsed since conviction is less than ten years, or suffered any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purposes of this section, conviction means in addition to a final conviction in either a federal, state, or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended.

(2) In addition to actions by the department under this section, it is a gross misdemeanor to violate subsection (1)(a), (b), or (h) of this section. [1995 c 256 § 13; 1989 c 337 § 17; 1977 ex.s. c 253 § 9; 1971 ex.s. c 7 § 8; 1967 ex.s. c 13 § 3; 1967 c 32 § 102; 1961 c 12 § 46.80.110. Prior: 1947 c 262 § 11; Rem. Supp. 1947 § 8326-50.]

Additional notes found at www.leg.wa.gov

46.80.121 False or unqualified applications. If a person whose vehicle wrecker license has previously been canceled for cause by the department files an application for a license to conduct business as a vehicle wrecker, or if the department is of the opinion that the application is not filed in good faith or that the application is filed by some person as a subterfuge for the real person in interest whose license has previously been canceled for cause, the department may refuse to issue the person a license to conduct business as a vehicle wrecker. [1995 c 256 § 14.]

46.80.130 All storage at place of business—Screening required—Penalty. (1) It is unlawful for a vehicle wrecker

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to keep a vehicle or any integral part thereof in any place other than the established place of business, designated in the certificate issued by the department, without permission of the department.

(2) All premises containing vehicles or parts thereof shall be enclosed by a wall or fence of such height as to obscure the nature of the business carried on therein. To the extent reasonably necessary or permitted by the topography of the land, the department may establish specifications or standards for the fence or wall. The wall or fence shall be painted or stained a neutral shade that blends in with the surrounding premises, and the wall or fence must be kept in good repair. A living hedge of sufficient density to prevent a view of the confined area may be substituted for such a wall or fence. Any dead or dying portion of the hedge shall be replaced.

(3) Violation of subsection (1) of this section is a gross misdemeanor. [1995 c 256 § 15; 1971 ex.s. c 7 § 9; 1967 ex.s. c 13 § 4; 1967 c 32 § 103; 1965 c 117 § 1; 1961 c 12 § 46.80.130. Prior: 1947 c 262 § 13; Rem. Supp. 1947 § 8326-52.]

46.80.140 Rules. The director is hereby authorized to promulgate and adopt reasonable rules and regulations not in conflict with provisions hereof for the proper operation and enforcement of this chapter. [1967 c 32 § 104; 1961 c 12 § 46.80.140. Prior: 1947 c 262 § 14; Rem. Supp. 1947 § 8326-53.]

46.80.150 Inspection of licensed premises and records. It shall be the duty of the chiefs of police, or the Washington state patrol, in cities having a population of over five thousand persons, and in all other cases the Washington state patrol, to make periodic inspection of the vehicle wrecker's licensed premises and records provided for in this chapter during normal business hours, and furnish a certificate of inspection to the department in such manner as may be determined by the department. In any instance, an authorized representative of the department may make the inspection. [1995 c 256 § 16; 1983 c 142 § 9; 1977 ex.s. c 253 § 10; 1971 ex.s. c 7 § 10; 1967 ex.s. c 13 § 5; 1967 c 32 § 105; 1961 c 12 § 46.80.150. Prior: 1947 c 262 § 15; Rem. Supp. 1947 § 8326-54.]

Additional notes found at www.leg.wa.gov

46.80.160 Municipal compliance. Any municipality or political subdivision of this state that now has or subsequently makes provision for the regulation of vehicle wreckers shall comply strictly with the provisions of this chapter. [1995 c 256 § 17; 1961 c 12 § 46.80.160. Prior: 1947 c 262 § 16; Rem. Supp. 1947 § 8326-55.]

46.80.170 Violations—Penalties. Unless otherwise provided by law, it is a misdemeanor for any person to violate any of the provisions of this chapter or the rules adopted under this chapter. [1995 c 256 § 18; 1977 ex.s. c 253 § 11.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Additional notes found at www.leg.wa.gov

46.80.180 Cease and desist orders—Fines. (1) If it appears to the director that an unlicensed person has engaged in an act or practice constituting a violation of this chapter, or a rule adopted or an order issued under this chapter, the director may issue an order directing the person to cease and desist from continuing the act or practice. The director shall give the person reasonable notice of and opportunity for a hearing. The director may issue a temporary order pending a hearing. The temporary order remains in effect until ten days after the hearing is held and becomes final if the person to whom the notice is addressed does not request a hearing within fifteen days after receipt of the notice.

(2) The director may assess a fine of up to one thousand dollars with the final order for each act or practice constituting a violation of this chapter by an unlicensed person. [1995 c 256 § 19.]

46.80.190 Subpoenas. (1) The department of licensing or its authorized agent may examine or subpoena any persons, books, papers, records, data, vehicles, or vehicle parts bearing upon the investigation or proceeding under this chapter.

(2) The persons subpoenaed may be required to testify and produce any books, papers, records, data, vehicles, or vehicle parts that the director deems relevant or material to the inquiry.

(3) The director or an authorized agent may administer an oath to the person required to testify, and a person giving false testimony after the administration of the oath is guilty of perjury in the first degree under RCW 9A.72.020.

(4) A court of competent jurisdiction may, upon application by the director, issue to a person who fails to comply, an order to appear before the director or officer designated by the director, to produce documentary or other evidence touching the matter under investigation or in question. [2003 c 53 § 254; 1995 c 256 § 20.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

46.80.200 Wholesale motor vehicle auction dealers.

(1) A wholesale motor vehicle auction dealer may:

(a) Sell any classification of motor vehicle;

(b) Sell only to motor vehicle dealers and vehicle wreckers licensed under Title 46 RCW by the state of Washington or licensed by any other state; or

(c) Sell a motor vehicle belonging to the United States government, the state of Washington, or a political subdivision to nonlicensed persons as may be required by the contracting public agency. However, a publicly owned "wrecked vehicle" may be sold to motor vehicle dealers and vehicle wreckers licensed under Title 46 RCW by the state of Washington or licensed by any other state.

(2) If the wholesale motor vehicle auction dealer knows that a vehicle is a "wrecked vehicle," the dealer must disclose this fact on the bill of sale. [1998 c 282 § 6.]

46.80.900 Liberal construction. The provisions of this chapter shall be liberally construed to the end that traffic in stolen vehicle parts may be prevented, and irresponsible, unreliable, or dishonest persons may be prevented from engaging in the business of wrecking vehicles or selling used

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vehicle parts in this state and reliable persons may be encouraged to engage in businesses of wrecking or reselling vehicle parts in this state. [1995 c 256 § 21; 1977 ex.s. c 253 § 13.]

Additional notes found at www.leg.wa.gov

Chapter 46.81 RCW

TRAFFIC SAFETY EDUCATION COURSES

(See chapter 28A.220 RCW)

Chapter 46.81A RCW

MOTORCYCLE SKILLS EDUCATION PROGRAM

Sections

46.81A.001	Purpose.
46.81A.010	Definitions.
46.81A.020	Powers and duties of director, department.
46.81A.030	Deposit of gifts.
46.81A.900	Severability—1988 c 227.

46.81A.001 Purpose. It is the purpose of this chapter to provide the motorcycle riders of the state with an affordable motorcycle skills education program in order to promote motorcycle safety awareness. [1988 c 227 § 1.]

46.81A.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Motorcycle skills education program" means a motorcycle rider skills training program to be administered by the department.

(2) "Department" means the department of licensing.

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

(4) "Motorcycle" means a motor vehicle designed to travel on not more than three wheels in contact with the ground, on which the driver rides astride the motor unit or power train and is designed to be steered with a handlebar, but excluding farm tractors, electric personal assistive mobility devices, mopeds, motorized foot scooters, motorized bicycles, and off-road motorcycles. [2003 c 353 § 11; 2003 c 41 § 4; 1988 c 227 § 2.]

Reviser's note: This section was amended by 2003 c 41 § 4 and by 2003 c 353 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2003 c 353: See note following RCW 46.04.320.

Short title—Effective date—2003 c 41: See notes following RCW 46.20.500.

46.81A.020 Powers and duties of director, department. (1) The director shall administer and enforce the law pertaining to the motorcycle skills education program as set forth in this chapter.

(2) The director may adopt and enforce reasonable rules that are consistent with this chapter.

(3) The director shall revise the Washington motorcycle safety program to:

(a) Institute separate novice and advanced motorcycle skills education courses for both two-wheeled and three-wheeled motorcycles that are each a minimum of eight hours and no more than sixteen hours at a cost of (i) no more than fifty dollars for Washington state residents under the age of

eighteen, and (ii) no more than one hundred twenty-five dollars for Washington state residents who are eighteen years of age or older and military personnel of any age stationed in Washington state;

(b) Encourage the use of loaned or used motorcycles for use in the motorcycle skills education course if the instructor approves them;

(c) Require all instructors for two-wheeled motorcycles to conduct at least three classes in a one-year period, and all instructors for three-wheeled motorcycles to conduct at least one class in a one-year period, to maintain their teaching eligibility.

(4) The department may enter into agreements to review and certify that a private motorcycle skills education course meets educational standards equivalent to those required of courses conducted under the motorcycle skills education program. An agreement entered into under this subsection must provide that the department may conduct periodic audits to ensure that educational standards continue to meet those required for courses conducted under the motorcycle skills education program, and that the costs of the review, certification, and audit process will be borne by the party seeking certification.

(5) The department shall obtain and compile information from applicants for a motorcycle endorsement regarding whether they have completed a state approved or certified motorcycle skills education course. [2007 c 97 § 2; 2003 c 41 § 5; 2002 c 197 § 2; 1998 c 245 § 91; 1993 c 115 § 2; 1988 c 227 § 3.]

Short title—Effective date—2003 c 41: See notes following RCW 46.20.500.

46.81A.030 Deposit of gifts. The director may receive gifts, grants, or endowments from private sources which shall be deposited in the motorcycle safety [education] account within the highway safety fund. [1988 c 227 § 4.]

Motorcycle safety education account: RCW 46.68.065.

46.81A.900 Severability—1988 c 227. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1988 c 227 § 8.]

Chapter 46.82 RCW

DRIVER TRAINING SCHOOLS

Sections

46.82.280	Definitions.
46.82.285	Application of uniform regulation of business and professions act.
46.82.290	Administration of chapter—Adoption of rules.
46.82.300	Driver instructors' advisory committee.
46.82.310	School licenses—Insurance.
46.82.320	Instructor's license.
46.82.325	Background checks for school personnel.
46.82.330	Instructor's license—Application—Requirements.
46.82.340	Duplicate license certificates.
46.82.350	Suspension, revocation, or denial of licenses—Causes enumerated.
46.82.360	Suspension, revocation, or denial of licenses—Failure to comply with specified business practices.
46.82.370	Suspension, revocation, or denial of licenses—Appeal of action—Emergency suspension—Hearing, notice and procedure.

46.82.380	Appeal from action or decision of director.
46.82.390	Penalty.
46.82.400	Chapter not applicable to educational institutions.
46.82.410	Disposition of moneys collected.
46.82.420	Basic minimum required curriculum—Revocation of license for failure to teach.
46.82.430	Instructional material requirements.
46.82.900	Severability—1979 ex.s. c 51.

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

(1) "Behind-the-wheel instruction" means instruction in an approved driver training school instruction vehicle according to and inclusive of the minimum required curriculum. Behind-the-wheel instruction is characterized by driving experience.

(2) "Classroom" means a space dedicated to and used exclusively by a driver training instructor for the instruction of students. With prior department approval, a branch office classroom may be located within alternative facilities, such as a public or private library, school, community college, college or university, or a business training facility.

(3) "Classroom instruction" means that portion of a traffic safety education course that is characterized by classroom-based student instruction conducted by or under the direct supervision of a licensed instructor or licensed instructors.

(4) "Director" means the director of the department of licensing of the state of Washington.

(5) "Driver training education course" means a course of instruction in traffic safety education approved and licensed by the department of licensing that consists of classroom and behind-the-wheel instruction as documented by the minimum approved curriculum.

(6) "Driver training school" means a commercial driver training school engaged in the business of giving instruction, for a fee, in the operation of automobiles.

(7) "Enrollment" means the collecting of a fee or the signing of a contract for a driver training education course. "Enrollment" does not include the collecting of names and contact information for enrolling students once a driver training school is licensed to instruct.

(8) "Fraudulent practices" means any conduct or representation on the part of a driver training school owner or instructor including:

(a) Inducing anyone to believe, or to give the impression, that a license to operate a motor vehicle or any other license granted by the director may be obtained by any means other than those prescribed by law, or furnishing or obtaining the same by illegal or improper means, or requesting, accepting, or collecting money for such purposes;

(b) Operating a driver training school without a license, providing instruction without an instructor's license, verifying enrollment prior to being licensed, misleading or false statements on applications for a commercial driver training school license or instructor's license or on any required records or supporting documentation;

(c) Failing to fully document and maintain all required driver training school records of instruction, school operation, and instructor training;

(d) Issuing a driver training course certificate without requiring completion of the necessary behind-the-wheel and classroom instruction.

(9) "Instructor" means any person employed by or otherwise associated with a driver training school to instruct persons in the operation of an automobile.

(10) "Owner" means an individual, partnership, corporation, association, or other person or group that holds a substantial interest in a driver training school.

(11) "Person" means any individual, firm, corporation, partnership, or association.

(12) "Place of business" means a designated location at which the business of a driver training school is transacted or its records are kept.

(13) "Student" means any person enrolled in an approved driver training course.

(14) "Substantial interest holder" means a person who has actual or potential influence over the management or operation of any driver training school. Evidence of substantial interest includes, but is not limited to, one or more of the following:

(a) Directly or indirectly owning, operating, managing, or controlling a driver training school or any part of a driver training school;

(b) Directly or indirectly profiting from or assuming liability for debts of a driver training school;

(c) Is an officer or director of a driver training school;

(d) Owning ten percent or more of any class of stock in a privately or closely held corporate driver training school, or five percent or more of any class of stock in a publicly traded corporate driver training school;

(e) Furnishing ten percent or more of the capital, whether in cash, goods, or services, for the operation of a driver training school during any calendar year; or

(f) Directly or indirectly receiving a salary, commission, royalties, or other form of compensation from the activity in which a driver training school is or seeks to be engaged. [2010 1st sp.s. c 7 § 19; 2009 c 101 § 1; 2006 c 219 § 2; 1986 c 80 § 1; 1979 ex.s. c 51 § 1.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective date—2006 c 219: See note following RCW 46.82.285.

46.82.285 Application of uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2006 c 219 § 1.]

Effective date—2006 c 219: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 24, 2006]." [2006 c 219 § 15.]

46.82.290 Administration of chapter—Adoption of rules. (1) The director shall be responsible for the administration and enforcement of the law pertaining to driver training schools as set forth in this chapter.

(2) The director is authorized to adopt and enforce such reasonable rules as may be consistent with and necessary to carry out this chapter. [1979 ex.s. c 51 § 2.]

(2010 Ed.)

46.82.300 Driver instructors' advisory committee.

Reviser's note: RCW 46.82.300 was amended by 2010 c 8 § 9099 without reference to its repeal by 2010 1st sp.s. c 7 § 20. It has been decodified for publication purposes under RCW 1.12.025.

46.82.310 School licenses—Insurance. (1) No person shall engage in the business of conducting a driver training school without a license issued by the director for that purpose. The school's license must be displayed before the school may:

(a) Schedule, enroll, or engage any students in a course of instruction;

(b) Issue a verification of enrollment to any student; or

(c) Begin any classroom or behind-the-wheel instruction.

(2) An application for a driver training school license shall be filed with the director, containing such information as prescribed by the director, including a uniform business identifier number, accompanied by an application fee as set by rule of the department, which shall in no event be refunded. Before an application for a driver training school license is approved, the business practices, facilities, records, vehicles, and insurance of the proposed school must be inspected and reviewed by authorized representatives of the director. If an application is approved by the director, the applicant shall be granted a license valid for a period of one year from the date of issuance.

(3) A driver training school may apply for a license to establish a branch office or branch classroom by filing an application with the director, containing such information as prescribed by the director, accompanied by an application fee as set by rule of the department, which shall in no event be refunded. Before an application for a license to establish a branch office or branch classroom is approved, the business practices, facilities, records, vehicles, and insurance of the proposed branch location must be inspected and reviewed by authorized representatives of the director. If an application is approved by the director, the applicant shall be granted a license valid for a period of one year from the date of issuance.

(4) The annual fee for renewal of a school or branch location license shall be set by rule of the department. Subject to the department's inspection of the business, the director shall issue a license certificate to each licensee which shall be conspicuously displayed in the place of business of the licensee. If the director has not received a renewal application postmarked on or before the date a license expires the license will be marked late. If the renewal application and fee are not received within thirty days after expiration of the license, the license will be void requiring a new application as provided for in this chapter, including payment of all fees. Instruction may not be given beyond the thirty days from the expiration of the license.

(5) The person to whom a driver training school license has been issued must notify the director in writing within ten business days after any change is made in the officers, directors, or location of the place of business of the school.

(6) Except as otherwise permitted by rule of the department, a change involving the ownership of a driver training school requires a new license application, including payment of all fees.

(a) The owner relinquishing the business must notify the director in writing within ten business days.

(b) The new owner must submit an application and fee as prescribed by rule of the department for transfer of the school's license to the director within ten business days.

(c) Upon receipt of the required notification and the application and fees for license transfer, the director shall permit continuance of the business for a period not to exceed sixty days from the date of transfer pending approval of the new application for a school license.

(d) The transferred license shall remain subject to suspension, revocation, or denial in accordance with RCW 46.82.350 and 46.82.360.

(7) Evidence of liability insurance coverage for the instruction vehicles and the building premises of the driver training school must be filed with the director prior to the issuance or renewal of a school license, and shall meet the following standards:

(a) Coverage must be provided by a company authorized to do business in Washington state;

(b) Automobile liability coverage shall be in the amount of not less than one million dollars, and shall include property damage and uninsured motorists coverage;

(c) The required coverage shall be maintained in full force and effect for the term of the school license;

(d) Changes in insurance coverage due to cancellation or expiration require notification of the director and proof of continuing coverage within ten working days following any change; and

(e) Coverage shall be issued in the name of the school and identify the covered locations and vehicles. [2009 c 101 § 3; 2006 c 219 § 4; 2002 c 352 § 24; 1979 ex.s. c 51 § 4.]

Effective date—2006 c 219: See note following RCW 46.82.285.

Effective dates—2002 c 352: See note following RCW 46.09.410.

46.82.320 Instructor's license. (1) No person affiliated with a driver training school shall give instruction in the operation of an automobile for a fee without a license issued by the director for that purpose. An application for an original or renewal instructor's license shall be filed with the director, containing such information as prescribed by this chapter and by the director, accompanied by an application fee set by rule of the department, which shall in no event be refunded. An application for a renewal instructor's license must be accompanied by proof of the applicant's continuing professional development that meets the standards adopted by the director. If the applicant satisfactorily meets the application requirements and the examination requirements as prescribed in RCW 46.82.330, the applicant shall be granted a license valid for a period of two years from the date of issuance.

(2) The director shall issue a license certificate to each qualified applicant.

(a) An employing driver training school must conspicuously display an instructor's license at its established place of business and display copies of the instructor's license at any branch office where the instructor provides instruction.

(b) Unless revoked, canceled, or denied by the director, the license shall remain the property of the licensee in the event of termination of employment or employment by another driver training school.

(c) If the director has not received a renewal application on or before the date a license expires, the license will be voided requiring a new application as provided for in this chapter, including examination and payment of all fees.

(d) If revoked, canceled, or denied by the director, the license must be surrendered to the department within ten days following the effective date of such action.

(3) Each licensee shall be provided with a wallet-size identification card by the director at the time the license is issued which shall be in the instructor's immediate possession at all times while engaged in instructing.

(4) The person to whom an instructor's license has been issued shall notify the director in writing within ten days of any change of employment or termination of employment, providing the name and address of the new driver training school by whom the instructor will be employed. [2009 c 101 § 4; 2006 c 219 § 5; 2002 c 352 § 25; 1989 c 337 § 18; 1986 c 80 § 2; 1979 ex.s. c 51 § 5.]

Effective date—2006 c 219: See note following RCW 46.82.285.

Effective dates—2002 c 352: See note following RCW 46.09.410.

46.82.325 Background checks for school personnel.

(1) Instructors, owners, and other persons affiliated with a school who have regularly scheduled, unsupervised contact with students are required to have a background check through the Washington state patrol criminal identification system and through the federal bureau of investigation. The background check shall also include a fingerprint check using a fingerprint card. Persons covered by this section must have their background rechecked under this subsection every five years.

(2) In addition to the background check required under subsection (1) of this section, persons covered by this section must have a background check through the Washington criminal identification system at the time of application for any renewal license.

(3) The cost of the background check shall be paid by the person. [2009 c 101 § 5; 2006 c 219 § 6; 2002 c 195 § 4.]

Effective date—2006 c 219: See note following RCW 46.82.285.

46.82.330 Instructor's license—Application—Requirements. (1) The application for an instructor's license shall document the applicant's fitness, knowledge, skills, and abilities to teach the classroom and behind-the-wheel phases of a driver training education program in a commercial driver training school.

(2) An applicant shall be eligible to apply for an original instructor's certificate if the applicant possesses and meets the following qualifications and conditions:

(a) Has been licensed to drive for five or more years and possesses a current and valid Washington driver's license or is a resident of a jurisdiction immediately adjacent to Washington state and possesses a current and valid license issued by such jurisdiction, and does not have on his or her driving record any of the violations or penalties set forth in (a)(i), (ii), or (iii) of this subsection. The director shall have the right to examine the driving record of the applicant from the department of licensing and from other jurisdictions and from these records determine if the applicant has had:

(i) Not more than one moving traffic violation within the preceding twelve months or more than two moving traffic violations in the preceding twenty-four months;

(ii) No drug or alcohol-related traffic violation or incident within the preceding three years. If there are two or more drug or alcohol-related traffic violations in the applicant's driving history, the applicant is no longer eligible to be a driving instructor; and

(iii) No driver's license suspension, cancellation, revocation, or denial within the preceding two years, or no more than two of these occurrences in the preceding five years;

(b) Is a high school graduate or the equivalent and at least twenty-one years of age;

(c) Has completed an acceptable application on a form prescribed by the director;

(d) Has satisfactorily completed a course of instruction in the training of drivers acceptable to the director that is no less than sixty hours in length and includes instruction in classroom and behind-the-wheel teaching methods and supervised practice behind-the-wheel teaching of driving techniques; and

(e) Has paid an examination fee as set by rule of the department and has successfully completed an instructor's examination. [2010 1st sp.s. c 7 § 21; 2009 c 101 § 6; 2006 c 219 § 7; 1979 ex.s. c 51 § 6.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective date—2006 c 219: See note following RCW 46.82.285.

46.82.340 Duplicate license certificates. In case of the loss, mutilation, or destruction of a driver training school license certificate or an instructor's license certificate, the director shall issue a duplicate thereof upon proof of the facts and payment of a fee as set by rule of the department. [2006 c 219 § 8; 1979 ex.s. c 51 § 7.]

Effective date—2006 c 219: See note following RCW 46.82.285.

46.82.350 Suspension, revocation, or denial of licenses—Causes enumerated. The director may suspend, revoke, deny, or refuse to renew an instructor's license or a driver training school license, or impose such other disciplinary action authorized under RCW 18.235.110, upon determination that the applicant, licensee, or owner has engaged in unprofessional conduct as defined by RCW 18.235.130 or for any of the following causes:

(1) Upon determination that the licensee has made a false statement or concealed any material fact in connection with the application or license renewal;

(2) Upon determination that the applicant, licensee, owner, or any person directly or indirectly interested in the driver training school's business has been convicted of a felony, or any crime involving violence, dishonesty, deceit, indecency, degeneracy, or moral turpitude;

(3) Upon determination that the applicant, licensee, owner, or any person directly or indirectly interested in the driver training school's business previously held a driver training school license which was revoked, suspended, or refused renewal by the director;

(4) Upon determination that the applicant, licensee, or owner does not have an established place of business as required by this chapter;

(5) Upon determination that the applicant or licensee has failed to require all persons with financial interest in the driver training school to be signatories to the application;

(6) Upon determination that the applicant, licensee, or owner has committed fraud, induced another to commit fraud, or engaged in fraudulent practices in relation to the business conducted under the license, or has induced another to resort to fraud in relation to securing for himself, herself, or another a license to drive a motor vehicle;

(7) Upon determination that the applicant, licensee, or owner has engaged in conduct that could endanger the educational welfare or personal safety of students or others;

(8) Upon determination that a licensed instructor no longer possesses and meets the qualifications and conditions set out in RCW 46.82.330(2)(a); or

(9) Upon determination that the applicant, licensee or owner failed to satisfy or fails to satisfy the other conditions stated in this chapter. [2006 c 219 § 9; 1979 ex.s. c 51 § 8.]

Effective date—2006 c 219: See note following RCW 46.82.285.

46.82.360 Suspension, revocation, or denial of licenses—Failure to comply with specified business practices. The license of any driver training school or instructor may be suspended, revoked, denied, or refused renewal, or such other disciplinary action authorized under RCW 18.235.110 may be imposed, for failure to comply with the business practices specified in this section.

(1) No place of business shall be established nor any business of a driver training school conducted or solicited within one thousand feet of an office or building owned or leased by the department of licensing in which examinations for drivers' licenses are conducted. The distance of one thousand feet shall be measured along the public streets by the nearest route from the place of business to such building.

(2) Any automobile used by a driver training school or an instructor for instruction purposes must be equipped with:

(a) Dual controls for foot brake and clutch, or foot brake only in a vehicle equipped with an automatic transmission;

(b) An instructor's rear view mirror; and

(c) A sign in legible, printed English letters displayed on the back or top, or both, of the vehicle that:

(i) Is not less than twenty inches in horizontal width or less than ten inches in vertical height;

(ii) Has the words "student driver," "instruction car," or "driving school" in letters at least two and one-half inches in height near the top;

(iii) Has the name and telephone number of the school in similarly legible letters not less than one inch in height placed somewhere below the aforementioned words;

(iv) Has lettering and background colors that make it clearly readable at one hundred feet in clear daylight;

(v) Is displayed at all times when instruction is being given.

(3) Instruction may not be given by an instructor to a student who is under the age of fifteen, and behind-the-wheel instruction may not be given by an instructor to a student in an automobile unless the student possesses a current and

valid instruction permit issued pursuant to RCW 46.20.055 or a current and valid driver's license.

(4) No driver training school or instructor shall advertise or otherwise indicate that the issuance of a driver's license is guaranteed or assured as a result of the course of instruction offered.

(5) No driver training school or instructor shall utilize any types of advertising without using the full, legal name of the school and identifying itself as a driver training school. Instruction vehicles and equipment, classrooms, driving simulators, training materials and services advertised must be available in a manner as might be expected by the average person reading the advertisement.

(6) A driver training school shall have an established place of business owned, rented, or leased by the school and regularly occupied and used exclusively for the business of giving driver instruction. The established place of business of a driver training school shall be located in a district that is zoned for business or commercial purposes or zoned for conditional use permits for schools, trade schools, or colleges. However, the use of public or private schools does not alleviate the driver training school from securing and maintaining an established place of business or from using its own classroom on a regular basis as required under this chapter.

(a) The established place of business, branch office, or classroom or advertised address of any such driver training school shall not consist of or include a house trailer, residence, tent, temporary stand, temporary address, bus, telephone answering service if such service is the sole means of contacting the driver training school, a room or rooms in a hotel or rooming house or apartment house, or premises occupied by a single or multiple-unit dwelling house.

(b) A driver training school may lease classroom space within a public or private school that is recognized and regulated by the office of the superintendent of public instruction to conduct student instruction as approved by the director. However, such use of public or private classroom space does not alleviate the driver training school from securing and maintaining an established place of business nor from using its own classroom on a regular basis as required by this chapter.

(c) To classify as a branch office or classroom the facility must be within a thirty-five mile radius of the established place of business. The department may waive or extend the thirty-five mile restriction for driver training schools located in counties below the median population density.

(d) Nothing in this subsection may be construed as limiting the authority of local governments to grant conditional use permits or variances from zoning ordinances.

(7) No driver training school or instructor shall conduct any type of instruction or training on a course used by the department of licensing for testing applicants for a Washington driver's license.

(8) Each driver training school shall maintain its student, instructor, vehicle, insurance, and operating records at its established place of business.

(a) Student records must include the student's name, address, and telephone number, date of enrollment and all dates of instruction, the student's instruction permit or driver's license number, the type of training given, the total

number of hours of instruction, and the name and signature of the instructor or instructors.

(b) Vehicle records shall include the original insurance policies and copies of the vehicle registration for all instruction vehicles.

(c) Student and instructor records shall be maintained for three years following the completion of the instruction. Vehicle records shall be maintained for five years following their issuance. All records shall be made available for inspection upon the request of the department.

(d) Upon a transfer or sale of school ownership the school records shall be transferred to and become the property and responsibility of the new owner.

(9) Each driver training school shall, at its established place of business, display, in a place where it can be seen by all clients, a copy of the required minimum curriculum furnished by the department and a copy of the school's own curriculum. Copies of the required minimum curriculum are to be provided to driver training schools and instructors by the director.

(10) Driver training schools and instructors shall submit to periodic inspections of their business practices, facilities, records, and insurance by authorized representatives of the director of the department of licensing. [2009 c 101 § 7; 2006 c 219 § 10; 1989 c 337 § 19; 1979 ex.s. c 51 § 9.]

Effective date—2006 c 219: See note following RCW 46.82.285.

46.82.370 Suspension, revocation, or denial of licenses—Appeal of action—Emergency suspension—Hearing, notice and procedure. Upon notification of suspension, revocation, denial, or refusal to renew a license under this chapter, a driver training school or instructor shall have the right to appeal the action being taken. An appeal may be made to the director, who shall cause a hearing to be held in accordance with chapter 34.05 RCW. Filing an appeal shall stay the action pending the hearing and the director's decision. Upon conclusion of the hearing, the director shall issue a decision on the appeal.

(1) A license may, however, be temporarily suspended by the director without notice pending any prosecution, investigation, or hearing where such emergency action is warranted. A licensee or applicant entitled to a hearing shall be given due notice thereof.

(2) The sending of a notice of a hearing by registered mail to the last known address of a licensee or applicant in accordance with chapter 34.05 RCW shall be deemed due notice.

(3) The director or the director's authorized representative shall preside over the hearing and shall have the power to subpoena witnesses, administer oaths to witnesses, take testimony of any person, and cause depositions to be taken. A subpoena issued under the authority of this section shall be served in the same manner as a subpoena issued by a court of record. Witnesses subpoenaed under this section and persons other than officers or employees of the department of licensing shall be entitled to the same fees and mileage as are allowed in civil actions in courts of law. [2006 c 219 § 11; 1979 ex.s. c 51 § 10.]

Effective date—2006 c 219: See note following RCW 46.82.285.

46.82.380 Appeal from action or decision of director.

Any action or decision of the director may, after a hearing is held as provided in this chapter, be appealed by the party aggrieved to the superior court of the county in which the place of business is located or where the aggrieved person resides. [1979 ex.s. c 51 § 11.]

46.82.390 Penalty. A violation of any provision of this chapter shall be a misdemeanor. [1979 ex.s. c 51 § 12.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

46.82.400 Chapter not applicable to educational institutions. This chapter shall not apply to or affect in any manner courses of instruction offered in high schools, vocational-technical schools, colleges, or universities which are now or hereafter established, nor shall it be applicable to instructors in any such high schools, vocational-technical schools, colleges, or universities: PROVIDED, That such course or courses are conducted by such schools in a like manner to their other regular courses. If such course is conducted by any commercial school as herein identified on a contractual basis, such school and instructors must qualify under this chapter. [1979 ex.s. c 51 § 13.]

46.82.410 Disposition of moneys collected. All moneys collected from driver training school licenses and instructor licenses shall be deposited in the highway safety fund. [1990 c 250 § 73; 1979 ex.s. c 51 § 14.]

Additional notes found at www.leg.wa.gov

46.82.420 Basic minimum required curriculum—Revocation of license for failure to teach. (1) The department shall develop and maintain a basic minimum required curriculum and shall furnish to each qualifying applicant for an instructor's license or a driver training school license a copy of such curriculum.

(2) In addition to information on the safe, lawful, and responsible operation of motor vehicles on the state's highways, the basic minimum required curriculum shall include information on:

(a) Intermediate driver's license issuance, passenger and driving restrictions and sanctions for violating the restrictions, and the effect of traffic violations and collisions on the driving privileges;

(b) The effects of alcohol and drug use on motor vehicle operators, including information on drug and alcohol related traffic injury and mortality rates in the state of Washington and the current penalties for driving under the influence of drugs or alcohol;

(c) Motorcycle awareness, approved by the director, to ensure new operators of motor vehicles have been instructed in the importance of safely sharing the road with motorcyclists;

(d) Bicycle safety, to ensure that operators of motor vehicles have been instructed in the importance of safely sharing the road with bicyclists; and

(e) Pedestrian safety, to ensure that operators of motor vehicles have been instructed in the importance of safely sharing the road with pedestrians.

(2010 Ed.)

(3) Should the director be presented with acceptable proof that any licensed instructor or driver training school is not showing proper diligence in teaching such basic minimum curriculum as required, the instructor or school shall be required to appear before the director and show cause why the license of the instructor or school should not be revoked for such negligence. If the director does not accept such reasons as may be offered, the director may revoke the license of the instructor or school, or both. [2010 1st sp.s. c 7 § 22; 2008 c 125 § 3; 2007 c 97 § 3; 2006 c 219 § 12; 2004 c 126 § 2; 1991 c 217 § 3; 1979 ex.s. c 51 § 15.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Findings—2008 c 125: "The legislature finds and declares that it is the policy of the state of Washington to encourage the safe and efficient use of the roads by all citizens, regardless of mode of transportation. In furtherance of this policy, the legislature further finds and declares that driver training programs should enhance the driver training curriculum in order to emphasize the importance of safely sharing the road with bicyclists and pedestrians." [2008 c 125 § 1.]

Short title—2008 c 125: "This act may be known and cited as the Matthew "Tatsuo" Nakata act." [2008 c 125 § 2.]

Effective date—2006 c 219: See note following RCW 46.82.285.

46.82.430 Instructional material requirements.

Instructional material used in driver training schools shall include information on the proper use of the left-hand lane by motor vehicles on multilane highways and on bicyclists' and pedestrians' rights and responsibilities and suggested riding procedures in common traffic situations. [1998 c 165 § 6; 1986 c 93 § 5.]

Keep right except when passing, etc.: RCW 46.61.100.

Additional notes found at www.leg.wa.gov

46.82.900 Severability—1979 ex.s. c 51. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 51 § 19.]

Chapter 46.83 RCW**TRAFFIC SCHOOLS**

Sections

46.83.010	City or town and county traffic schools authorized—Procedure to establish.
46.83.020	County commissioners to control and supervise—Assistance of sheriff and police department.
46.83.030	Deposit, control of funds—Support.
46.83.040	Purpose of school.
46.83.050	Court may order attendance.
46.83.060	Duty of person required to attend—Penalty.

46.83.010 City or town and county traffic schools authorized—Procedure to establish. Any city or town and the county in which it is located are authorized, as may be agreed between the respective governing bodies of the city or town and county, to establish a traffic school for the purposes and under the conditions set forth in this chapter. Such city or town and county traffic school may be effected whenever the governing body of the city or town shall pass an ordinance and the board of commissioners of the county shall pass a resolution declaring intention to organize and operate a traffic

school in accordance with agreements had between them as to the financing, organization, and operation thereof. [1961 c 12 § 46.83.010. Prior: 1959 c 182 § 1.]

46.83.020 County commissioners to control and supervise—Assistance of sheriff and police department. A traffic school established under this chapter shall be under the control and supervision of the board of county commissioners, through such agents, assistants, or instructors as the board may designate, and shall be conducted with the assistance of the county sheriff and the police department of the city or town. [1961 c 12 § 46.83.020. Prior: 1959 c 182 § 2.]

46.83.030 Deposit, control of funds—Support. All funds appropriated by the city or town and county to the operation of the traffic school shall be deposited with the county treasurer and shall be administered by the board of county commissioners. The governing bodies of every city or town and county participating in the operation of traffic schools are authorized to make such appropriations by ordinance or resolution, as the case may be, as they shall determine for the establishment and operation of traffic schools, and they are further authorized to accept and expend gifts, donations, and any other money from any source, private or public, given for the purpose of said schools. [1961 c 12 § 46.83.030. Prior: 1959 c 182 § 3.]

46.83.040 Purpose of school. It shall be the purpose of every traffic school which may be established hereunder to instruct, educate, and inform all persons appearing for training in the proper, lawful, and safe operation of motor vehicles, including but not limited to rules of the road and the limitations of persons, vehicles, and bicycles and roads, streets, and highways under varying conditions and circumstances. [1998 c 165 § 7; 1961 c 12 § 46.83.040. Prior: 1959 c 182 § 4.]

Additional notes found at www.leg.wa.gov

46.83.050 Court may order attendance. Every municipal court, district court, juvenile court, superior court, and every other court handling traffic cases within the limits of a county wherein a traffic school has been established may, as a part of any sentence imposed following a conviction for any traffic law violation, or as a condition on the suspension of sentence or deferral of any imposition of sentence, order any person so convicted, whether that person be a juvenile, a minor, or an adult, to attend the traffic school for a number of days to be determined by the court, but not to exceed the maximum number of days which the violator could be required to serve in the city or county jail as a result of his or her conviction. [1984 c 258 § 138; 1961 c 12 § 46.83.050. Prior: 1959 c 182 § 5.]

Additional notes found at www.leg.wa.gov

46.83.060 Duty of person required to attend—Penalty. Every person required to attend a traffic school as established under the provisions of this chapter shall maintain attendance in accordance with the sentence or order. Failure to do, unless for good cause shown by clear and convinc-

ing evidence, is a traffic infraction. [1979 ex.s. c 136 § 98; 1961 c 12 § 46.83.060. Prior: 1959 c 182 § 6.]

Additional notes found at www.leg.wa.gov

Chapter 46.85 RCW

RECIPROCAL OR PROPORTIONAL REGISTRATION OF VEHICLES

Sections

46.85.010	Declaration of policy.
46.85.020	Definitions.
46.85.030	Departmental entry into multistate proportional registration agreement, International Registration Plan.
46.85.040	Authority for reciprocity agreements—Provisions—Reciprocity standards.
46.85.050	Base state registration reciprocity.
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46.85.070	Extension of reciprocal privileges to lessees authorized.
46.85.080	Automatic reciprocity, when.
46.85.090	Suspension of reciprocity benefits.
46.85.100	Agreements to be written, filed, and available for distribution.
46.85.110	Reciprocity agreements in effect at time of act.
46.85.900	Chapter part of and supplemental to motor vehicle registration law.
46.85.910	Constitutionality.
46.85.920	Repeal and saving.
46.85.930	Effective date—1963 c 106.
46.85.940	Section captions not a part of the law.

46.85.010 Declaration of policy. It is the policy of this state to promote and encourage the fullest possible use of its highway system by authorizing the making and execution of vehicle reciprocal or proportional registration agreements, arrangements and declarations with other states, provinces, territories, and countries with respect to vehicles registered in this and such other states, provinces, territories, and countries thus contributing to the economic and social development and growth of this state. [1987 c 244 § 8; 1963 c 106 § 1.]

46.85.020 Definitions. The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Jurisdiction" means and includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country.

(2) "Owner" means a person, business firm, or corporation who holds the legal title to a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner shall be deemed to be such person in whom is vested right of possession or control.

(3) "Properly registered," as applied to place of registration, means:

(a) The jurisdiction where the person registering the vehicle has his or her legal residence; or

(b) In the case of a commercial vehicle, the jurisdiction in which it is registered if the commercial enterprise in which such vehicle is used has a place of business therein, and, if the

vehicle is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled in or from such place of business, and, the vehicle has been assigned to such place of business; or

(c) In the case of a commercial vehicle, the jurisdiction where, because of an agreement or arrangement between two or more jurisdictions, or pursuant to a declaration, the vehicle has been registered as required by said jurisdiction.

In case of doubt or dispute as to the proper place of registration of a vehicle, the department shall make the final determination, but in making such determination, may confer with departments of the other jurisdictions affected. [2010 c 8 § 9100; 1987 c 244 § 9; 1985 c 173 § 2; 1982 c 227 § 18; 1981 c 222 § 1; 1963 c 106 § 2.]

Additional notes found at www.leg.wa.gov

46.85.030 Departmental entry into multistate proportional registration agreement, International Registration Plan. The department of licensing shall have the authority to execute agreements, arrangements, or declarations to carry out the provisions of chapter 46.87 RCW and this chapter.

If the department enters into a multistate proportional registration agreement which requires this state to perform acts in a quasi agency relationship, the department may collect and forward applicable registration fees and applications to other jurisdictions on behalf of the applicant or on behalf of another jurisdiction and may take such other action as will facilitate the administration of such agreement.

If the department enters into a multistate proportional registration agreement which prescribes procedures applicable to vehicles not specifically described in chapter 46.87 RCW, such as but not limited to "owner-operator" or "rental" vehicles, it shall promulgate rules taking exception to or accomplishing the procedures prescribed in such agreement.

It is the purpose and intent of this subsection to facilitate the membership in the International Registration Plan and at the same time allow the department to continue to participate in such agreements and compacts as may be necessary and desirable in addition to the International Registration Plan. [1987 c 244 § 10; 1982 c 227 § 19; 1981 c 222 § 2; 1977 ex.s. c 92 § 1; 1975-'76 2nd ex.s. c 34 § 137; 1967 c 32 § 113; 1963 c 106 § 3.]

Additional notes found at www.leg.wa.gov

46.85.040 Authority for reciprocity agreements—Provisions—Reciprocity standards. The department may enter into an agreement or arrangement with the duly authorized representatives of another jurisdiction, granting to vehicles or to owners of vehicles which are properly registered or licensed in such jurisdiction and for which evidence of compliance is supplied, benefits, privileges, and exemptions from the payment, wholly or partially, of any taxes, fees, or other charges imposed upon such vehicles or owners with respect to the operation or ownership of such vehicles under the laws of this state. Such an agreement or arrangement shall provide that vehicles properly registered or licensed in this state when operated upon highways of such other jurisdiction shall receive exemptions, benefits, and privileges of a similar kind or to a similar degree as are extended to vehicles properly

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registered or licensed in such jurisdiction when operated in this state. Each such agreement or arrangement shall, in the judgment of the department, be in the best interest of this state and the citizens thereof and shall be fair and equitable to this state and the citizens thereof, and all of the same shall be determined on the basis and recognition of the benefits which accrue to the economy of this state from the uninterrupted flow of commerce. [1985 c 173 § 3; 1982 c 227 § 20; 1963 c 106 § 4.]

Additional notes found at www.leg.wa.gov

46.85.050 Base state registration reciprocity. An agreement or arrangement entered into, or a declaration issued under the authority of chapter 46.87 RCW or this chapter may contain provisions authorizing the registration or licensing in another jurisdiction of vehicles located in or operated from a base in such other jurisdiction which vehicles otherwise would be required to be registered or licensed in this state; and in such event the exemptions, benefits, and privileges extended by such agreement, arrangement, or declaration shall apply to such vehicles, when properly licensed or registered in such base jurisdiction. [1987 c 244 § 11; 1963 c 106 § 5.]

46.85.060 Declarations of extent of reciprocity, when—Exemptions, benefits, and privileges—Rules. In the absence of an agreement or arrangement with another jurisdiction, the department may examine the laws and requirements of such jurisdiction and declare the extent and nature of exemptions, benefits and privileges to be extended to vehicles properly registered or licensed in such other jurisdiction, or to the owners of such vehicles, which shall, in the judgment of the department, be in the best interest of this state and the citizens thereof and which shall be fair and equitable to this state and the citizens thereof, and all of the same shall be determined on the basis and recognition of the benefits which accrue to the economy of this state from the uninterrupted flow of commerce. Declarations of exemptions, benefits, and privileges issued by the department shall include at least the following exemptions:

(1) Nonresident persons not employed in this state may operate a vehicle in this state that is currently licensed in another jurisdiction for a period not to exceed six months in any continuous twelve-month period.

(2) Nonresident persons employed in this state may operate vehicles not to exceed twelve thousand pounds registered gross vehicle weight that are currently licensed in another jurisdiction if no permanent, temporary, or part-time residence is maintained in this state for a period greater than six months in any continuous twelve-month period.

(3) A vehicle or a combination of vehicles, not exceeding a registered gross or combined gross vehicle weight of twelve thousand pounds, which is properly base licensed in another jurisdiction and registered to a bona fide business in that jurisdiction is not required to obtain Washington vehicle license registration except when such vehicle is owned or operated by a business or branch office of a business located in Washington.

(4) The department of licensing, after consultation with the department of revenue, shall adopt such rules as it deems

necessary for the administration of these exemptions, benefits, and privileges. [1987 c 142 § 4; 1985 c 353 § 3; 1982 c 227 § 21; 1963 c 106 § 6.]

Additional notes found at www.leg.wa.gov

46.85.070 Extension of reciprocal privileges to lessees authorized. An agreement, or arrangement entered into, or a declaration issued under the authority of this chapter, may contain provisions under which a leased vehicle properly registered by the lessor thereof may be entitled, subject to terms and conditions stated therein, to the exemptions, benefits and privileges extended by such agreement, arrangement or declaration. [1963 c 106 § 7.]

46.85.080 Automatic reciprocity, when. On and after July 1, 1963, if no agreement, arrangement or declaration is in effect with respect to another jurisdiction as authorized by this chapter, any vehicle properly registered or licensed in such other jurisdiction and for which evidence of compliance is supplied shall receive, when operated in this state, the same exemptions, benefits and privileges granted by such other jurisdiction to vehicles properly registered in this state. Reciprocity extended under this section shall apply to commercial vehicles only when engaged exclusively in interstate commerce. [1963 c 106 § 8.]

46.85.090 Suspension of reciprocity benefits. Agreements, arrangements or declarations made under the authority of this chapter may include provisions authorizing the department to suspend or cancel the exemptions, benefits, or privileges granted thereunder to an owner who violates any of the conditions or terms of such agreements, arrangements, or declarations or who violates the laws of this state relating to motor vehicles or rules and regulations lawfully promulgated thereunder. [1987 c 244 § 12; 1963 c 106 § 9.]

46.85.100 Agreements to be written, filed, and available for distribution. All agreements, arrangements, or declarations or amendments thereto shall be in writing and shall be filed with the department. Upon becoming effective, they shall supersede the provisions of *RCW 46.16.030, chapter 46.87 RCW, or this chapter to the extent that they are inconsistent therewith. The department shall provide copies for public distribution upon request. [1987 c 244 § 13; 1982 c 227 § 22; 1967 c 32 § 114; 1963 c 106 § 10.]

*Reviser's note: RCW 46.16.030 was recodified as RCW 46.16A.160 pursuant to 2010 c 161 § 1215, effective July 1, 2011.

Additional notes found at www.leg.wa.gov

46.85.110 Reciprocity agreements in effect at time of act. All reciprocity and proportional registration agreements, arrangements and declarations relating to vehicles in force and effect at the time this chapter becomes effective shall continue in force and effect at the time this chapter becomes effective and until specifically amended or revoked as provided by law or by such agreements or arrangements. [1963 c 106 § 11.]

Additional notes found at www.leg.wa.gov

46.85.900 Chapter part of and supplemental to motor vehicle registration law. This chapter shall be, and construed as, a part of and supplemental to the motor vehicle registration law of this state. [1963 c 106 § 30.]

46.85.910 Constitutionality. If any phrase, clause, subsection or section of this chapter shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the legislature would have enacted this chapter without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the chapter shall not be affected as a result of said part being held unconstitutional or invalid. [1963 c 106 § 31.]

46.85.920 Repeal and saving. The following acts or parts of acts and RCW sections are hereby repealed:

(1) Sections 46.84.010, 46.84.030, 46.84.040, 46.84.050, 46.84.060, 46.84.070, 46.84.080, 46.84.090 and 46.84.100, chapter 12, Laws of 1961 and RCW 46.84.010, 46.84.030, 46.84.040, 46.84.050, 46.84.060, 46.84.070, 46.84.080, 46.84.090 and 46.84.100;

(2) Section 46.84.020, chapter 12, Laws of 1961 as amended by section 37, chapter 21, Laws of 1961 extraordinary session and RCW 46.84.020;

(3) Sections 1, 2, 3, and 4, chapter 266, Laws of 1961 and RCW 46.84.110, 46.84.120, 46.84.130 and 46.84.140; and

(4) Sections 38, 39, and 40, chapter 21, Laws of 1961 extraordinary session and RCW 46.84.150, 46.84.160 and 46.84.170.

Such repeals shall not be construed as affecting any existing right acquired under the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder, nor the term of office or appointment or employment of any person appointed or employed thereunder. [1963 c 106 § 32.]

46.85.930 Effective date—1963 c 106. This chapter shall take effect and be in force on and after July 1, 1963. [1963 c 106 § 33.]

46.85.940 Section captions not a part of the law. Section captions as used in this chapter shall not constitute any part of the law. [1963 c 106 § 34.]

Chapter 46.87 RCW

PROPORTIONAL REGISTRATION

(Formerly: International Registration Plan)

Sections

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46.87.010 Applicability—Implementation. (Effective until July 1, 2011.) This chapter applies to proportional registration and reciprocity granted under the provisions of the International Registration Plan (IRP). This chapter shall become effective and be implemented beginning with the 1988 registration year.

(1) Provisions and terms of the IRP prevail unless given a different meaning in chapter 46.04 RCW, this chapter, or in rules adopted under the authority of this chapter.

(2) The director may adopt and enforce rules deemed necessary to implement and administer this chapter.

(3) Owners having a fleet of apportionable vehicles operating in two or more IRP member jurisdictions may elect to proportionally register the vehicles of the fleet under the provisions of the IRP and this chapter in lieu of full or temporary registration as provided for in chapters 46.16 or 46.88 RCW.

(4) If a due date or an expiration date established under authority of this chapter falls on a Saturday, Sunday, or a state legal holiday, such period is automatically extended through the end of the next business day. [2005 c 194 § 1; 1987 c 244 § 15; 1986 c 18 § 22; 1985 c 380 § 1.]

Additional notes found at www.leg.wa.gov

46.87.010 Applicability—Implementation. (Effective July 1, 2011.) This chapter applies to proportional registration and reciprocity granted under the provisions of the International Registration Plan (IRP). This chapter shall become

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effective and be implemented beginning with the 1988 registration year.

(1) Provisions and terms of the IRP prevail unless given a different meaning in chapter 46.04 RCW, this chapter, or in rules adopted under the authority of this chapter.

(2) The director may adopt and enforce rules deemed necessary to implement and administer this chapter.

(3) Owners having a fleet of apportionable vehicles operating in two or more IRP member jurisdictions may elect to proportionally register the vehicles of the fleet under the provisions of the IRP and this chapter in lieu of full or temporary registration as provided for in *chapter 46.16 RCW.

(4) If a due date or an expiration date established under authority of this chapter falls on a Saturday, Sunday, or a state legal holiday, such period is automatically extended through the end of the next business day. [2010 c 161 § 1140; 2005 c 194 § 1; 1987 c 244 § 15; 1986 c 18 § 22; 1985 c 380 § 1.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.87.020 Definitions. (Effective until July 1, 2011.)

Terms used in this chapter have the meaning given to them in the International Registration Plan (IRP), in chapter 46.04 RCW, or as otherwise defined in this section. Definitions given to terms by the IRP prevail unless given a different meaning in this chapter or in rules adopted under authority of this chapter.

(1) "Apportionable vehicle" has the meaning given by the IRP, except that it does not include vehicles with a declared gross weight of twelve thousand pounds or less. Apportionable vehicles include trucks, tractors, truck tractors, road tractors, and buses, each as separate and licensable vehicles.

(2) "Cab card" is a certificate of registration issued for a vehicle upon which is disclosed the jurisdictions and registered gross weights in such jurisdictions for which the vehicle is registered.

(3) "Credentials" means cab cards, apportioned plates (for Washington-based fleets), and validation tabs issued for proportionally registered vehicles.

(4) "Declared combined gross weight" means the total unladen weight of any combination of vehicles plus the weight of the maximum load to be carried on the combination of vehicles as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid.

(5) "Declared gross weight" means the total unladen weight of any vehicle plus the weight of the maximum load to be carried on the vehicle as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid. In the case of a bus, auto stage, or a passenger-carrying for hire vehicle with a seating capacity of more than six, the declared gross weight shall be determined by multiplying the average load factor of one

hundred and fifty pounds by the number of seats in the vehicle, including the driver's seat, and add this amount to the unladen weight of the vehicle. If the resultant gross weight is not listed in RCW 46.16.070, it will be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

(6) "Department" means the department of licensing.

(7) "Fleet" means one or more apportionable vehicles in the IRP.

(8) "In-jurisdiction miles" means the total miles accumulated in a jurisdiction during the preceding year by vehicles of the fleet while they were a part of the fleet.

(9) "IRP" means the International Registration Plan.

(10) "Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country.

(11) "Motor carrier" means an entity engaged in the transportation of goods or persons. The term includes a for-hire motor carrier, private motor carrier, contract motor carrier, or exempt motor carrier. The term includes a registrant licensed under this chapter, a motor vehicle lessor, and a motor vehicle lessee.

(12) "Owner" means a person or business firm who holds the legal title to a vehicle, or if a vehicle is the subject of an agreement for its conditional sale with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or if a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or if a mortgagor of a vehicle is entitled to possession, then the owner is deemed to be the person or business firm in whom is vested right of possession or control.

(13) "Preceding year" means the period of twelve consecutive months immediately before July 1st of the year immediately before the commencement of the registration or license year for which apportioned registration is sought.

(14) "Prorate percentage" is the factor that is applied to the total proratable fees and taxes to determine the apportionable or prorate fees required for registration in a particular jurisdiction. It is determined by dividing the in-jurisdiction miles for a particular jurisdiction by the total miles. This term is synonymous with the term "mileage percentage."

(15) "Registrant" means a person, business firm, or corporation in whose name or names a vehicle or fleet of vehicles is registered.

(16) "Registration year" means the twelve-month period during which the registration plates issued by the base jurisdiction are valid according to the laws of the base jurisdiction.

(17) "Total miles" means the total number of miles accumulated in all jurisdictions during the preceding year by all vehicles of the fleet while they were a part of the fleet. Mileage accumulated by vehicles of the fleet that did not engage in interstate operations is not included in the fleet miles. [2005 c 194 § 2; 2003 c 85 § 1; 1997 c 183 § 2; 1994 c 262 § 12; 1993 c 307 § 12; 1991 c 163 § 4; 1990 c 42 § 111; 1987 c 244 § 16; 1985 c 380 § 2.]

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

46.87.020 Definitions. (Effective July 1, 2011.) Terms used in this chapter have the meaning given to them in the International Registration Plan (IRP), in chapter 46.04 RCW, or as otherwise defined in this section. Definitions given to terms by the IRP prevail unless given a different meaning in this chapter or in rules adopted under authority of this chapter.

(1) "Apportionable vehicle" has the meaning given by the IRP, except that it does not include vehicles with a declared gross weight of twelve thousand pounds or less. Apportionable vehicles include trucks, tractors, truck tractors, road tractors, and buses, each as separate and licensable vehicles.

(2) "Cab card" is a certificate of registration issued for a vehicle upon which is disclosed the jurisdictions and registered gross weights in such jurisdictions for which the vehicle is registered.

(3) "Credentials" means cab cards, apportioned plates (for Washington-based fleets), and validation tabs issued for proportionally registered vehicles.

(4) "Declared combined gross weight" means the total unladen weight of any combination of vehicles plus the weight of the maximum load to be carried on the combination of vehicles as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid.

(5) "Declared gross weight" means the total unladen weight of any vehicle plus the weight of the maximum load to be carried on the vehicle as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid. In the case of a bus, auto stage, or a passenger-carrying for hire vehicle with a seating capacity of more than six, the declared gross weight shall be determined by multiplying the average load factor of one hundred and fifty pounds by the number of seats in the vehicle, including the driver's seat, and add this amount to the unladen weight of the vehicle. If the resultant gross weight is not listed in RCW 46.17.355, it will be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

(6) "Department" means the department of licensing.

(7) "Fleet" means one or more apportionable vehicles in the IRP.

(8) "In-jurisdiction miles" means the total miles accumulated in a jurisdiction during the preceding year by vehicles of the fleet while they were a part of the fleet.

(9) "IRP" means the International Registration Plan.

(10) "Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country.

(11) "Motor carrier" means an entity engaged in the transportation of goods or persons. The term includes a for-hire motor carrier, private motor carrier, contract motor carrier, or exempt motor carrier. The term includes a registrant licensed under this chapter, a motor vehicle lessor, and a motor vehicle lessee.

(12) "Owner" means a person or business firm who holds the legal title to a vehicle, or if a vehicle is the subject of an agreement for its conditional sale with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the con-

ditional vendee, or if a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or if a mortgagor of a vehicle is entitled to possession, then the owner is deemed to be the person or business firm in whom is vested right of possession or control.

(13) "Preceding year" means the period of twelve consecutive months immediately before July 1st of the year immediately before the commencement of the registration or license year for which apportioned registration is sought.

(14) "Prorate percentage" is the factor that is applied to the total proratable fees and taxes to determine the apportionable or prorate fees required for registration in a particular jurisdiction. It is determined by dividing the in-jurisdiction miles for a particular jurisdiction by the total miles. This term is synonymous with the term "mileage percentage."

(15) "Registrant" means a person, business firm, or corporation in whose name or names a vehicle or fleet of vehicles is registered.

(16) "Registration year" means the twelve-month period during which the registration plates issued by the base jurisdiction are valid according to the laws of the base jurisdiction.

(17) "Total miles" means the total number of miles accumulated in all jurisdictions during the preceding year by all vehicles of the fleet while they were a part of the fleet. Mileage accumulated by vehicles of the fleet that did not engage in interstate operations is not included in the fleet miles. [2010 c 161 § 1141; 2005 c 194 § 2; 2003 c 85 § 1; 1997 c 183 § 2; 1994 c 262 § 12; 1993 c 307 § 12; 1991 c 163 § 4; 1990 c 42 § 111; 1987 c 244 § 16; 1985 c 380 § 2.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

46.87.022 Rental trailers, converter gears. Owners of rental trailers and semitrailers over six thousand pounds gross vehicle weight, and converter gears used solely in pool fleets shall fully register a portion of the pool fleet in this state. To determine the percentage of total fleet vehicles that must be registered in this state, divide the gross revenue received in the preceding year for the use of the rental vehicles arising from rental transactions occurring in this state by the total revenue received in the preceding year for the use of the rental vehicles arising from rental transactions in all jurisdictions in which the vehicles are operated. Apply the resulting percentage to the total number of vehicles that shall be registered in this state. Vehicles registered in this state shall be representative of the vehicles in the fleet according to age, size, and value. [1990 c 250 § 74.]

Additional notes found at www.leg.wa.gov

46.87.023 Rental car businesses. (1) Rental car businesses must register with the department of licensing. This registration must be renewed annually by the rental car business.

(2) Rental cars must be titled and registered under the provisions of chapters 46.12 and *46.16 RCW. The vehicle

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must be identified at the time of application with the rental car company business number issued by the department.

(3) Use of rental cars is restricted to the rental customer unless otherwise provided by rule.

(4) The department may suspend or cancel the exemptions, benefits, or privileges granted under this section to a rental car business that violates the laws of this state relating to the operation or registration of vehicles or rules lawfully adopted thereunder. The department may initiate and conduct audits, investigations, and enforcement actions as may be reasonably necessary for administering this section.

(5) The department shall adopt such rules as may be necessary to administer and enforce the provisions of this section. [1994 c 227 § 2; 1992 c 194 § 7.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Additional notes found at www.leg.wa.gov

46.87.025 Vehicles titled in owner's name. All vehicles being added to an existing Washington-based fleet or those vehicles that make up a new Washington-based fleet shall be titled in the name of the owner at time of registration, or evidence of filing application for title for such vehicles in the name of the owner shall accompany the application for proportional registration. [1990 c 250 § 75; 1987 c 244 § 17.]

Additional notes found at www.leg.wa.gov

46.87.030 Part-year registration—Credit for unused fees. (Effective until July 1, 2011.) (1) When application to register an apportionable vehicle is made, the Washington prorated fees may be reduced by one-twelfth for each full registration month that has elapsed at the time a temporary authorization permit (TAP) was issued or if no TAP was issued, at such time as an application for registration is received in the department. If a vehicle is being added to a currently registered fleet, the prorated percentage previously established for the fleet for such registration year shall be used in the computation of the proportional fees and taxes due.

(2) If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered under this chapter, the registrant of the fleet shall notify the department on appropriate forms prescribed by the department. The department may require the registrant to surrender credentials that were issued to the vehicle. If a motor vehicle is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold, or otherwise completely removed from the service of the fleet registrant, the unused portion of the licensing fee paid under RCW 46.16.070 with respect to the vehicle reduced by one-twelfth for each calendar month and fraction thereof elapsing between the first day of the month of the current registration year in which the vehicle was registered and the date the notice of withdrawal, accompanied by such credentials as may be required, is received in the department, shall be credited to the fleet proportional registration account of the registrant. Credit shall be applied against the licensing fee liability for subsequent additions of motor vehicles to be proportionally registered in the fleet during such registration year or

for additional licensing fees due under RCW 46.16.070 or to be due upon audit under RCW 46.87.310. If any credit is less than fifteen dollars, no credit will be entered. In lieu of credit, the registrant may choose to transfer the unused portion of the licensing fee for the motor vehicle to the new owner, in which case it shall remain with the motor vehicle for which it was originally paid. In no event may any amount be credited against fees other than those for the registration year from which the credit was obtained nor is any amount subject to refund. [2005 c 194 § 3; 1997 c 183 § 3; 1993 c 307 § 13; 1987 c 244 § 18; 1986 c 18 § 23; 1985 c 380 § 3.]

Additional notes found at www.leg.wa.gov

46.87.030 Part-year registration—Credit for unused fees. (Effective July 1, 2011.) (1) When application to register an apportionable vehicle is made, the Washington prorated fees may be reduced by one-twelfth for each full registration month that has elapsed at the time a temporary authorization permit (TAP) was issued or if no TAP was issued, at such time as an application for registration is received in the department. If a vehicle is being added to a currently registered fleet, the prorated percentage previously established for the fleet for such registration year shall be used in the computation of the proportional fees and taxes due.

(2) If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered under this chapter, the registrant of the fleet shall notify the department on appropriate forms prescribed by the department. The department may require the registrant to surrender credentials that were issued to the vehicle. If a motor vehicle is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold, or otherwise completely removed from the service of the fleet registrant, the unused portion of the license fee paid under RCW 46.17.355 with respect to the vehicle reduced by one-twelfth for each calendar month and fraction thereof elapsing between the first day of the month of the current registration year in which the vehicle was registered and the date the notice of withdrawal, accompanied by such credentials as may be required, is received in the department, shall be credited to the fleet proportional registration account of the registrant. Credit shall be applied against the license fee liability for subsequent additions of motor vehicles to be proportionally registered in the fleet during such registration year or for additional license fees due under RCW 46.17.355 or to be due upon audit under RCW 46.87.310. If any credit is less than fifteen dollars, no credit will be entered. In lieu of credit, the registrant may choose to transfer the unused portion of the license fee for the motor vehicle to the new owner, in which case it shall remain with the motor vehicle for which it was originally paid. In no event may any amount be credited against fees other than those for the registration year from which the credit was obtained nor is any amount subject to refund. [2010 c 161 § 1142; 2005 c 194 § 3; 1997 c 183 § 3; 1993 c 307 § 13; 1987 c 244 § 18; 1986 c 18 § 23; 1985 c 380 § 3.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.87.040 Purchase of additional gross weight. Additional gross weight may be purchased for proportionally registered motor vehicles to the limits authorized under chapter 46.44 RCW. Reregistration at the higher gross weight (maximum gross weights under this chapter are fifty-four thousand pounds for a solo three-axle truck or one hundred five thousand five hundred pounds for a combination) for the balance of the registration year, including the full registration month in which the vehicle is initially licensed at the higher gross weight. The apportionable or proportional fee initially paid to the state of Washington, reduced for the number of full registration months the license was in effect, will be deducted from the total fee to be paid to this state for licensing at the higher gross weight for the balance of the registration year. No credit or refund will be given for a reduction of gross weight. [1994 c 262 § 13; 1987 c 244 § 19; 1985 c 380 § 4.]

Additional notes found at www.leg.wa.gov

46.87.050 Deposit of fees. Each day the department shall forward to the state treasurer the fees collected under this chapter, and within ten days of the end of each registration quarter, a detailed report identifying the amount to be deposited to each account for which fees are required for the licensing of proportionally registered vehicles. Such fees shall be deposited pursuant to RCW 46.68.035 and *82.44.170. [2005 c 194 § 4; 1987 c 244 § 20; 1985 c 380 § 5.]

*Reviser's note: RCW 82.44.170 was repealed by 2006 c 318 § 10.

Additional notes found at www.leg.wa.gov

46.87.060 Apportionment of fees, formula. The apportionment of fees to IRP member jurisdictions shall be in accordance with the provisions of the IRP agreement based on the apportionable fee multiplied by the prorated percentage for each jurisdiction in which the fleet will be registered or is currently registered. [1987 c 244 § 21; 1985 c 380 § 6.]

Additional notes found at www.leg.wa.gov

46.87.070 Reciprocity for trailers, semitrailers, pole trailers. Trailers, semitrailers, and pole trailers that are properly based in jurisdictions other than Washington, and that display currently registered license plates from such jurisdictions will be granted vehicle license reciprocity in this state without the need of further vehicle license registration. If pole trailers are not required to be licensed separately by a member jurisdiction, such vehicles may be operated in this state without displaying a current base license plate. [2005 c 194 § 5; 1993 c 123 § 1. Prior: 1991 c 339 § 9; 1991 c 163 § 5; 1990 c 42 § 112; 1987 c 244 § 22; 1985 c 380 § 7.]

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

46.87.080 Cab cards, validation tabs, special license plates—Design, procedures—Issuance, refusal, revocation. (1) Upon making satisfactory application and payment of applicable fees and taxes for proportional registration under this chapter, the department shall issue a cab card and validation tab for each vehicle, and to vehicles of Washington-based fleets, two distinctive apportionable license plates

for each motor vehicle. License plates shall be displayed on vehicles as required by *RCW 46.16.240. The number and plate shall be of a design, size, and color determined by the department. The plates shall be treated with reflectorized material and clearly marked with the words "WASHINGTON" and "APPORTIONED," both words to appear in full and without abbreviation.

(2) The cab card serves as the certificate of registration for a proportionally registered vehicle. The face of the cab card shall contain the name and address of the registrant as contained in the records of the department, the license plate number assigned to the vehicle by the base jurisdiction, the vehicle identification number, and such other description of the vehicle and data as the department may require. The cab card shall be signed by the registrant, or a designated person if the registrant is a business firm, and shall at all times be carried in or on the vehicle to which it was issued.

(3) The apportioned license plates are not transferrable from vehicle to vehicle unless otherwise determined by rule and shall be used only on the vehicle to which they are assigned by the department for as long as they are legible or until such time as the department requires them to be removed and returned to the department.

(4) Distinctive validation tab(s) of a design, size, and color determined by the department shall be affixed to the apportioned license plate(s) as prescribed by the department to indicate the month, if necessary, and year for which the vehicle is registered.

(5) Renewals shall be effected by the issuance and display of such tab(s) after making satisfactory application and payment of applicable fees and taxes.

(6) Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation. However, in those instances in which a grant of authority is required for interstate or intrastate movement or operation, no such vehicle may be operated in interstate or intrastate commerce in this state unless the owner has been granted interstate operating authority in the case of interstate operations or intrastate operating authority by the Washington utility and transportation commission in the case of intrastate operations and unless the vehicle is being operated in conformity with that authority.

(7) The department may issue temporary authorization permits (TAPs) to qualifying operators for the operation of vehicles pending issuance of license identification. A fee of one dollar plus a one dollar filing fee shall be collected for each permit issued. The permit fee shall be deposited in the motor vehicle fund, and the filing fee shall be deposited in the highway safety fund. The department may adopt rules for use and issuance of the permits.

(8) The department may refuse to issue any license or permit authorized by subsection (1) or (7) of this section to any person: (a) Who formerly held any type of license or permit issued by the department pursuant to chapter **46.16, 46.85, 46.87, 82.36, or 82.38 RCW that has been revoked for cause, which cause has not been removed; or (b) who is a subterfuge for the real party in interest whose license or permit issued by the department pursuant to chapter **46.16, 46.85, 46.87, 82.36, or 82.38 RCW and has been revoked for cause, which cause has not been removed; or (c) who, as an individual licensee, or officer, director, owner, or managing

employee of a nonindividual licensee, has had a license or permit issued by the department pursuant to chapter **46.16, 46.85, 46.87, 82.36, or 82.38 RCW which has been revoked for cause, which cause has not been removed; or (d) who has an unsatisfied debt to the state assessed under either chapter **46.16, 46.85, 46.87, 82.36, 82.38, or 82.44 RCW.

(9) The department may revoke the license or permit authorized by subsection (1) or (7) of this section issued to any person for any of the grounds constituting cause for denial of licenses or permits set forth in subsection (8) of this section.

(10) Before such refusal or revocation under subsection (8) or (9) of this section, the department shall grant the applicant a hearing and at least ten days written notice of the time and place of the hearing. [2005 c 194 § 6; 1998 c 115 § 1; 1993 c 307 § 14; 1987 c 244 § 23; 1985 c 380 § 8.]

Reviser's note: *(1) RCW 46.16.240 was repealed by 2010 c 161 § 438, effective July 1, 2011.

** (2) Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Additional notes found at www.leg.wa.gov

46.87.090 Apportioned vehicle license plates, cab card, validation tabs—Replacement—Fees. (1) To replace an apportioned vehicle license plate(s), cab card, or validation tab(s) due to loss, defacement, or destruction, the registrant shall apply to the department on forms furnished for that purpose. The application, together with proper payment and other documentation as indicated, shall be filed with the department as follows:

(a) Apportioned plate(s) - a fee of ten dollars shall be charged for vehicles required to display two apportioned plates or five dollars for vehicles required to display one apportioned plate. The cab card of the vehicle for which a plate is requested shall accompany the application. The department shall issue a new apportioned plate(s) with validation tab(s) and a new cab card upon acceptance of the completed application form, old cab card, and the required replacement fee.

(b) Cab card - a fee of two dollars shall be charged for each card. If this is a duplicate cab card, it will be noted thereon.

(c) Validation year tab(s) - a fee of two dollars shall be charged for each vehicle.

(2) All fees collected under this section shall be deposited to the motor vehicle fund. [1994 c 262 § 14; 1987 c 244 § 24; 1986 c 18 § 24; 1985 c 380 § 9.]

Additional notes found at www.leg.wa.gov

46.87.120 Mileage data for applications. (1) The initial application for proportional registration of a fleet shall state the mileage data with respect to the fleet for the preceding year in this and other jurisdictions. If no operations were conducted with the fleet during the preceding year, the application shall contain a full statement of the proposed method of operation and estimates of annual mileage in each of the jurisdictions in which operation is contemplated. The registrant shall determine the in-jurisdiction and total miles to be used in computing the fees and taxes due for the fleet. The

department may evaluate and adjust the estimate in the application if it is not satisfied as to its correctness.

(2) When operations of a Washington-based fleet is materially changed through merger, acquisition, or extended authority, the registrant shall notify the department, which shall then require the filing of an amended application setting forth the proposed operation by use of estimated mileage for all jurisdictions. The department may adjust the estimated mileage by audit or otherwise to an actual travel basis to insure proper fee payment. The actual travel basis may be used for determination of fee payments until such time as a normal mileage year is available under the new operation. [2005 c 194 § 7; 1997 c 183 § 4; 1990 c 42 § 113; 1987 c 244 § 25.]

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

46.87.130 Transaction fee. In addition to all other fees prescribed for the proportional registration of vehicles under this chapter, the department shall collect a vehicle transaction fee each time a vehicle is added to a Washington-based fleet, and each time the proportional registration of a Washington-based vehicle is renewed. The exact amount of the vehicle transaction fee shall be fixed by rule but shall not exceed ten dollars. This fee shall be deposited in the motor vehicle fund. [2005 c 194 § 8; 1987 c 244 § 26.]

Additional notes found at www.leg.wa.gov

46.87.140 Application—Filing, contents—Fees and taxes—Assessments, due date. (Effective until July 1, 2011.) (1) Any owner engaged in interstate operations of one or more fleets of apportionable vehicles may, in lieu of registration of the vehicles under chapter 46.16 RCW, register and license the vehicles of each fleet under this chapter by filing a proportional registration application for each fleet with the department. The application shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(a) A description and identification of each vehicle of the fleet.

(b) The member jurisdictions in which registration is desired and such other information as member jurisdictions require.

(c) An original or renewal application shall also be accompanied by a mileage schedule for each fleet.

(d) The USDOT number issued to the registrant and the USDOT number of the motor carrier responsible for the safety of the vehicle, if different.

(e) A completed Motor Carrier Identification Report (MCS-150) at the time of fleet renewal or at the time of vehicle registration, if required by the department.

(f) The Taxpayer Identification Number of the registrant and the motor carrier responsible for the safety of the vehicle, if different.

(2) Each application shall, at the time and in the manner required by the department, be supported by payment of a fee computed as follows:

(a) Divide the in-jurisdiction miles by the total miles and carry the answer to the nearest thousandth of a percent (three

places beyond the decimal, e.g. 10.543%). This factor is known as the prorata percentage.

(b) Determine the total proratable fees and taxes required for each vehicle in the fleet for which registration is requested, based on the regular annual fees and taxes or applicable fees and taxes for the unexpired portion of the registration year under the laws of each jurisdiction for which fees or taxes are to be calculated.

Applicable fees and taxes for vehicles of Washington-based fleets are those prescribed under RCW 46.16.070, 46.16.085, and 82.38.075, as applicable. If, during the registration period, the lessor of an apportioned vehicle changes and the vehicle remains in the fleet of the registrant, the department shall only charge those fees prescribed for the issuance of new apportioned license plates, validation tabs, and cab card.

(c) Multiply the total, proratable fees or taxes for each motor vehicle by the prorata percentage applicable to the desired jurisdiction and round the results to the nearest cent.

(d) Add the total fees and taxes determined in (c) of this subsection for each vehicle to the nonproratable fees required under the laws of the jurisdiction for which fees are being calculated. Nonproratable fees required for vehicles of Washington-based fleets are the administrative fee required by RCW 82.38.075, if applicable, and the vehicle transaction fee pursuant to the provisions of RCW 46.87.130.

(e) The amount due and payable for the application is the sum of the fees and taxes calculated for each member jurisdiction in which registration of the fleet is desired.

(3) All assessments for proportional registration fees are due and payable in United States funds on the date presented or mailed to the registrant at the address listed in the proportional registration records of the department. The registrant may petition for reassessment of the fees or taxes due under this section within thirty days of the date of original service as provided for in this chapter. [2005 c 194 § 9; 2003 c 85 § 2; 1997 c 183 § 5; 1991 c 339 § 10; 1990 c 42 § 114; 1987 c 244 § 27.]

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

46.87.140 Application—Filing, contents—Fees and taxes—Assessments, due date. (Effective July 1, 2011.)

(1) Any owner engaged in interstate operations of one or more fleets of apportionable vehicles may, in lieu of registration of the vehicles under *chapter 46.16 RCW, register and license the vehicles of each fleet under this chapter by filing a proportional registration application for each fleet with the department. The application shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(a) A description and identification of each vehicle of the fleet.

(b) The member jurisdictions in which registration is desired and such other information as member jurisdictions require.

(c) An original or renewal application shall also be accompanied by a mileage schedule for each fleet.

(d) The USDOT number issued to the registrant and the USDOT number of the motor carrier responsible for the safety of the vehicle, if different.

(e) A completed Motor Carrier Identification Report (MCS-150) at the time of fleet renewal or at the time of vehicle registration, if required by the department.

(f) The Taxpayer Identification Number of the registrant and the motor carrier responsible for the safety of the vehicle, if different.

(2) Each application shall, at the time and in the manner required by the department, be supported by payment of a fee computed as follows:

(a) Divide the in-jurisdiction miles by the total miles and carry the answer to the nearest thousandth of a percent (three places beyond the decimal, e.g. 10.543%). This factor is known as the prorate percentage.

(b) Determine the total proratable fees and taxes required for each vehicle in the fleet for which registration is requested, based on the regular annual fees and taxes or applicable fees and taxes for the unexpired portion of the registration year under the laws of each jurisdiction for which fees or taxes are to be calculated.

Applicable fees and taxes for vehicles of Washington-based fleets are those prescribed under RCW 46.17.350(1)(c), 46.17.355, and 82.38.075, as applicable. If, during the registration period, the lessor of an apportioned vehicle changes and the vehicle remains in the fleet of the registrant, the department shall only charge those fees prescribed for the issuance of new apportioned license plates, validation tabs, and cab card.

(c) Multiply the total, proratable fees or taxes for each motor vehicle by the prorate percentage applicable to the desired jurisdiction and round the results to the nearest cent.

(d) Add the total fees and taxes determined in (c) of this subsection for each vehicle to the nonproratable fees required under the laws of the jurisdiction for which fees are being calculated. Nonproratable fees required for vehicles of Washington-based fleets are the administrative fee required by RCW 82.38.075, if applicable, and the vehicle transaction fee pursuant to the provisions of RCW 46.87.130.

(e) The amount due and payable for the application is the sum of the fees and taxes calculated for each member jurisdiction in which registration of the fleet is desired.

(3) All assessments for proportional registration fees are due and payable in United States funds on the date presented or mailed to the registrant at the address listed in the proportional registration records of the department. The registrant may petition for reassessment of the fees or taxes due under this section within thirty days of the date of original service as provided for in this chapter. [2010 c 161 § 1143; 2005 c 194 § 9; 2003 c 85 § 2; 1997 c 183 § 5; 1991 c 339 § 10; 1990 c 42 § 114; 1987 c 244 § 27.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Additional notes found at www.leg.wa.gov

(2010 Ed.)

46.87.150 Overpayment, underpayment—Refund, additional charge. Whenever a person has been required to pay a fee or tax pursuant to this chapter that amounts to an overpayment of ten dollars or more, the person is entitled to a refund of the entire amount of such overpayment, regardless of whether or not a refund of the overpayment has been requested. Nothing in this subsection precludes anyone from applying for a refund of such overpayment if the overpayment is less than ten dollars. Conversely, if the department or its agents has failed to charge and collect the full amount of fees or taxes pursuant to this chapter, which underpayment is in the amount of ten dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the fees and taxes due. [1996 c 91 § 1; 1987 c 244 § 28.]

Additional notes found at www.leg.wa.gov

46.87.190 Suspension or cancellation of benefits. The department may suspend or cancel the exemptions, benefits, or privileges granted under chapter 46.85 RCW or this chapter to any person or business firm who violates any of the conditions or terms of the IRP or who violates the laws of this state relating to the operation or registration of vehicles or rules lawfully adopted thereunder. [2005 c 194 § 10; 1987 c 244 § 32.]

Additional notes found at www.leg.wa.gov

46.87.200 Refusal of registration—Federal heavy vehicle use tax. The department may refuse registration of a vehicle if the applicant has failed to furnish proof, acceptable to the department, that the federal heavy vehicle use tax imposed by section 4481 of the internal revenue code of 1954 has been suspended or paid. The department may adopt rules as deemed necessary to administer this section. [1987 c 244 § 33.]

Additional notes found at www.leg.wa.gov

46.87.210 Refusal of application from nonreciprocal jurisdiction. The department may refuse to accept proportional registration applications for the registration of vehicles based in another jurisdiction if the department finds that the other jurisdiction does not grant similar registration privileges to fleet vehicles based in or owned by residents of this state. [1987 c 244 § 34.]

Additional notes found at www.leg.wa.gov

46.87.220 Gross weight computation. (Effective until July 1, 2011.) The gross weight in the case of a motor truck, tractor, or truck tractor is the scale weight of the motor truck, tractor, or truck tractor, plus the scale weight of any trailer, semitrailer, converter gear, or pole trailer to be towed by it, to which shall be added the weight of the maximum load to be carried on it or towed by it as set forth by the licensee in the application providing it does not exceed the weight limitations prescribed by chapter 46.44 RCW.

The gross weight in the case of a bus, auto stage, or for hire vehicle, except a taxicab, with a seating capacity over six, is the scale weight of the bus, auto stage, or for hire vehicle plus the seating capacity, including the operator's seat, computed at one hundred and fifty pounds per seat.

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If the resultant gross weight, according to this section, is not listed in RCW 46.16.070, it will be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

A motor vehicle or combination of vehicles found to be loaded beyond the licensed gross weight of the motor vehicle registered under this chapter shall be cited and handled under RCW 46.16.140 and 46.16.145. [1987 c 244 § 35.]

Additional notes found at www.leg.wa.gov

46.87.220 Gross weight computation. (Effective July 1, 2011.) The gross weight in the case of a motor truck, tractor, or truck tractor is the scale weight of the motor truck, tractor, or truck tractor, plus the scale weight of any trailer, semitrailer, converter gear, or pole trailer to be towed by it, to which shall be added the weight of the maximum load to be carried on it or towed by it as set forth by the licensee in the application providing it does not exceed the weight limitations prescribed by chapter 46.44 RCW.

The gross weight in the case of a bus, auto stage, or for hire vehicle, except a taxicab, with a seating capacity over six, is the scale weight of the bus, auto stage, or for hire vehicle plus the seating capacity, including the operator's seat, computed at one hundred and fifty pounds per seat.

If the resultant gross weight, according to this section, is not listed in RCW 46.17.355, it will be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

A motor vehicle or combination of vehicles found to be loaded beyond the licensed gross weight of the motor vehicle registered under this chapter shall be cited and handled under RCW 46.16A.540 and 46.16A.545. [2010 c 161 § 1144; 1987 c 244 § 35.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

46.87.230 Responsibility for unlawful acts or omissions. Whenever an act or omission is declared to be unlawful under chapter 46.12, *46.16, or 46.44 RCW or this chapter, and if the operator of the vehicle is not the owner or lessee of the vehicle but is so operating or moving the vehicle with the express or implied permission of the owner or lessee, then the operator and the owner or lessee are both subject to this chapter, with the primary responsibility to be that of the owner or lessee.

If the person operating the vehicle at the time of the unlawful act or omission is not the owner or the lessee of the vehicle, that person is fully authorized to accept the citation or notice of infraction and execute the promise to appear on behalf of the owner or lessee. [1987 c 244 § 36.]

***Reviser's note:** Although directed to be recodified within chapter 46.16 RCW pursuant to chapter 161, Laws of 2010, a majority of chapter 46.16 RCW was recodified under chapter 46.16A RCW pursuant to RCW 1.08.015 (2)(k) and (3).

Additional notes found at www.leg.wa.gov

46.87.240 Relationship of department with other jurisdictions. Under the provisions of the IRP, the department may act in a quasi-agency relationship with other jurisdictions. The department may collect and forward applicable registration fees and taxes and applications to other jurisdictions

on behalf of the applicant or another jurisdiction and may take other action that facilitates the administration of the plan. [1987 c 244 § 37.]

Additional notes found at www.leg.wa.gov

46.87.250 Authority of chapter. This chapter constitutes complete authority for the registration of fleet vehicles upon a proportional registration basis without reference to or application of any other statutes of this state except as expressly provided in this chapter. [1987 c 244 § 38.]

Additional notes found at www.leg.wa.gov

46.87.260 Alteration or forgery of cab card or letter of authority—Penalty. Any person who alters or forges or causes to be altered or forged any cab card, letter of authority, or other temporary authority issued by the department under this chapter or holds or uses a cab card, letter of authority, or other temporary authority, knowing the document to have been altered or forged, is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2003 c 53 § 255; 1987 c 244 § 39.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

46.87.270 Gross weight on vehicle. Every Washington-based motor vehicle registered under this chapter shall have the maximum gross weight or maximum combined gross weight for which the vehicle is licensed in this state, painted or stenciled in letters or numbers of contrasting color not less than two inches in height in a conspicuous place on the right and left sides of the vehicle. It is unlawful for the owner or operator of any motor vehicle to display a maximum gross weight or maximum combined gross weight other than that shown on the current cab card of the vehicle. [1990 c 250 § 77; 1987 c 244 § 40.]

Additional notes found at www.leg.wa.gov

46.87.280 Effect of other registration. Nothing contained in this chapter relating to proportional registration of fleet vehicles requires any vehicle to be proportionally registered if it is otherwise registered for operation on the highways of this state. [1987 c 244 § 41.]

Additional notes found at www.leg.wa.gov

46.87.290 Refusal, cancellation of application, cab card—Procedures, penalties. (1) If the department determines at any time that an applicant for proportional registration of a vehicle or a fleet of vehicles is not entitled to a cab card for a vehicle or fleet of vehicles, the department may refuse to issue the cab card(s) or to license the vehicle or fleet of vehicles and may for like reason, after notice, and in the exercise of discretion, cancel the cab card(s) and license plate(s) already issued. The department shall send the notice of cancellation by first-class mail, addressed to the owner of the vehicle in question at the owner's address as it appears in the proportional registration records of the department, and record the transmittal on an affidavit of first-class mail. It is then unlawful for any person to remove, drive, or operate the

vehicle(s) until a proper certificate(s) of registration or cab card(s) has been issued.

(2) Any person removing, driving, or operating the vehicle(s) after the refusal of the department to issue a cab card(s), certificate(s) of registration, license plate(s), or the revocation or cancellation of the cab card(s), certificate(s) of registration, or license plate(s) is guilty of a gross misdemeanor.

(3) At the discretion of the department, a vehicle that has been moved, driven, or operated in violation of this section may be impounded by the Washington state patrol, county sheriff, or city police in a manner directed for such cases by the chief of the Washington state patrol until proper registration and license plate have been issued. [2003 c 53 § 256; 1997 c 183 § 6; 1987 c 244 § 42.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

46.87.294 Refusal under federal prohibition, placement of out-of-service order. The department shall refuse to register a vehicle under this chapter if the registrant or motor carrier responsible for the safety of the vehicle has been prohibited under federal law from operating by the federal motor carrier safety administration. The department shall not register a vehicle if the Washington state patrol has placed an out-of-service order on the vehicle's department of transportation number, as defined in *RCW 46.16.004. [2007 c 419 § 15; 2003 c 85 § 3.]

***Reviser's note:** RCW 46.16.004 was recodified as RCW 46.16A.010 pursuant to 2010 c 161 § 1215, effective July 1, 2011.

Findings—Short title—2007 c 419: See notes following RCW 46.16A.010.

46.87.296 Suspension, revocation under federal prohibition—Placement of out-of-service order. The department shall suspend or revoke the registration of a vehicle registered under this chapter if the registrant or motor carrier responsible for the safety of the vehicle has been prohibited under federal law from operating by the federal motor carrier safety administration. The department shall not register a vehicle if the Washington state patrol has placed an out-of-service order on the vehicle's department of transportation number, as defined in *RCW 46.16.004. [2007 c 419 § 16; 2003 c 85 § 4.]

***Reviser's note:** RCW 46.16.004 was recodified as RCW 46.16A.010 pursuant to 2010 c 161 § 1215, effective July 1, 2011.

Findings—Short title—2007 c 419: See notes following RCW 46.16A.010.

46.87.300 Appeal of suspension, revocation, cancellation, refusal. The suspension, revocation, cancellation, or refusal by the director, or the director's designee, of a license plate(s), certificate(s) of registration, or cab card(s) provided for in this chapter is conclusive unless the person whose license plate(s), certificate(s) of registration, or cab card(s) is suspended, revoked, canceled, or refused appeals to the superior court of Thurston county, or at the person's option if a resident of Washington, to the superior court of his or her county of residence, for the purpose of having the suspension, revocation, cancellation, or refusal of the license

plate(s), certificate(s) of registration, or cab card(s) set aside. Notice of appeal shall be filed within ten calendar days after service of the notice of suspension, revocation, cancellation, or refusal. Upon the filing of the appeal, the court shall issue an order to the director to show cause why the license(s) should not be granted or reinstated. The director shall respond to the order within ten days after the date of service of the order upon the director. Service shall be in the manner prescribed for service of summons and complaint in other civil actions. Upon the hearing on the order to show cause, the court shall hear evidence concerning matters related to the suspension, revocation, cancellation, or refusal of the license plate(s), certificate(s) of registration, or cab card(s) and shall enter judgment either affirming or setting aside the suspension, revocation, cancellation, or refusal. [1987 c 244 § 43.]

Additional notes found at www.leg.wa.gov

46.87.310 Application records—Preservation, contents, audit—Additional assessments, penalties, refunds. Any owner whose application for proportional registration has been accepted shall preserve the records on which the application is based for a period of four years following the preceding year or period upon which the application is based. These records shall be complete and shall include, but not be limited to, the following: Copies of proportional registration applications and supplements for all jurisdictions in which the fleet is prorated; proof of proportional or full registration with other jurisdictions; vehicle license or trip permits; temporary authorization permits; documents establishing the latest purchase year and cost of each fleet vehicle in ready-for-the-road condition; weight certificates indicating the unladen, ready-for-the-road, weight of each vehicle in the fleet; periodic summaries of mileage by fleet and by individual vehicles; individual trip reports, driver's daily logs, or other source documents maintained for each individual trip that provide trip dates, points of origin and destinations, total miles traveled, miles traveled in each jurisdiction, routes traveled, vehicle equipment number, driver's full name, and all other information pertinent to each trip. Upon request of the department, the owner shall make the records available to the department at its designated office for audit as to accuracy of records, computations, and payments. The department shall assess and collect any unpaid fees and taxes found to be due the state and provide credits or refunds for overpayments of Washington fees and taxes as determined in accordance with formulas and other requirements prescribed in this chapter. If the owner fails to maintain complete records as required by this section, the department shall attempt to reconstruct or reestablish such records. However, if the department is unable to do so and the missing or incomplete records involve mileages accrued by vehicles while they are part of the fleet, the department may assess an amount not to exceed the difference between the Washington proportional fees and taxes paid and one hundred percent of the fees and taxes. Further, if the owner fails to maintain complete records as required by this section, or if the department determines that the owner should have registered more vehicles in this state under this chapter, the department may deny the owner the right of any further benefits provided by this chapter until

any final audit or assessment made under this chapter has been satisfied.

The department may audit the records of any owner and may make arrangements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any such owner. No assessment for deficiency or claim for credit may be made for any period for which records are no longer required. Any fees, taxes, penalties, or interest found to be due and owing the state upon audit shall bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount should have been paid until the date of payment. If the audit discloses a deliberate and willful intent to evade the requirements of payment under RCW 46.87.140, a penalty of ten percent shall also be assessed.

If the audit discloses that an overpayment to the state in excess of ten dollars has been made, the department shall certify the overpayment to the state treasurer who shall issue a warrant for the overpayment to the vehicle operator. Overpayments shall bear interest at the rate of eight percent per annum from the date on which the overpayment is incurred until the date of payment. [1996 c 91 § 2; 1993 c 307 § 15; 1987 c 244 § 44.]

Additional notes found at www.leg.wa.gov

46.87.320 Departmental audits, investigations—Subpoenas. The department may initiate and conduct audits and investigations as may be reasonably necessary to establish the existence of any alleged violations of or noncompliance with this chapter or any rules adopted under it.

For the purpose of any audit, investigation, or proceeding under this chapter the director or any designee of the director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, paper, correspondence, memoranda, agreements, or other documents or records that the department deems relevant or material to the inquiry.

In case of contumacy or refusal to obey a subpoena issued to any person, any court of competent jurisdiction upon application by the department, may issue an order requiring that person to appear before the director or the officer designated by the director to produce testimony or other evidence touching the matter under audit, investigation, or in question. Failure to obey an order of the court may be punishable by contempt. [1987 c 244 § 45.]

Additional notes found at www.leg.wa.gov

46.87.330 Assessments—When due, penalties—Reassessment—Petition, notice, service—Injunctions, writs of mandate restricted. An owner of proportionally registered vehicles against whom an assessment is made under RCW 46.87.310 may petition for reassessment thereof within thirty days after service of notice of the assessment upon the owner of the proportionally registered vehicles. If the petition is not filed within the thirty-day period, the amount of the assessment becomes final at the expiration of that time period.

If a petition for reassessment is filed within the thirty-day period, the department shall reconsider the assessment and, if the petitioner has so requested in the petition, shall

grant the petitioner an oral hearing and give the petitioner ten days notice of the time and place of the hearing. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment becomes final thirty days after service upon the petitioner of notice of the decision.

Every assessment made under RCW 46.87.310 becomes due and payable at the time it is served on the owner. If the assessment is not paid in full when it becomes final, the department shall add a penalty of ten percent of the amount of the assessment.

Any notice of assessment, reassessment, oral hearing, or decision required by this section shall be served personally or by mail. If served by mail, service is deemed to have been accomplished on the date the notice was deposited in the United States mail, postage prepaid, addressed to the owner of the proportionally registered vehicles at the owner's address as it appears in the proportional registration records of the department.

No injunction or writ of mandate or other legal or equitable process may be issued in any suit, action, or proceeding in any court against any officer of the state to prevent or enjoin the collection under this chapter of any fee or tax or any amount of fee or tax required to be collected, except as specifically provided for in chapter 34.05 RCW. [1996 c 91 § 3; 1987 c 244 § 46.]

Additional notes found at www.leg.wa.gov

46.87.335 Mitigation of assessments. Except in the case of violations of filing a false or fraudulent application, if the department deems mitigation of penalties, fees, and interest to be reasonable and in the best interests of carrying out the purpose of this chapter, it may mitigate such assessments upon whatever terms the department deems proper, giving consideration to the degree and extent of the lack of records and reporting errors. The department may ascertain the facts regarding recordkeeping and payment penalties in lieu of more elaborate proceedings under this chapter. [1994 c 262 § 15; 1991 c 339 § 5.]

46.87.340 Assessments—Lien for nonpayment. If an owner of proportionally registered vehicles liable for the remittance of fees and taxes imposed by this chapter fails to pay the fees and taxes, the amount thereof, including any interest, penalty, or addition to the fees and taxes together with any additional costs that may accrue, constitutes a lien in favor of the state upon all franchises, property, and rights to property, whether the property is employed by the person for personal or business use or is in the hands of a trustee, receiver, or assignee for the benefit of creditors, from the date the fees and taxes were due and payable until the amount of the lien is paid or the property is sold to pay the lien. The lien has priority over any lien or encumbrance whatsoever, except the lien of other state taxes having priority by law, and except that the lien is not valid as against any bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights have attached before the time the department has filed and recorded notice of the lien as provided in this chapter.

In order to avail itself of the lien created by this section, the department shall file with any county auditor a statement

of claim and lien specifying the amount of delinquent fees and taxes, penalties, and interest claimed by the department. From the time of filing for record, the amount required to be paid constitutes a lien upon all franchises, property, and rights to property, whether real or personal, then belonging to or thereafter acquired by the person in the county. Any lien as provided in this section may also be filed in the office of the secretary of state. Filing in the office of the secretary of state is of no effect, however, until the lien or a copy of it has been filed with the county auditor in the county where the property is located. When a lien is filed in compliance with this section and with the secretary of state, the filing has the same effect as if the lien had been duly filed for record in the office of each county auditor of this state. [1993 c 307 § 16; 1987 c 244 § 47.]

Additional notes found at www.leg.wa.gov

46.87.350 Delinquent obligations—Notice—Restriction on credits or property—Default judgments—Lien. If an owner of proportionally registered vehicles for which an assessment has become final is delinquent in the payment of an obligation imposed under this chapter, the department may give notice of the amount of the delinquency by registered or certified mail to all persons having in their possession or under their control any credits or other personal property belonging to the vehicle owner or owing any debts to the owner, at the time of the receipt by them of the notice. Thereafter, a person so notified shall neither transfer nor make other disposition of those credits, personal property, or debts until the department consents to a transfer or other disposition. A person so notified shall, within twenty days after receipt of the notice, advise the department of any and all such credits, personal property, or debts in their possession, under their control or owing by them, as the case may be, and shall forthwith deliver such credits, personal property, or debts to the department or its duly authorized representative to be applied to the indebtedness involved.

If a person fails to answer the notice within the time prescribed by this section, it is lawful for the court upon application of the department and after the time to answer the notice has expired, to render judgment by default against the person for the full amount claimed by the department in the notice to withhold and deliver, together with costs.

Upon service, the notice and order to withhold and deliver constitutes a continuing lien on property of the taxpayer. The department shall include in the caption of the notice to withhold and deliver "continuing lien." The effective date of a notice to withhold and deliver served under this section is the date of service of the notice. [1994 c 262 § 16; 1987 c 244 § 48.]

Additional notes found at www.leg.wa.gov

46.87.360 Delinquent obligations—Collection by department—Seizure of property, notice, sale. Whenever the owner of proportionally registered vehicles is delinquent in the payment of an obligation imposed under this chapter, and the delinquency continues after notice and demand for payment by the department, the department may proceed to collect the amount due from the owner in the following manner: The department shall seize any property subject to the

lien of the fees, taxes, penalties, and interest and sell it at public auction to pay the obligation and any and all costs that may have been incurred because of the seizure and sale. Notice of the intended sale and its time and place shall be given to the delinquent owner and to all persons appearing of record to have an interest in the property. The notice shall be given in writing at least ten days before the date set for the sale by registered or certified mail addressed to the owner as appearing in the proportional registration records of the department and, in the case of any person appearing of record to have an interest in such property, addressed to that person at his or her last known residence or place of business. In addition, the notice shall be published at least ten days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper in the county, the notice shall be posted in three public places in the county for a period of ten days. The notice shall contain a description of the property to be sold, a statement of the amount due under this chapter, the name of the owner of the proportionally registered vehicles, and the further statement that unless the amount due is paid on or before the time fixed in the notice the property will be sold in accordance with law.

The department shall then proceed to sell the property in accordance with law and the notice, and shall deliver to the purchaser a bill of sale or deed that vests title in the purchaser. If upon any such sale the moneys received exceed the amount due to the state under this chapter from the delinquent owner, the excess shall be returned to the delinquent owner and his or her receipt obtained for it. The department may withhold payment of the excess to the delinquent owner if a person having an interest in or lien upon the property has filed with the department his or her notice of the lien or interest before the sale, pending determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the delinquent owner is not available, the department shall deposit the excess with the state treasurer as trustee for the delinquent owner. [2010 c 8 § 9101; 1987 c 244 § 49.]

Additional notes found at www.leg.wa.gov

46.87.370 Warrant for final assessments—Lien on property. Whenever any assessment has become final in accordance with this chapter, the department may file with the clerk of any county within this state a warrant in the amount of fees, taxes, penalties, interest, and a filing fee under RCW 36.18.012(10). The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant the name of the delinquent owner of proportionally registered vehicles mentioned in the warrant, the amount of the fees, taxes, penalties, interest, and filing fee, and the date when the warrant was filed. The aggregate amount of the warrant as docketed constitutes a lien upon the title to, and interest in, all real and personal property of the named person against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of the clerk. A warrant so docketed is sufficient to support the issuance of writs of execution and writs of gar-

nishment in favor of the state in the manner provided by law in the case of civil judgment wholly or partially unsatisfied. The clerk of the court is entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. [2001 c 146 § 6; 1987 c 244 § 50.]

Additional notes found at www.leg.wa.gov

46.87.380 Delinquent obligations—Collection by attorney general. Whenever an owner of proportionally registered vehicles is delinquent in the payment of an obligation under this chapter the department may transmit notices of the delinquency to the attorney general who shall at once proceed to collect by appropriate legal action the amount due the state from the delinquent owner.

In a suit brought to enforce the rights of the state under this chapter, a certificate by the department showing the delinquency is prima facie evidence of the amount of the obligation, of the delinquency thereof, and of compliance by the department with all provisions of this chapter relating to the obligation. [1987 c 244 § 51.]

Additional notes found at www.leg.wa.gov

46.87.390 Remedies cumulative. The remedies of the state in this chapter are cumulative, and no action taken by the department may be construed to be an election on the part of the state or any of its officers to pursue any remedy under this chapter to the exclusion of any other remedy provided for in this chapter. [1987 c 244 § 52.]

Additional notes found at www.leg.wa.gov

46.87.400 Civil immunity. (1) The director, the state of Washington, and its political subdivisions are immune from civil liability arising from the issuance of a vehicle license to a nonroadworthy vehicle.

(2) No suit or action may be commenced or prosecuted against the director or the state of Washington by reason of any act done or omitted to be done in the administration of the duties and responsibilities imposed upon the director under this chapter. [1987 c 244 § 53.]

Additional notes found at www.leg.wa.gov

46.87.410 Bankruptcy proceedings—Notice. A proportional registration licensee, who files or against whom is filed a petition in bankruptcy, shall, within ten days of the filing, notify the department of the proceedings in bankruptcy, including the identity and location of the court in which the proceedings are pending. [1997 c 183 § 1.]

46.87.900 Severability—1985 c 380. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 380 § 26.]

46.87.910 Short title. This chapter may be known and cited as "Proportional Registration." [1987 c 244 § 54.]

Additional notes found at www.leg.wa.gov

Chapter 46.88 RCW

OUT-OF-STATE COMMERCIAL VEHICLES— INTRASTATE PERMITS

Sections

46.88.010 Commercial vehicles registered in another state—Permits for intrastate operations.

46.88.010 Commercial vehicles registered in another state—Permits for intrastate operations. (*Effective until July 1, 2011.*) The owner of any commercial vehicle or vehicles lawfully registered in another state and who wishes to use such vehicle or vehicles in this state in intrastate operations for periods less than a year may obtain permits for such operations upon application to the department. Such permits may be issued for thirty, sixty, or ninety day periods. The cost of each such permit shall be one-twelfth of the fees provided for in RCW 46.16.070 or 46.16.085, as appropriate, and *82.44.020 for each thirty days' operations provided for in the permit. [1986 c 18 § 25; 1979 c 158 § 202; 1969 ex.s. c 281 § 32.]

*Reviser's note: RCW 82.44.020 was repealed by 2000 1st sp.s. c 1 § 2.

Additional notes found at www.leg.wa.gov

Chapter 46.90 RCW

WASHINGTON MODEL TRAFFIC ORDINANCE

Sections

46.90.005 Purpose.
46.90.010 Adoption of model traffic ordinance—Amendments.

46.90.005 Purpose. The purpose of this chapter is to encourage highway safety and uniform traffic laws by authorizing the department of licensing to adopt a comprehensive compilation of sound, uniform traffic laws to serve as a guide which local authorities may adopt by reference or any part thereof, including all future amendments or additions thereto. Any local authority which adopts that body of rules by reference may at any time exclude any section or sections of those rules that it does not desire to include in its local traffic ordinance. The rules are not intended to deny any local authority its legislative power, but rather to enhance safe and efficient movement of traffic throughout the state by having current, uniform traffic laws available. [1993 c 400 § 1; 1975 1st ex.s. c 54 § 1.]

Additional notes found at www.leg.wa.gov

46.90.010 Adoption of model traffic ordinance—Amendments. In consultation with the chief of the Washington state patrol and the traffic safety commission, the director shall adopt in accordance with chapter 34.05 RCW a model traffic ordinance for use by any city, town, or county. The addition of any new section to, or amendment or repeal of any section in, the model traffic ordinance is deemed to amend any city, town, or county, ordinance which has adopted by reference the model traffic ordinance or any part thereof, and it shall not be necessary for the legislative authority of any city, town, or county to take any action with respect to such addition, amendment, or repeal notwithstanding the provisions of RCW 35.21.180, 35A.12.140,

35A.13.180, and 36.32.120(7). [1993 c 400 § 2; 1975 1st ex.s. c 54 § 2.]

Additional notes found at www.leg.wa.gov

Chapter 46.93 RCW

MOTORSPORTS VEHICLES—DEALER AND MANUFACTURER FRANCHISES

Sections

46.93.010	Findings—Intent.
46.93.020	Definitions.
46.93.030	Termination, cancellation, nonrenewal of franchise restricted.
46.93.040	Determination of good cause, good faith—Petition, notice, decision, appeal.
46.93.050	Determination of good cause, good faith—Hearing, decision, procedures—Judicial review.
46.93.060	Good cause, what constitutes—Burden of proof.
46.93.070	Notice of termination, cancellation, or nonrenewal.
46.93.080	Payments by manufacturer to dealer for inventory, equipment, etc.
46.93.090	Mitigation of damages.
46.93.100	Warranty work.
46.93.110	Designated successor to franchise ownership.
46.93.120	Relevant market area—New or relocated dealerships, notice of.
46.93.130	Protest of new or relocated dealership—Hearing—Arbitration.
46.93.140	Factors considered by administrative law judge.
46.93.150	Hearing—Procedures, costs, appeal.
46.93.160	Relocation requirements—Exceptions.
46.93.170	Unfair practices.
46.93.180	Sale, transfer, or exchange of franchise.
46.93.190	Petition and hearing filing fees, costs, security.
46.93.200	Department defining additional motorsports vehicles.
46.93.900	Severability.
46.93.901	Captions not law.

46.93.010 Findings—Intent. The legislature finds and declares that the distribution and sale of motorsports vehicles in this state vitally affect the general economy of the state and the public interest and public welfare, that provision for warranty service to motorsports vehicles is of substantial concern to the people of this state, that the maintenance of fair competition among dealers and others is in the public interest, and that the maintenance of strong and sound dealerships is essential to provide continuing and necessary reliable services to the consuming public in this state and to provide stable employment to the citizens of this state. The legislature further finds that there is a substantial disparity in bargaining power between motorsports vehicle manufacturers and their dealers, and that in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate the relationship between motorsports vehicle dealers and motorsports vehicle manufacturers, importers, distributors, and their representatives doing business in this state, not only for the protection of dealers but also for the benefit for the public in assuring the continued availability and servicing of motorsports vehicles sold to the public.

The legislature recognizes it is in the best interest for manufacturers and dealers of motorsports vehicles to conduct business with each other in a fair, efficient, and competitive manner. The legislature declares the public interest is best served by dealers being assured of the ability to manage their business enterprises under a contractual obligation with manufacturers where dealers do not experience unreasonable interference and are assured of the ability to transfer ownership of their business without undue constraints. It is the

intent of the legislature to impose a regulatory scheme and to regulate competition in the motorsports vehicle industry to the extent necessary to balance fairness and efficiency. These actions will permit motorsports vehicle dealers to better serve consumers and allow dealers to devote their best competitive efforts and resources to the sale and services of the manufacturer's products to consumers. [2003 c 354 § 1.]

46.93.020 Definitions. The definitions in this section apply throughout this chapter.

(1) "Department" means the department of licensing.

(2) "Director" means the director of the department of licensing.

(3) "Franchise" means one or more agreements, whether oral or written, between a manufacturer and a new motorsports vehicle dealer, under which the new motorsports vehicle dealer is authorized to sell, service, and repair new motorsports vehicles, parts, and accessories under a common name, trade name, trademark, or service mark of the manufacturer.

"Franchise" includes an oral or written contract and includes a dealer agreement, either expressed or implied, between a manufacturer and a new motorsports vehicle dealer that purports to fix the legal rights and liabilities between the parties and under which (a) the dealer is granted the right to purchase and resell motorsports vehicles manufactured, distributed, or imported by the manufacturer; (b) the dealer's business is associated with the trademark, trade name, commercial symbol, or advertisement designating the franchisor or the products distributed by the manufacturer; and (c) the dealer's business relies on the manufacturer for a continued supply of motorsports vehicles, parts, and accessories.

(4) "Good faith" means honesty in fact and fair dealing in the trade as defined and interpreted in RCW 62A.2-103.

(5) "Designated successor" means:

(a) The spouse, biological or adopted child, grandchild, parent, brother, or sister of the owner of a new motorsports vehicle dealership who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motorsports vehicle dealership under the terms of the owner's will or similar document, and if there is no such will or similar document, then under applicable intestate laws;

(b) A qualified person experienced in the business of a new motorsports vehicle dealer who has been nominated by the owner of a new motorsports vehicle dealership as the successor in a written, notarized, and witnessed instrument submitted to the manufacturer; or

(c) In the case of an incapacitated owner of a new motorsports vehicle dealership, the person who has been appointed by a court as the legal representative of the incapacitated owner's property.

(6) "Manufacturer" means a person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused motorsports vehicles or remanufactures motorsports vehicles in whole or in part and further includes the terms:

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

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

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

(7) "Motorsports vehicle" means a motorcycle as defined in RCW 46.04.330; a moped as defined in RCW 46.04.304; a motor-driven cycle as defined in RCW 46.04.332; a personal watercraft as defined in RCW 79A.60.010; a snowmobile as defined in *RCW 46.10.010; a four-wheel, all-terrain vehicle; and any other motorsports vehicle defined under RCW 46.93.200 by the department that is otherwise not subject to chapter 46.96 RCW.

(8) "New motorsports vehicle dealer" or "dealer" means a person engaged in the business of buying, selling, exchanging, or otherwise dealing in new motorsports vehicles or new and used motorsports vehicles at an established place of business under a franchise, sales and service agreement, or any other contract with a manufacturer of any one or more types of new motorsports vehicles. The term does not include a miscellaneous vehicle dealer as defined in RCW 46.70.011.

(9) "Owner" means a person holding an ownership interest in the business entity operating as a new motorsports vehicle dealer and who is the designated dealer in the new motorsports vehicle franchise agreement.

(10) "Person" means a natural person, partnership, stock company, corporation, trust, agency, or any other legal entity, as well as any individual officers, directors, or other persons in active control of the activities of the entity.

(11) "Place of business" means a permanent, enclosed commercial building, situated within this state, and the real property on which it is located, at which the business of a motorsports vehicle dealer, including the display and repair of motorsports vehicles, may be lawfully conducted in accordance with the terms of all applicable laws and at which the public may contact the motorsports vehicle dealer and employees at all reasonable times.

(12) "Relevant market area" is defined as follows:

(a) If the population in the county in which the existing, proposed new, or relocated dealership is located or is to be located is four hundred thousand or more, the relevant market area is the geographic area within the radius of ten miles around the existing, proposed new, or relocated place of business for the dealership;

(b) If the population in the county in which the existing, proposed new, or relocated dealership is to be located is two hundred thousand or more and less than four hundred thousand, the relevant market area is the geographic area within a radius of twelve miles around the existing, proposed new, or relocated place of business for the dealership;

(c) If the population in the county in which the existing, proposed new, or relocated dealership is to be located is less

than two hundred thousand, the relevant market area is the geographic area within a radius of twenty miles around the existing, proposed new, or relocated place of business for the dealership;

(d) In determining population for this definition, the most recent census by the United States Bureau of Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, will be accumulated for all census tracts either wholly or partially within the relevant market area. [2003 c 354 § 2.]

***Reviser's note:** RCW 46.10.010 was recodified as RCW 46.10.300 pursuant to 2010 c 161 § 1206, effective July 1, 2011. RCW 46.10.010 was also amended by 2010 c 161 § 225, deleting the definition of "snowmobile," effective July 1, 2011.

46.93.030 Termination, cancellation, nonrenewal of franchise restricted. Notwithstanding the terms of a franchise and notwithstanding the terms of a waiver, no manufacturer may terminate, cancel, or fail to renew a franchise with a new motorsports vehicle dealer, unless the manufacturer has complied with the notice requirements of RCW 46.93.070 and an administrative law judge has determined, if requested in writing by the dealer within forty-five days of receiving a notice from a manufacturer, after hearing, that there is good cause for the termination, cancellation, or nonrenewal of the franchise and that the manufacturer has acted in good faith regarding the termination, cancellation, or nonrenewal. [2003 c 354 § 3.]

46.93.040 Determination of good cause, good faith—Petition, notice, decision, appeal. A new motorsports vehicle dealer who has received written notification from the manufacturer of the manufacturer's intent to terminate, cancel, or not renew the franchise, may file a petition with the department for a determination as to the existence of good cause and good faith for the termination, cancellation, or nonrenewal of a franchise. The petition must contain a short statement setting forth the reasons for the dealer's objection to the termination, cancellation, or nonrenewal of the franchise. Upon the filing of the petition and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely petition has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The franchise in question continues in full force and effect pending the administrative law judge's decision. If the decision of the administrative law judge terminating, canceling, or failing to renew a dealer's franchise is appealed by a dealer or manufacturer, the franchise continues in full force and effect until all appeals to a superior court or any appellate court have been completed. Nothing in this section precludes a manufacturer or dealer from petitioning the superior court for a stay or other relief pending judicial review. [2003 c 354 § 4.]

46.93.050 Determination of good cause, good faith—Hearing, decision, procedures—Judicial review. (1) The administrative law judge shall conduct the hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred eighty days after a petition is filed. If the termination, cancellation, or nonrenewal is under RCW 46.93.070(2), the administrative law judge shall give the pro-

ceeding priority consideration and shall render a final decision not later than sixty days after a petition is filed.

(2) The administrative law judge shall conduct the hearing as an adjudicative proceeding in accordance with the procedures provided for in the Administrative Procedure Act, chapter 34.05 RCW. The administrative law judge shall render the final decision and shall enter a final order. Except as otherwise provided in RCW 34.05.446 and 34.05.449, all hearing costs must be borne on an equal basis by the parties to the hearing.

(3) A party to a hearing under this chapter may be represented by counsel. A party to a hearing aggrieved by the final order of the administrative law judge concerning the termination, cancellation, or nonrenewal of a franchise may seek judicial review of the order in the superior court or appellate court in the manner provided for in RCW 34.05.510 through 34.05.598. A petitioner for judicial review need not exhaust all administrative appeals or administrative review processes as a prerequisite for seeking judicial review under this section. [2003 c 354 § 5.]

46.93.060 Good cause, what constitutes—Burden of proof. (1) Notwithstanding the terms of a franchise or the terms of a waiver, and except as otherwise provided in RCW 46.93.070(2) (a) through (d), good cause exists for termination, cancellation, or nonrenewal of a franchise when there is a failure by the dealer to comply with a provision of the franchise that is both reasonable and of material significance to the franchise relationship, if the dealer was notified of the failure within one hundred eighty days after the manufacturer first acquired knowledge of the failure, and the dealer did not correct the failure after being requested to do so.

If, however, the failure of the dealer relates to the performance of the dealer in sales, service, or level of customer satisfaction, good cause is the failure of the dealer to comply with reasonable performance standards determined by the manufacturer in accordance with uniformly applied criteria, and:

(a) The dealer was advised, in writing, by the manufacturer of the failure;

(b) The notice under this subsection stated that notice was provided of a failure of performance under this section;

(c) The manufacturer provided the dealer with specific, reasonable goals or reasonable performance standards with which the dealer must comply, together with a suggested timetable or program for attaining those goals or standards, and the dealer was given a reasonable opportunity, for a period of not more than ninety days, to comply with the goals or standards; and

(d) The dealer did not substantially comply with the manufacturer's performance standards during that period and the failure to demonstrate substantial compliance was not due to market or economic factors within the dealer's relevant market area that were beyond the control of the dealer.

(2) The manufacturer has the burden of proof of establishing good cause and good faith for the termination, cancellation, or nonrenewal of the franchise under this section. [2003 c 354 § 6.]

(2010 Ed.)

46.93.070 Notice of termination, cancellation, or nonrenewal. Before the termination, cancellation, or nonrenewal of a franchise, the manufacturer shall give written notification to both the department and the dealer. The notice must be by certified mail or personally delivered to the new motorsports vehicle dealer and must state the intention to terminate, cancel, or not renew the franchise, the reasons for the termination, cancellation, or nonrenewal, and the effective date of the termination, cancellation, or nonrenewal. The notice must be given:

(1) Not less than ninety days, which runs concurrently with the ninety-day period provided in RCW 46.93.060(1)(c), before the effective date of the termination, cancellation, or nonrenewal;

(2) Not less than fifteen days before the effective date of the termination, cancellation, or nonrenewal with respect to any of the following that constitute good cause for termination, cancellation, or nonrenewal:

(a) Insolvency of the dealer or the filing of any petition by or against the dealer under bankruptcy or receivership law;

(b) Failure of the dealer to conduct sales and service operations during customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the dealer;

(c) Conviction of the dealer, or principal operator of the dealership, of a felony punishable by imprisonment; or

(d) Suspension or revocation of a license that the dealer is required to have to operate the dealership where the suspension or revocation is for a period in excess of thirty days;

(3) Not less than one hundred eighty days before the effective date of termination, cancellation, or nonrenewal, where the manufacturer intends to discontinue sale and distribution of the new motorsports vehicle line. [2003 c 354 § 7.]

46.93.080 Payments by manufacturer to dealer for inventory, equipment, etc. (1) Upon the termination, cancellation, or nonrenewal of a franchise, the manufacturer shall pay the dealer, at a minimum:

(a) Dealer cost, less all allowances paid or credited to the dealer by the manufacturer, of unused, undamaged, and unsold new motorsports vehicles in the dealer's inventory that were acquired from the manufacturer or another dealer of the same line make in the ordinary course of business;

(b) Dealer cost for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging, except that in the case of sheet metal, a comparable substitute for original packaging may be used, if the supply, part, or accessory was acquired from the manufacturer or from another dealer ceasing operations as a part of the dealer's initial inventory, as long as the supplies, parts, and accessories appear in the manufacturer's current parts catalog, list, or current offering;

(c) Dealer cost for all unused, undamaged, and unsold inventory, whether vehicles, parts, or accessories, the purchase of which was required by the manufacturer;

(d) The fair market value of each undamaged sign owned by the dealer that bears a common name, trade name, or trademark of the manufacturer, if acquisition of the sign was recommended or required by the manufacturer and the sign is in good and usable condition less reasonable wear and tear,

and has not been depreciated by the dealer more than fifty percent of the value of the sign; and

(e) The fair market value of all special tools owned or leased by the dealer that were acquired from the manufacturer or persons approved by the manufacturer, and that were required by the manufacturer, and are in good and usable condition, less reasonable wear and tear. However, if the tools are leased by the dealer, the manufacturer shall pay the dealer such amounts that are required by the lessor to terminate the lease under the terms of the lease agreement.

(2) To the extent the franchise agreement provides for payment or reimbursement to the dealer in excess of that specified in this section, the provisions of the franchise agreement will control.

(3) The manufacturer shall pay the dealer the sums specified in subsection (1) of this section within ninety days after the termination, cancellation, or nonrenewal of the franchise, if the dealer has clear title to the property or can provide clear title to the property upon payment by the manufacturer and is in a position to convey that title to the manufacturer. [2009 c 232 § 1; 2003 c 354 § 8.]

46.93.090 Mitigation of damages. RCW 46.93.030 through 46.93.080 do not relieve a dealer from the obligation to mitigate the dealer's damages upon termination, cancellation, or nonrenewal of the franchise. [2003 c 354 § 9.]

46.93.100 Warranty work. (1) Each manufacturer shall specify in its franchise agreement, or in a separate written agreement, with each of its dealers licensed in this state, the dealer's obligation to perform warranty work or service on the manufacturer's products. Each manufacturer shall provide each of its dealers with a schedule of compensation to be paid to the dealer for any warranty work or service, including parts, labor, and diagnostic work, required of the dealer by the manufacturer in connection with the manufacturer's products, and for work on and preparation of motor-sports vehicles received from the manufacturer. The compensation may not be less than the rates reasonably charged by the dealer for like services and parts to retail customers. The compensation may not be reduced by the manufacturer for any reason or made conditional on an activity outside the performance of warranty work.

(2) All claims for warranty work for parts and labor made by dealers under this section must be paid by the manufacturer within thirty days after approval, and must be approved or denied within thirty days of receipt by the manufacturer. Denial of a claim must be in writing with the specific grounds for denial. The manufacturer may audit claims for warranty work and charge the dealer for any unsubstantiated, incorrect, or false claims for a period of one year after payment. However, the manufacturer may audit and charge the dealer for any fraudulent claims during any period for which an action for fraud may be commenced under applicable state law.

(3) All claims submitted by dealers on the forms and in the manner specified by the manufacturer must be either approved or disapproved within thirty days after their receipt. The manufacturer shall notify the dealer in writing of a disapproved claim, and shall set forth the reasons why the claim

was not approved. A claim not specifically disapproved in writing within thirty days after receipt is approved, and the manufacturer is required to pay that claim within thirty days of receipt of the claim. [2003 c 354 § 10.]

46.93.110 Designated successor to franchise ownership. (1) Notwithstanding the terms of a franchise, an owner may appoint a designated successor to succeed to the ownership of the dealer franchise upon the owner's death or incapacity.

(2) Notwithstanding the terms of a franchise, a designated successor of a deceased or incapacitated owner of a dealer franchise may succeed to the ownership interest of the owner under the existing franchise, if:

(a) In the case of a designated successor who meets the definition of a designated successor under RCW 46.93.020(5), but who is not experienced in the business of a new motorsports vehicle dealer, the person will employ an individual who is qualified and experienced in the business of a new motorsports vehicle dealer to help manage the day-to-day operations of the dealership; or in the case of a designated successor who meets the definition of a designated successor under RCW 46.93.020(5) (b) or (c), the person is qualified and experienced in the business of a new motorsports vehicle dealer and meets the normal, reasonable, and uniformly applied standards for grant of an application as a dealer by the manufacturer; and

(b) The designated successor furnishes written notice to the manufacturer of his or her intention to succeed to the ownership of the dealership within sixty days after the owner's death or incapacity; and

(c) The designated successor agrees to be bound by all terms and conditions of the franchise.

(3) The manufacturer may request, and the designated successor shall promptly provide, such personal and financial information as is reasonably necessary to determine whether the succession should be honored.

(4) A manufacturer may refuse to honor the succession to the ownership of a dealer franchise by a designated successor if the manufacturer establishes that good cause exists for its refusal to honor the succession. If the designated successor of a deceased or incapacitated owner of a dealer franchise fails to meet the requirements set forth in subsection (2)(a), (b), and (c) of this section, good cause for refusing to honor the succession is presumed to exist. If a manufacturer believes that good cause exists for refusing to honor the succession to the ownership of a dealer franchise by a designated successor, the manufacturer shall serve written notice on the designated successor and on the department of its refusal to honor the succession no earlier than sixty days from the date the notice is served. The notice must be served not later than sixty days after the manufacturer's receipt of:

(a) Notice of the designated successor's intent to succeed to the ownership interest of the dealer's franchise; or

(b) Any personal or financial information requested by the manufacturer.

(5) The notice in subsection (4) of this section must state the specific grounds for the refusal to honor the succession. If the notice of refusal is not timely and properly served, the designated successor may continue the franchise in full force

and effect, subject to termination only as otherwise provided under this chapter.

(6) Within twenty days after receipt of the notice, or within twenty days after the end of any appeal procedure provided by the manufacturer, whichever is greater, the designated successor may file a petition with the department protesting the refusal to honor the succession. The petition must contain a short statement setting forth the reasons for the designated successor's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The manufacturer may not terminate or otherwise discontinue the existing franchise until the administrative law judge has held a hearing and has determined that there is good cause for refusing to honor the succession. If an appeal is taken, the manufacturer may not terminate or discontinue the franchise until all appeals to a superior court or any appellate court have been completed. Nothing in this section precludes a manufacturer or dealer from petitioning the superior court for a stay or other relief pending judicial review.

(7) The manufacturer has the burden of proof to show that good cause exists for the refusal to honor the succession.

(8) The administrative law judge shall conduct the hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred eighty days after a protest is filed.

(9) The administrative law judge shall conduct a hearing concerning the refusal to the succession as provided in RCW 46.93.050(2), and all hearing costs must be borne as provided in that subsection. A party to such a hearing aggrieved by the final order of the administrative law judge may appeal as provided and allowed in RCW 46.93.050(3).

(10) This section does not preclude the owner of a dealer franchise from designating any person as his or her successor by a written, notarized, and witnessed instrument filed with the manufacturer. In the event of a conflict between this section and such a written instrument that has not been revoked by written notice from the owner to the manufacturer, the written instrument governs. [2003 c 354 § 11.]

46.93.120 Relevant market area—New or relocated dealerships, notice of. Notwithstanding the terms of a franchise and notwithstanding the terms of a waiver, if a manufacturer intends or proposes to enter into a franchise to establish an additional dealer or to relocate an existing dealer within or into a relevant market area in which the same line make of motorsports vehicle is then represented, the manufacturer shall provide at least ten days advance written notice to the department and to each dealer of the same line make in the relevant market area, of the manufacturer's intention to establish an additional dealer or to relocate an existing dealer within or into the relevant market area. The notice must be sent by certified mail to each such party and include the following information:

(1) The specific location at which the additional or relocated dealer will be established;

(2) The date on or after which the additional or relocated dealer intends to commence business at the proposed location;

(3) The identity of all dealers who are franchised to sell the same line make vehicles as the proposed dealer and who have licensed locations within the relevant market area;

(4) The names and addresses, if available, of the owners of and principal investors in the proposed additional or relocated dealership; and

(5) The specific grounds or reasons for the proposed establishment of an additional dealer or relocation of an existing dealer. [2003 c 354 § 12.]

46.93.130 Protest of new or relocated dealership—Hearing—Arbitration.

(1) Within thirty days after receipt of the notice under RCW 46.93.120, or within thirty days after the end of an appeal procedure provided by the manufacturer, whichever is greater, a dealer notified or entitled to notice may file a petition with the department protesting the proposed establishment or relocation. The petition must contain a short statement setting forth the reasons for the dealer's objection to the proposed establishment or relocation. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The manufacturer may not establish or relocate the dealer until the administrative law judge has held a hearing and administrative proceeding under the Administrative Procedure Act, chapter 34.05 RCW, and has determined that there is good cause for permitting the proposed establishment or relocation. When more than one protest is filed against the establishment or relocation of the same dealer, the administrative law judge shall consolidate the hearings to expedite disposition of the matter.

(2) If a manufacturer provides in the franchise agreement or by written statement distributed and provided to its dealers for arbitration under the Washington Arbitration Act, *chapter 7.04 RCW, as a mechanism for resolving disputes relating to the establishment of an additional new motorsports vehicle dealer or the relocation of a new motorsports vehicle dealer, subsection (1) of this section and RCW 46.93.140 will take precedence and the arbitration provision in the franchise agreement or a written statement is void, unless the manufacturer and dealer agree to use arbitration.

(3) If the manufacturer and dealer agree to use arbitration, the dispute must be referred for arbitration to such arbitrator as may be agreed upon by the parties to the dispute. The thirty-day period for filing a protest under subsection (1) of this section still applies except the protesting dealer shall file the protest with the manufacturer. If the parties cannot agree upon a single arbitrator within thirty days from the date the protest is filed, the protesting dealer will select an arbitrator, the manufacturer will select an arbitrator, and the two arbitrators will then select a third arbitrator. If a third arbitrator is not agreed upon within thirty days, any party may apply to the superior court, and the judge of the superior court having jurisdiction will appoint the third arbitrator. The protesting dealer will pay the arbitrator selected by him or her, and the manufacturer will pay the arbitrator it selected. The expense of the third arbitrator and all other expenses of arbitration will be shared equally by the parties. Attorneys' fees and fees paid to expert witnesses are not expenses of arbitration and will be paid by the person incurring them.

(4) Notwithstanding the terms of a franchise or written statement of the manufacturer and notwithstanding the terms of a waiver, the arbitration will take place in this state in the county where the protesting dealer has its principal place of business. RCW 46.93.140 applies to a determination made by the arbitrator or arbitrators in determining whether good cause exists for permitting the proposed establishment or relocation of a dealer, and the manufacturer has the burden of proof to establish that good cause exists for permitting the proposed establishment or relocation. After a hearing has been held, the arbitrator or arbitrators shall render a decision as expeditiously as possible, but in any event not later than one hundred twenty days from the date the arbitrator or arbitrators are selected or appointed. The manufacturer may not establish or relocate the new motorsports vehicle dealer until the arbitration hearing has been held and the arbitrator or arbitrators have determined that there is good cause for permitting the proposed establishment or relocation and any judicial appeals under *chapter 7.04 RCW have been completed. The written decision of the arbitrator is binding upon the parties unless modified, corrected, or vacated under the Washington Arbitration Act. Any party may appeal the decision of the arbitrator or arbitrators under the Washington Arbitration Act, *chapter 7.04 RCW. [2003 c 354 § 13.]

***Reviser's note:** Chapter 7.04 RCW was repealed in its entirety by 2005 c 433 § 50, effective January 1, 2006. Cf. chapter 7.04A RCW.

46.93.140 Factors considered by administrative law judge. In determining whether good cause exists for permitting the proposed establishment or relocation of a dealer of the same line make, the factors that the administrative law judge shall consider must include, but are not limited to the following:

(1) The extent, nature, and permanency of the investment of both the existing dealers of the same line make in the relevant market area and the proposed additional or relocating dealer, including obligations reasonably incurred by the existing dealers to perform their obligations under their respective franchises;

(2) The growth or decline in population and new motorsports vehicle registrations during the past five years in the relevant market area;

(3) The effect on the consuming public;

(4) The effect on the existing dealers in the relevant market area, including any adverse financial impact;

(5) The reasonably expected or anticipated vehicle market for the relevant market area, including demographic factors such as age of population, income, education, size class preference, product popularity, retail lease transactions, or other factors affecting sales to consumers in the relevant market area;

(6) Whether it is injurious or beneficial to the public welfare for an additional dealership to be established;

(7) Whether the dealers of the same line make in the relevant market area are providing adequate competition and convenient customer care for the motorsports vehicles of the same line make in the relevant market area, including the adequacy of motorsports vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel;

(8) Whether the establishment of an additional dealer would increase competition and be in the public interest;

(9) Whether the manufacturer is motivated principally by good faith to establish an additional or new dealer and not by noneconomic considerations;

(10) Whether the manufacturer has denied its existing dealers of the same line make the opportunity for reasonable growth, market expansion, or relocation;

(11) Whether the protesting dealer or dealers are in substantial compliance with their dealer agreements or franchises; and

(12) Whether the manufacturer has complied with the requirements of RCW 46.93.120 and 46.93.130. [2003 c 354 § 14.]

46.93.150 Hearing—Procedures, costs, appeal. (1) The manufacturer has the burden of proof to establish that good cause exists for permitting the proposed establishment or relocation.

(2) The administrative law judge shall conduct any hearing as provided in RCW 46.93.050(2) and all hearing costs will be borne as provided in that subsection. The administrative law judge shall render the final decision as expeditiously as possible, but in any event not later than one hundred twenty days after a protest is filed. If more than one protest is filed, the one hundred twenty days commences to run from the date the last protest is filed. A party to such a hearing aggrieved by the final order of the administrative law judge may appeal as provided and allowed in RCW 46.93.050(3). [2003 c 354 § 15.]

46.93.160 Relocation requirements—Exceptions. RCW 46.93.120 through 46.93.150 do not apply:

(1) To the sale or transfer of the ownership or assets of an existing dealer where the transferee proposes to engage in business representing the same line make at the same location or within two miles of that location;

(2) To the relocation of an existing dealer within the dealer's relevant market area, if the relocation is not at a site within eight miles of any dealer of the same line make;

(3) If the proposed dealer is to be established at or within two miles of a location at which a former dealer of the same line make had ceased operating within the previous twenty-four months;

(4) Where the proposed relocation is two miles or less from the existing location of the relocating dealer; or

(5) Where the proposed relocation is to be further away from all other existing dealers of the same line make in the relevant market area. [2003 c 354 § 16.]

46.93.170 Unfair practices. (1) Notwithstanding the terms of a franchise agreement, a manufacturer, distributor, factory branch, or factory representative, or an agent, officer, parent company, wholly or partially owned subsidiary, affiliated entity, or other person controlled by or under common control with a manufacturer, distributor, factory branch, or factory representative, shall not:

(a) Discriminate between dealers by selling or offering to sell a like motorsports vehicle to one dealer at a lower actual

price than the actual price offered to another dealer for the same model similarly equipped;

(b) Discriminate between dealers by selling or offering to sell parts or accessories to one dealer at a lower actual price than the actual price offered to another dealer;

(c) Discriminate between dealers by using a promotion plan, marketing plan, or other similar device that results in a lower actual price on vehicles, parts, or accessories being charged to one dealer over another dealer;

(d) Discriminate between dealers by adopting a method, or changing an existing method, for the allocation, scheduling, or delivery of new motorsports vehicles, parts, or accessories to its dealers that is not fair, reasonable, and equitable. Upon the request of a dealer, a manufacturer shall disclose in writing to the dealer the method by which new motorsports vehicles, parts, and accessories are allocated, scheduled, or delivered to its dealers handling the same line or make of vehicles;

(e) Give preferential treatment to some dealers over others by refusing or failing to deliver, in reasonable quantities and within a reasonable time after receipt of an order, to a dealer holding a franchise for a line or make of motorsports vehicles sold or distributed by the manufacturer, a new vehicle, parts, or accessories, if the vehicle, parts, or accessories are being delivered to other dealers, or require a dealer to purchase unreasonable advertising displays or other materials, or unreasonably require a dealer to remodel or renovate existing facilities as a prerequisite to receiving a model or series of vehicles;

(f) Compete with a dealer by acting in the capacity of a dealer, or by owning, operating, or controlling, whether directly or indirectly, a dealership in this state. It is not, however, a violation of this subsection for:

(i) A manufacturer to own or operate a dealership for a temporary period, not to exceed two years, during the transition from one owner of the dealership to another where the dealership was previously owned by a franchised dealer and is currently for sale to any qualified independent person at a fair and reasonable price. The temporary operation may be extended for one twelve-month period on petition of the temporary operator to the department. The matter will be handled as an adjudicative proceeding under chapter 34.05 RCW. A dealer who is a franchisee of the petitioning manufacturer or distributor may intervene and participate in a proceeding under this subsection (1)(f)(i). The temporary operator has the burden of proof to show justification for the extension and a good faith effort to sell the dealership to an independent person at a fair and reasonable price;

(ii) A manufacturer to own or operate a dealership in conjunction with an independent person in a bona fide business relationship for the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been underrepresented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, and where the independent person (A) has made a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and (C) operates the dealership under a bona fide written agreement with the manufacturer, distributor, factory branch, or factory representative under which he or she will acquire all

of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacturer has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions;

(iii) A manufacturer to own or operate a dealership in conjunction with an independent person in a bona fide business relationship where the independent person (A) has made a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and (C) operates the dealership under a bona fide written agreement with the manufacturer under which he or she will acquire all of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacture [manufacturer] has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions. The number of dealerships operated under this subsection (1)(f)(iii) may not exceed four percent rounded up to the nearest whole number of a manufacturer's total of dealer franchises in this state;

(iv) A manufacturer to own, operate, or control a dealership trading exclusively in a single line make of the manufacturer if (A) the manufacturer does not own, directly or indirectly, in the aggregate, in excess of forty-five percent of the total ownership interest in the dealership; (B) at the time the manufacturer first acquires ownership or assumes operation or control of any such dealership, the distance between any dealership thus owned, operated, or controlled and the nearest dealership trading in the same line make of vehicle and in which the manufacturer has no ownership or control complies with the applicable provisions in the relevant market area sections of this chapter; (C) all of the manufacturer's franchise agreements confer rights on the dealer of that line make to develop and operate within a defined geographic territory or area, as many dealership facilities as the dealer and the manufacturer agree are appropriate; and (D) the manufacturer had no more than four new motorsports vehicle dealers of that manufacturer's line make in this state, and at least half of those dealers owned and operated two or more dealership facilities in the geographic territory or area covered by their franchise agreements with the manufacturer;

(g) Compete with a dealer by owning, operating, or controlling, whether directly or indirectly, a service facility in this state for the repair or maintenance of motorsports vehicles under the manufacturer's new motorsports vehicle warranty and extended warranty. Nothing in this subsection (1)(g), however, prohibits a manufacturer from owning or operating a service facility for the purpose of providing or performing maintenance, repair, or service work on motorsports vehicles that are owned by the manufacturer;

(h) Use confidential or proprietary information obtained from a dealer to unfairly compete with the dealer without the prior written consent of the dealer. For purposes of this subsection (1)(h), "confidential or proprietary information" means trade secrets as defined in RCW 19.108.010, business plans, marketing plans or strategies, customer lists, contracts, sales data, revenues, or other financial information;

(i) Coerce, threaten, intimidate, or require, either directly or indirectly, a dealer to accept, buy, or order any motorsports vehicle, part, or accessory, or any other commodity or service not voluntarily ordered, or requested, or to buy, order, or pay anything of value for such items in order to obtain a motorsports vehicle, part, accessory, or other commodity that has been voluntarily ordered or requested;

(j) Coerce, threaten, intimidate, or require, either directly or indirectly, a dealer to enter into any agreement that violates this chapter;

(k) Require a change in capital structure or means of financing for the dealership if the dealer at all times meets the reasonable, written, and uniformly applied capital standards determined by the manufacturer;

(l) Prevent or attempt to prevent a dealer from making reasonable changes in the capital structure of a dealership or the means by which the dealership is financed if the dealer meets the reasonable, written, and uniformly applied capital requirements determined by the manufacturer;

(m) Unreasonably require the dealer to change the location or require any substantial alterations to the place of business;

(n) Condition a renewal or extension of the franchise on the dealer's substantial renovation of the existing place of business or on the construction, purchase, acquisition, or release of a new place of business unless written notice is first provided one hundred eighty days before the date of renewal or extension and the manufacturer demonstrates the reasonableness of the requested actions. The manufacturer shall agree to supply the dealer with an adequate quantity of motorsports vehicles, parts, and accessories to meet the sales level necessary to support the overhead resulting from substantial construction, acquisition, or lease of a new place of business;

(o) Coerce, threaten, intimidate, or require, either directly or indirectly, a dealer to order or accept delivery of a motorsports vehicle with special features, accessories, or equipment not included in the list price of the vehicle as advertised by the manufacturer, except items that have been voluntarily requested or ordered by the dealer, and except items required by law;

(p) Fail to hold harmless and indemnify a dealer against losses, including lawsuits and court costs, arising from: (i) The manufacture or performance of a motorsports vehicle, part, or accessory if the lawsuit involves representations by the manufacturer on the manufacture or performance of a motorsports vehicle without negligence on the part of the dealer; (ii) damage to merchandise in transit where the manufacturer specifies the carrier; (iii) the manufacturer's failure to jointly defend product liability suits concerning the motorsports vehicle, part, or accessory provided to the dealer; or (iv) any other act performed by the manufacturer;

(q) Unfairly prevent or attempt to prevent a dealer from receiving reasonable compensation for the value of a motorsports vehicle;

(r) Fail to pay to a dealer, within a reasonable time after receipt of a valid claim, a payment agreed to be made by the manufacturer on grounds that a new motorsports vehicle, or a prior year's model, is in the dealer's inventory at the time of introduction of new model motorsports vehicles;

(s) Deny a dealer the right of free association with any other dealer for any lawful purpose;

(t) Charge increased prices without having given written notice to the dealer at least fifteen days before the effective date of the price increases;

(u) Permit factory authorized warranty service to be performed upon motorsports vehicles or accessories by persons other than their franchised dealers;

(v) Require or coerce a dealer to sell, assign, or transfer a retail sales installment contract, or require the dealer to act as an agent for a manufacturer, in the securing of a promissory note, a security agreement given in connection with the sale of a motorsports vehicle, or securing of a policy of insurance for a motorsports vehicle. The manufacturer may not condition delivery of any motorsports vehicle, parts, or accessories upon the dealer's assignment, sale, or other transfer of sales installment contracts to specific finance companies;

(w) Require or coerce a dealer to grant a manufacturer a right of first refusal or other preference to purchase the dealer's franchise or place of business, or both.

(2) Subsections (1)(a), (b), and (c) of this section do not apply to sales to a dealer: (a) For resale to a federal, state, or local government agency; (b) where the motorsports vehicles will be sold or donated for use in a program of driver's education; (c) where the sale is made under a manufacturer's bona fide promotional program offering sales incentives or rebates; (d) where the sale of parts or accessories is under a manufacturer's bona fide quantity discount program; or (e) where the sale is made under a manufacturer's bona fide fleet vehicle discount program. For purposes of this subsection, "fleet" means a group of fifteen or more new motorsports vehicles purchased or leased by a dealer at one time under a single purchase or lease agreement for use as part of a fleet, and where the dealer has been assigned a fleet identifier code by the department.

(3) The following definitions apply to this section:

(a) "Actual price" means the price to be paid by the dealer less any incentive paid by the manufacturer, whether paid to the dealer or the ultimate purchaser of the motorsports vehicle.

(b) "Control" or "controlling" means (i) the possession of, title to, or control of ten percent or more of the voting equity interest in a person, whether directly or indirectly through a fiduciary, agent, or other intermediary, or (ii) the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, through director control, by contract, or otherwise, except as expressly provided under the franchise agreement.

(c) "Operate" means to manage a dealership, whether directly or indirectly.

(d) "Own" or "ownership" means to hold the beneficial ownership of one percent or more of any class of equity interest in a dealership, whether the interest is that of a shareholder, partner, limited liability company member, or otherwise. To hold an ownership interest means to have possession of, title to, or control of the ownership interest, whether directly or indirectly through a fiduciary, agent, or other intermediary.

(4) A violation of this section is deemed to affect the public interest and constitutes an unlawful and unfair practice under chapter 19.86 RCW. A person aggrieved by an alleged violation of this section may petition the department to have the matter handled as an adjudicative proceeding under chapter 34.05 RCW. [2003 c 354 § 17; (2009 c 517 § 1 expired August 1, 2009).]

Effective date—2009 c 517: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 15, 2009]." [2009 c 517 § 2.]

Expiration date—2009 c 517: "This act expires August 1, 2009." [2009 c 517 § 3.]

46.93.180 Sale, transfer, or exchange of franchise.

(1) Notwithstanding the terms of a franchise, a manufacturer may not unreasonably withhold consent to the sale, transfer, or exchange of a franchise to a qualified buyer who meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a dealer or is capable of being approved by the department as a dealer in this state. A manufacturer's failure to respond in writing to a request for consent under this subsection within sixty days after receipt of a written request on the forms, if any, generally used by the manufacturer containing the information and reasonable promises required by a manufacturer, is deemed to be consent to the request. A manufacturer may request, and, if so requested, the applicant for a franchise (a) shall promptly provide such personal and financial information as is reasonably necessary to determine whether the sale, transfer, or exchange should be approved, and (b) shall agree to be bound by all reasonable terms and conditions of the franchise.

(2) If a manufacturer refuses to approve the sale, transfer, or exchange of a franchise, the manufacturer shall serve written notice on the applicant, the transferring, selling, or exchanging dealer, and the department, of its refusal to approve the transfer of the franchise no later than sixty days after the date the manufacturer receives the written request from the dealer. If the manufacturer has requested personal or financial information from the applicant under subsection (1) of this section, the notice must be served not later than sixty days after the receipt of all of such documents. Service of all notices under this section must be made by personal service or by certified mail, return receipt requested.

(3) The notice in subsection (2) of this section must state the specific grounds for the refusal to approve the sale, transfer, or exchange of the franchise.

(4) Within twenty days after receipt of the notice of refusal to approve the sale, transfer, or exchange of the franchise by the transferring dealer, the dealer may file a petition with the department to protest the refusal to approve the sale, transfer, or exchange. The petition must contain a short statement setting forth the reasons for the dealer's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed, and the department shall arrange for a hearing with an administrative law judge as the presiding officer to determine if the manufacturer unreasonably withheld consent to the sale, transfer, or exchange of the franchise.

(2010 Ed.)

(5) In determining whether the manufacturer unreasonably withheld its approval to the sale, transfer, or exchange, the manufacturer has the burden of proof that it acted reasonably. A manufacturer's refusal to accept or approve a proposed buyer who otherwise meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a new dealer, or who otherwise is capable of operating as a dealer in this state, is presumed to be unreasonable.

(6) The administrative law judge shall conduct a hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred twenty days after a protest is filed. Only the selling, transferring, or exchanging dealer and the manufacturer may be parties to the hearing.

(7) The administrative law judge shall conduct any hearing as provided in RCW 46.93.050(2), and all hearing costs must be borne as provided in that subsection. Only the manufacturer and the selling, transferring, or exchanging dealer may appeal the final order of the administrative law judge to the superior court or the appellate court as provided in the Administrative Procedure Act, chapter 34.05 RCW. [2003 c 354 § 18.]

46.93.190 Petition and hearing filing fees, costs, security. The department shall determine and establish the amount of the filing fees required in RCW 46.93.040, 46.93.110, 46.93.130, and 46.93.180. The fees must be set in accordance with RCW 43.24.086.

The department may also require the petitioning or protesting party to give security, in such sum as the department deems proper but not to exceed one thousand dollars, for the payment of such costs as may be incurred in conducting the hearing as required under this chapter. The security may be given in the form of a bond or stipulation or other undertaking with one or more sureties.

At the conclusion of the hearing, the department shall assess, in equal shares, each of the parties to the hearing for the cost of conducting the hearing. Upon receipt of payment of the costs, the department shall refund and return to the petitioning party any excess funds initially posted by the party as security for the hearing costs. If the petitioning party provided security in the form of a bond or other undertaking with one or more sureties, the bond or other undertaking will then be exonerated and the surety or sureties under it discharged. [2003 c 354 § 19.]

46.93.200 Department defining additional motorsports vehicles. The department shall determine through rule making under the Administrative Procedure Act any motorsports vehicles not already defined in RCW 46.93.020(7) as of July 27, 2003, that are manufactured after July 27, 2003. [2003 c 354 § 20.]

46.93.900 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected. [2003 c 354 § 21.]

46.93.901 Captions not law. Captions used in this chapter are not part of the law. [2003 c 354 § 22.]

Chapter 46.96 RCW
MANUFACTURERS' AND DEALERS'
FRANCHISE AGREEMENTS

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46.96.010 Legislative findings. The legislature finds and declares that the distribution and sale of motor vehicles in this state vitally affect the general economy of the state and the public interest and public welfare, that provision for warranty service to motor vehicles is of substantial concern to the people of this state, that the maintenance of fair competition among dealers and others is in the public interest, and that the maintenance of strong and sound dealerships is essential to provide continuing and necessary reliable services to the consuming public in this state and to provide stable employment to the citizens of this state. The legislature further finds that there is a substantial disparity in bargaining power between automobile manufacturers and their dealers, and that in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate the relationship between motor vehicle dealers and motor vehicle manufacturers, importers, distributors, and their representatives doing business in this state, not only for the protection of dealers but also for the benefit for the public in assuring the continued availability and servicing of automobiles sold to the public.

The legislature recognizes it is in the best interest for manufacturers and dealers of motor vehicles to conduct business with each other in a fair, efficient, and competitive man-

ner. The legislature declares the public interest is best served by dealers being assured of the ability to manage their business enterprises under a contractual obligation with manufacturers where dealers do not experience unreasonable interference and are assured of the ability to transfer ownership of their business without undue constraints. It is the intent of the legislature to impose a regulatory scheme and to regulate competition in the motor vehicle industry to the extent necessary to balance fairness and efficiency. These actions will permit motor vehicle dealers to better serve consumers and allow dealers to devote their best competitive efforts and resources to the sale and services of the manufacturer's products to consumers. [1989 c 415 § 1.]

46.96.020 Definitions. In addition to the definitions contained in RCW 46.70.011, which are incorporated by reference into this chapter, the definitions set forth in this section apply only for the purposes of this chapter.

(1) A "new motor vehicle" is a vehicle that has not been titled by a state and ownership of which may be transferred on a manufacturer's statement of origin (MSO).

(2) "New motor vehicle dealer" means a motor vehicle dealer engaged in the business of buying, selling, exchanging, or otherwise dealing in new motor vehicles or new and used motor vehicles at an established place of business, under a franchise, sales and service agreement, or contract with the manufacturer of the new motor vehicles. However, the term "new motor vehicle dealer" does not include a miscellaneous vehicle dealer as defined in *RCW 46.70.011(3)(c) or a motorcycle dealer as defined in **chapter 46.94 RCW.

(3) "Franchise" means one or more agreements, whether oral or written, between a manufacturer and a new motor vehicle dealer, under which the new motor vehicle dealer is authorized to sell, service, and repair new motor vehicles, parts, and accessories under a common name, trade name, trademark, or service mark of the manufacturer.

"Franchise" includes an oral or written contract and includes a dealer agreement, either expressed or implied, between a manufacturer and a new motor vehicle dealer that purports to fix the legal rights and liabilities between the parties and under which (a) the dealer is granted the right to purchase and resell motor vehicles manufactured, distributed, or imported by the manufacturer; (b) the dealer's business is associated with the trademark, trade name, commercial symbol, or advertisement designating the franchisor or the products distributed by the manufacturer; and (c) the dealer's business relies on the manufacturer for a continued supply of motor vehicles, parts, and accessories.

(4) "Good faith" means honesty in fact and fair dealing in the trade as defined and interpreted in RCW 62A.2-103.

(5) "Designated successor" means:

(a) The spouse, biological or adopted child, stepchild, grandchild, parent, brother, or sister of the owner of a new motor vehicle dealership who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motor vehicle dealership under the terms of the owner's will or similar document, and if there is no such will or similar document, then under applicable intestate laws;

(b) A qualified person experienced in the business of a new motor vehicle dealer who has been nominated by the owner of a new motor vehicle dealership as the successor in a

written, notarized, and witnessed instrument submitted to the manufacturer; or

(c) In the case of an incapacitated owner of a new motor vehicle dealership, the person who has been appointed by a court as the legal representative of the incapacitated owner's property.

(6) "Owner" means a person holding an ownership interest in the business entity operating as a new motor vehicle dealer and who is the designated dealer in the new motor vehicle franchise agreement.

(7) "Person" means every natural person, partnership, corporation, association, trust, estate, or any other legal entity. [2003 c 21 § 1; 1989 c 415 § 2.]

Reviser's note: *(1) RCW 46.70.011 was amended by 2006 c 364 § 1, changing subsection (3) to subsection (4). RCW 46.70.011 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (4) to subsection (17), effective July 1, 2011.

***(2) Chapter 46.94 RCW was repealed by 2003 c 354 § 24. Cf. chapter 46.93 RCW.

Captions not law—2003 c 21: "Captions used in this act are not part of the law." [2003 c 21 § 7.]

46.96.030 Termination, cancellation, or nonrenewal of franchise restricted. Notwithstanding the terms of a franchise and notwithstanding the terms of a waiver, no manufacturer may terminate, cancel, or fail to renew a franchise with a new motor vehicle dealer, unless the manufacturer has complied with the notice requirements of RCW 46.96.070 and an administrative law judge has determined, if requested in writing by the new motor vehicle dealer within the applicable time period specified in RCW 46.96.070 (1), (2), or (3), after hearing, that there is good cause for the termination, cancellation, or nonrenewal of the franchise and that the manufacturer has acted in good faith, as defined in this chapter, regarding the termination, cancellation, or nonrenewal. Between the time of issuance of the notice required under RCW 46.96.070 and the effective termination, cancellation, or nonrenewal of the franchise under this chapter, the rights, duties, and obligations of the new motor vehicle dealer and the manufacturer under the franchise and this chapter are unaffected, including those under RCW 46.96.200. [2010 c 178 § 1; 1989 c 415 § 3.]

46.96.035 Payment of fair market value of dealer goodwill upon request and termination, cancellation, or nonrenewal of franchise. (1) In the event of a termination, cancellation, or nonrenewal under this chapter, except for a termination, cancellation, or nonrenewal under RCW 46.96.070(2), or a voluntary termination, cancellation, or nonrenewal initiated by the dealer, the manufacturer shall, at the request and option of the new motor vehicle dealer, also pay to the new motor vehicle dealer the fair market value of the motor vehicle dealer's goodwill for the make or line as of the date immediately preceding any communication to the public or dealer regarding termination. To the extent the franchise agreement provides for the payment or reimbursement to the new motor vehicle dealer in excess of the value specified in this section, the provisions of the franchise agreement control.

(2) The manufacturer shall pay the new motor vehicle dealer the value specified in subsection (1) of this section

(2010 Ed.)

within ninety days after the date of termination. [2010 c 178 § 8.]

46.96.040 Determination of good cause, good faith—Petition, notice, decision, appeal. A new motor vehicle dealer who has received written notification from the manufacturer of the manufacturer's intent to terminate, cancel, or not renew the franchise may file a petition with the department for a determination as to the existence of good cause and good faith for the termination, cancellation, or nonrenewal of a franchise. The petition shall contain a short statement setting forth the reasons for the dealer's objection to the termination, cancellation, or nonrenewal of the franchise. Upon the filing of the petition and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely petition has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The franchise in question shall continue in full force and effect pending the administrative law judge's decision. If the decision of the administrative law judge terminating, canceling, or failing to renew a dealer's franchise is appealed by a dealer, the franchise in question shall continue in full force and effect until the appeal to superior court is finally determined or until the expiration of one hundred eighty days from the date of issuance of the administrative law judge's written decision, whichever is less. Nothing in this section precludes a manufacturer or dealer from petitioning the superior court for a stay or other relief pending judicial review. [1989 c 415 § 4.]

46.96.050 Determination of good cause, good faith—Hearing, decision, procedures—Judicial review. (1) The administrative law judge shall conduct the hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred eighty days after a petition is filed. If the termination, cancellation, or nonrenewal is under RCW 46.96.070(2), the administrative law judge shall give the proceeding priority consideration and shall render a final decision not later than sixty days after a petition is filed.

(2) The administrative law judge shall conduct the hearing as an adjudicative proceeding in accordance with the procedures provided for in the Administrative Procedure Act, chapter 34.05 RCW. The administrative law judge shall render the final decision and shall enter a final order. Except as otherwise provided in RCW 34.05.446 and 34.05.449, all hearing costs shall be borne on an equal basis by the parties to the hearing.

(3) A party to a hearing under this chapter may be represented by counsel. A party to a hearing aggrieved by the final order of the administrative law judge concerning the termination, cancellation, or nonrenewal of a franchise may seek judicial review of the order in the superior court in the manner provided for in RCW 34.05.510 through 34.05.598. A petitioner for judicial review need not exhaust all administrative appeals or administrative review processes as a prerequisite for seeking judicial review under this section. [1989 c 415 § 5.]

46.96.060 Good cause, what constitutes—Burden of proof. (1) Notwithstanding the terms of a franchise or the

terms of a waiver, and except as otherwise provided in RCW 46.96.070(2) (a) through (d), good cause exists for termination, cancellation, or nonrenewal when there is a failure by the new motor vehicle dealer to comply with a provision of the franchise that is both reasonable and of material significance to the franchise relationship, if the new motor vehicle dealer was notified of the failure within one hundred eighty days after the manufacturer first acquired knowledge of the failure and the new motor vehicle dealer did not correct the failure after being requested to do so.

If, however, the failure of the new motor vehicle dealer relates to the performance of the new motor vehicle dealer in sales, service, or level of customer satisfaction, good cause is the failure of the new motor vehicle dealer to comply with reasonable performance standards determined by the manufacturer in accordance with uniformly applied criteria, and:

(a) The new motor vehicle dealer was advised, in writing, by the manufacturer of the failure;

(b) The notice under this subsection stated that notice was provided of a failure of performance under this section;

(c) The manufacturer provided the new motor vehicle dealer with specific, reasonable goals or reasonable performance standards with which the dealer must comply, together with a suggested timetable or program for attaining those goals or standards, and the new motor vehicle dealer was given a reasonable opportunity, for a period not less than one hundred eighty days, to comply with the goals or standards; and

(d) The new motor vehicle dealer did not substantially comply with the manufacturer's performance standards during that period and the failure to demonstrate substantial compliance was not due to market or economic factors within the new motor vehicle dealer's relevant market area that were beyond the control of the dealer.

(2) The manufacturer has the burden of proof of establishing good cause and good faith for the termination, cancellation, or nonrenewal of the franchise under this section. [1989 c 415 § 6.]

46.96.070 Notice of termination, cancellation, or nonrenewal. Before the termination, cancellation, or nonrenewal of a franchise, the manufacturer shall give written notification to both the department and the new motor vehicle dealer. For the purposes of this chapter, the discontinuance of the sale and distribution of a new motor vehicle line, or the constructive discontinuance by material reduction in selection offered, such that continuing to retail the line is no longer economically viable for a dealer is, at the option of the dealer, considered a termination, cancellation, or nonrenewal of a franchise. The notice shall be by certified mail or personally delivered to the new motor vehicle dealer and shall state the intention to terminate, cancel, or not renew the franchise, the reasons for the termination, cancellation, or nonrenewal, and the effective date of the termination, cancellation, or nonrenewal. The notice shall be given:

(1) Not less than ninety days before the effective date of the termination, cancellation, or nonrenewal;

(2) Not less than fifteen days before the effective date of the termination, cancellation, or nonrenewal with respect to any of the following that constitute good cause for termination, cancellation, or nonrenewal:

(a) Insolvency of the new motor vehicle dealer or the filing of any petition by or against the new motor vehicle dealer under bankruptcy or receivership law;

(b) Failure of the new motor vehicle dealer to conduct sales and service operations during customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;

(c) Conviction of the new motor vehicle dealer, or principal operator of the dealership, of a felony punishable by imprisonment; or

(d) Suspension or revocation of a license that the new motor vehicle dealer is required to have to operate the new motor vehicle dealership where the suspension or revocation is for a period in excess of thirty days;

(3) Not less than one hundred eighty days before the effective date of termination, cancellation, or nonrenewal, where the manufacturer intends to discontinue sale and distribution of the new motor vehicle line. [2010 c 178 § 2; 1989 c 415 § 7.]

46.96.080 Payments by manufacturer to dealer for inventory, equipment, etc. (1) Upon the termination, cancellation, or nonrenewal of a franchise, the manufacturer shall pay the new motor vehicle dealer, at a minimum:

(a) Dealer cost plus any charges by the manufacturer for distribution, delivery, and taxes, less all allowances paid or credited to the dealer by the manufacturer, of unused, undamaged, and unsold new motor vehicles in the new motor vehicle dealer's inventory that were acquired from the manufacturer or another new motor vehicle dealer of the same line make in the ordinary course of business within the previous twelve months;

(b) Dealer cost for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging, except that in the case of sheet metal, a comparable substitute for original packaging may be used, if the supply, part, or accessory was acquired from the manufacturer or from another new motor vehicle dealer ceasing operations as a part of the new motor vehicle dealer's initial inventory as long as the supplies, parts, and accessories appear in the manufacturer's current parts catalog, list, or current offering;

(c) Dealer cost for all unused, undamaged, and unsold inventory, whether vehicles, parts, or accessories, the purchase of which was required by the manufacturer;

(d) The fair market value of each undamaged sign owned by the new motor vehicle dealer that bears a common name, trade name, or trademark of the manufacturer, if acquisition of the sign was recommended or required by the manufacturer and the sign is in good and usable condition less reasonable wear and tear, and has not been depreciated by the dealer more than fifty percent of the value of the sign;

(e) The fair market value of all equipment, furnishings, and special tools owned or leased by the new motor vehicle dealer that were acquired from the manufacturer or sources approved by the manufacturer and that were recommended or required by the manufacturer and are in good and usable condition, less reasonable wear and tear. However, if the equipment, furnishings, or tools are leased by the new motor vehicle dealer, the manufacturer shall pay the new motor vehicle

dealer such amounts that are required by the lessor to terminate the lease under the terms of the lease agreement; and

(f) The cost of transporting, handling, packing, and loading of new motor vehicles, supplies, parts, accessories, signs, special tools, equipment, and furnishings.

To the extent the franchise agreement provides for payment or reimbursement to the new motor vehicle dealer in excess of that specified in this section, the provisions of the franchise agreement shall control.

(2)(a) For the nonrenewal or termination of a franchise that is implemented as a result of the sale of assets or stock of the motor vehicle dealer, the party purchasing the assets or stock of the motor vehicle dealer may negotiate for the purchase or other transfer of some or all unused, undamaged, and unsold new motor vehicles in the selling new motor vehicle dealer's inventory that were acquired from the manufacturer or another new motor vehicle dealer of the same line make in the ordinary course of business within the previous twelve months.

(b) For the nonrenewal or termination of a franchise that is implemented as a result of the sale of assets or stock of the motor vehicle dealer, this section does not prohibit a manufacturer from negotiating with the purchasing party for the purchase or other transfer of some or all unused, undamaged, and unsold new motor vehicles in the selling new motor vehicle dealer's inventory that were acquired from the manufacturer or another new motor vehicle dealer of the same line make in the ordinary course of business within the previous twelve months.

(c) A manufacturer's obligation under (a) of this subsection extends only to vehicles not purchased or otherwise transferred to the party purchasing the assets or stock of the motor vehicle dealer.

(3) The manufacturer shall pay the new motor vehicle dealer the sums specified in subsection (1) of this section within ninety days after the termination, cancellation, or nonrenewal of the franchise, if the new motor vehicle dealer has clear title to the property or can provide clear title to the property upon payment by the manufacturer and is in a position to convey that title to the manufacturer.

(4) In the case of motor homes, this section applies only to manufacturer-initiated termination, cancellation, or nonrenewal of a franchise. [2009 c 12 § 1; 1989 c 415 § 8.]

Effective date—2009 c 12: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 25, 2009]." [2009 c 12 § 2.]

46.96.090 Payments by manufacturer for dealership facilities. (1) In the event of a termination, cancellation, or nonrenewal under this chapter, except for termination, cancellation, or nonrenewal under RCW 46.96.070(2) or a voluntary termination, cancellation, or nonrenewal initiated by the dealer, the manufacturer shall, at the request and option of the new motor vehicle dealer, also pay to the new motor vehicle dealer the dealer costs for any relocation, substantial alteration, or remodeling of a dealer's facilities required by a manufacturer for the continuance or renewal of a franchise agreement completed within three years of the termination, cancellation, or nonrenewal and:

(a) A sum equivalent to rent for the unexpired term of the lease or one year, whichever is less, or such longer term as provided in the franchise, if the new motor vehicle dealer is leasing the new motor vehicle dealership facilities from a lessor other than the manufacturer; or

(b) A sum equivalent to the reasonable rental value of the new motor vehicle dealership facilities for one year or until the facilities are leased or sold, whichever is less, if the new motor vehicle dealer owns the new motor vehicle dealership facilities.

(2) The rental payment required under subsection (1) of this section is only required to the extent that the facilities were used for activities under the franchise and only to the extent the facilities were not leased for unrelated purposes. If the rental payment under subsection (1) of this section is made, the manufacturer is entitled to possession and use of the new motor vehicle dealership facilities for the period rent is paid. [2010 c 178 § 3; 1989 c 415 § 9.]

46.96.100 Mitigation of damages. RCW 46.96.030 through 46.96.090 do not relieve a new motor vehicle dealer from the obligation to mitigate the dealer's damages upon termination, cancellation, or nonrenewal of the franchise. [1989 c 415 § 10.]

46.96.105 Warranty work. (1) Each manufacturer shall specify in its franchise agreement, or in a separate written agreement, with each of its dealers licensed in this state, the dealer's obligation to perform warranty work or service on the manufacturer's products. Each manufacturer shall provide each of its dealers with a schedule of compensation to be paid to the dealer for any warranty work or service, including parts, labor, and diagnostic work, required of the dealer by the manufacturer in connection with the manufacturer's products. The schedule of compensation must not be less than the rates charged by the dealer for similar service to retail customers for nonwarranty service and repairs, and must not be less than the schedule of compensation for an existing dealer as of June 10, 2010.

(a) The rates charged by the dealer for nonwarranty service or work for parts means the price paid by the dealer for those parts, including all shipping and other charges, increased by the franchisee's average percentage markup. A dealer must establish and declare the dealer's average percentage markup by submitting to the manufacturer one hundred sequential customer-paid service repair orders or ninety days of customer-paid service repair orders, whichever is less, covering repairs made no more than one hundred eighty days before the submission. A change in a dealer's established average percentage markup takes effect thirty days following the submission. A manufacturer may not require a dealer to establish average percentage markup by another methodology. A manufacturer may not require information that the dealer believes is unduly burdensome or time consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations.

(b) A manufacturer shall compensate a dealer for labor and diagnostic work at the rates charged by the dealer to its retail customers for such work. If a manufacturer can demonstrate that the rates unreasonably exceed those of all other

franchised motor vehicle dealers in the same relevant market area offering the same or a competitive motor vehicle line, the manufacturer is not required to honor the rate increase proposed by the dealer. If the manufacturer is not required to honor the rate increase proposed by the dealer, the dealer is entitled to resubmit a new proposed rate for labor and diagnostic work.

(c) A dealer may not be granted an increase in the average percentage markup or labor and diagnostic work rate more than twice in one calendar year.

(2) All claims for warranty work for parts and labor made by dealers under this section shall be submitted to the manufacturer within one year of the date the work was performed. All claims submitted must be paid by the manufacturer within thirty days following receipt, provided the claim has been approved by the manufacturer. The manufacturer has the right to audit claims for warranty work and to charge the dealer for any unsubstantiated, incorrect, or false claims for a period of one year following payment. However, the manufacturer may audit and charge the dealer for any fraudulent claims during any period for which an action for fraud may be commenced under applicable state law.

(3) All claims submitted by dealers on the forms and in the manner specified by the manufacturer shall be either approved or disapproved within thirty days following their receipt. The manufacturer shall notify the dealer in writing of any disapproved claim, and shall set forth the reasons why the claim was not approved. Any claim not specifically disapproved in writing within thirty days following receipt is approved, and the manufacturer is required to pay that claim within thirty days of receipt of the claim.

(4) A manufacturer may not otherwise recover all or any portion of its costs for compensating its dealers licensed in this state for warranty parts and service either by reduction in the amount due to the dealer or by separate charge, surcharge, or other imposition. [2010 c 178 § 4; 2003 c 21 § 2; 1998 c 298 § 1.]

Captions not law—2003 c 21: See note following RCW 46.96.020.

Additional notes found at www.leg.wa.gov

46.96.110 Designated successor to franchise ownership. (1) Notwithstanding the terms of a franchise, (a) an owner may appoint a designated successor to succeed to the ownership of the new motor vehicle dealer franchise upon the owner's death or incapacity, or (b) if an owner who has owned the franchise for not less than five consecutive years, the owner may appoint a designated successor to be effective on a date of the owner's choosing that is prior to the owner's death or disability.

(2) Notwithstanding the terms of a franchise, a designated successor described under subsection (1) of this section may succeed to the ownership interest of the owner under the existing franchise, if:

(a) In the case of a designated successor who meets the definition of a designated successor under RCW 46.96.020(5)(a), but who is not experienced in the business of a new motor vehicle dealer, the person will employ an individual who is qualified and experienced in the business of a new motor vehicle dealer to help manage the day-to-day operations of the motor vehicle dealership; or in the case of a

designated successor who meets the definition of a designated successor under RCW 46.96.020(5) (b) or (c), the person is qualified and experienced in the business of a new motor vehicle dealer and meets the normal, reasonable, and uniformly applied standards for grant of an application as a new motor vehicle dealer by the manufacturer; and

(b) The designated successor furnishes written notice to the manufacturer of his or her intention to succeed to the ownership of the new motor vehicle dealership within sixty days after the owner's death or incapacity, or if the appointment is under subsection (1)(b) of this section, at least thirty days before the designated successor's proposed succession; and

(c) The designated successor agrees to be bound by all terms and conditions of the franchise.

(3) The manufacturer may request, and the designated successor shall promptly provide, such personal and financial information as is reasonably necessary to determine whether the succession should be honored.

(4) A manufacturer may refuse to honor the succession to the ownership of a new motor vehicle dealer franchise by a designated successor if the manufacturer establishes that good cause exists for its refusal to honor the succession. If the designated successor of a new motor vehicle dealer franchise fails to meet the requirements set forth in subsections (2)(a), (b), and (c) of this section, good cause for refusing to honor the succession is presumed to exist. If a manufacturer believes that good cause exists for refusing to honor the succession to the ownership of a new motor vehicle dealer franchise by a designated successor, the manufacturer shall serve written notice on the designated successor and on the department of its refusal to honor the succession no earlier than sixty days from the date the notice is served. The notice must be served not later than sixty days after the manufacturer's receipt of:

(a) Notice of the designated successor's intent to succeed to the ownership interest of the new motor vehicle dealer's franchise; or

(b) Any personal or financial information requested by the manufacturer.

(5) The notice in subsection (4) of this section shall state the specific grounds for the refusal to honor the succession. If the notice of refusal is not timely and properly served, the designated successor may continue the franchise in full force and effect, subject to termination only as otherwise provided under this chapter.

(6) Within twenty days after receipt of the notice or within twenty days after the end of any appeal procedure provided by the manufacturer, whichever is greater, the designated successor may file a petition with the department protesting the refusal to honor the succession. The petition shall contain a short statement setting forth the reasons for the designated successor's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The manufacturer shall not terminate or otherwise discontinue the existing franchise until the administrative law judge has held a hearing and has determined that there is good cause for refusing to honor the succession. If an appeal is taken, the

manufacturer shall not terminate or discontinue the franchise until the appeal to superior court is finally determined or until the expiration of one hundred eighty days from the date of issuance of the administrative law judge's written decision, whichever is less. Nothing in this section precludes a manufacturer or dealer from petitioning the superior court for a stay or other relief pending judicial review.

(7) The manufacturer has the burden of proof to show that good cause exists for the refusal to honor the succession.

(8) The administrative law judge shall conduct the hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred eighty days after a protest is filed.

(9) The administrative law judge shall conduct any hearing concerning the refusal to the succession as provided in RCW 46.96.050(2) and all hearing costs shall be borne as provided in that subsection. A party to such a hearing aggrieved by the final order of the administrative law judge may appeal as provided and allowed in RCW 46.96.050(3).

(10) This section does not preclude the owner of a new motor vehicle dealer franchise from designating any person as his or her successor by a written, notarized, and witnessed instrument filed with the manufacturer. In the event of a conflict between such a written instrument that has not been revoked by written notice from the owner to the manufacturer and this section, the written instrument governs. [2010 c 178 § 5; 1989 c 415 § 11.]

46.96.140 Relevant market area—Definition—New or relocated dealerships, notice of. (1) For the purposes of this section, and throughout this chapter, the term "relevant market area" is defined as follows:

(a) If the population in the county in which the proposed new or relocated dealership is to be located is four hundred thousand or more, the relevant market area is the geographic area within a radius of eight miles around the proposed site;

(b) If the population in the county in which the proposed new or relocated dealership is to be located is two hundred thousand or more and less than four hundred thousand, the relevant market area is the geographic area within a radius of twelve miles around the proposed site;

(c) If the population in the county in which the proposed new or relocated dealership is to be located is less than two hundred thousand, the relevant market area is the geographic area within a radius of sixteen miles around the proposed site. In determining population for this definition, the most recent census by the United States Bureau of Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, shall be accumulated for all census tracts either wholly or partially within the relevant market area.

(2) For the purpose of RCW 46.96.140 through 46.96.180, the term "motor vehicle dealer" does not include dealerships who exclusively market vehicles 19,000 pounds gross vehicle weight and above.

(3) Notwithstanding the terms of a franchise and notwithstanding the terms of a waiver, if a manufacturer intends or proposes to enter into a franchise to establish an additional new motor vehicle dealer or to relocate an existing new motor vehicle dealer within or into a relevant market area in which the same line make of motor vehicle is then represented, the

manufacturer shall provide at least sixty days advance written notice to the department and to each new motor vehicle dealer of the same line make in the relevant market area, of the manufacturer's intention to establish an additional new motor vehicle dealer or to relocate an existing new motor vehicle dealer within or into the relevant market area. The notice shall be sent by certified mail to each such party and shall include the following information:

(a) The specific location at which the additional or relocated motor vehicle dealer will be established;

(b) The date on or after which the additional or relocated motor vehicle dealer intends to commence business at the proposed location;

(c) The identity of all motor vehicle dealers who are franchised to sell the same line make vehicles as the proposed dealer and who have licensed locations within the relevant market area;

(d) The names and addresses, if available, of the owners of and principal investors in the proposed additional or relocated motor vehicle dealership; and

(e) The specific grounds or reasons for the proposed establishment of an additional motor vehicle dealer or relocation of an existing dealer. [1994 c 274 § 1.]

46.96.150 Protest of new or relocated dealership—Hearing—Arbitration. (1) Within thirty days after receipt of the notice under RCW 46.96.140, or within thirty days after the end of an appeal procedure provided by the manufacturer, whichever is greater, a new motor vehicle dealer so notified or entitled to notice may file a petition with the department protesting the proposed establishment or relocation.

The petition shall contain a short statement setting forth the reasons for the dealer's objection to the proposed establishment or relocation. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The manufacturer shall not establish or relocate the new motor vehicle dealer until the administrative law judge has held a hearing and has determined that there is good cause for permitting the proposed establishment or relocation. When more than one protest is filed against the establishment or relocation of the same dealer, the administrative law judge shall consolidate the hearings to expedite disposition of the matter.

(2) If a manufacturer provides in the franchise agreement or by written statement distributed and provided to its dealers for arbitration under the Uniform Arbitration Act, chapter 7.04A RCW, as a mechanism for resolving disputes relating to the establishment of an additional new motor vehicle dealer or the relocation of a new motor vehicle dealer, then the provisions of this section and RCW 46.96.170 relating to hearings by an administrative law judge do not apply, and a dispute regarding the establishment of an additional new motor vehicle dealer or the relocation of an existing new motor vehicle dealer shall be determined in an arbitration proceeding conducted in accordance with the Uniform Arbitration Act, chapter 7.04A RCW. The thirty-day period for filing a protest under this section still applies except that the protesting dealer shall file his or her protest with the manu-

facturer within thirty days after receipt of the notice under RCW 46.96.140.

(3) The dispute shall be referred for arbitration to such arbitrator as may be agreed upon by the parties to the dispute. If the parties cannot agree upon a single arbitrator within thirty days from the date the protest is filed, the protesting dealer will select an arbitrator, the manufacturer will select an arbitrator, and the two arbitrators will then select a third. If a third arbitrator is not agreed upon within thirty days, any party may apply to the superior court, and the judge of the superior court having jurisdiction will appoint the third arbitrator. The protesting dealer will pay the arbitrator selected by him or her, and the manufacturer will pay the arbitrator if selected. The expense of the third arbitrator and all other expenses of arbitration will be shared equally by the parties. Attorneys' fees and fees paid to expert witnesses are not expenses of arbitration and will be paid by the person incurring them.

(4) Notwithstanding the terms of a franchise or written statement of the manufacturer and notwithstanding the terms of a waiver, the arbitration will take place in the state of Washington in the county where the protesting dealer has his or her principal place of business. RCW 46.96.160 applies to a determination made by the arbitrator or arbitrators in determining whether good cause exists for permitting the proposed establishment or relocation of a new motor vehicle dealer, and the manufacturer has the burden of proof to establish that good cause exists for permitting the proposed establishment or relocation. After a hearing has been held, the arbitrator or arbitrators shall render a decision as expeditiously as possible, but in any event not later than one hundred twenty days from the date the arbitrator or arbitrators are selected or appointed. The manufacturer shall not establish or relocate the new motor vehicle dealer until the arbitration hearing has been held and the arbitrator or arbitrators have determined that there is good cause for permitting the proposed establishment or relocation. The written decision of the arbitrator is binding upon the parties unless modified, corrected, or vacated under the Washington Arbitration Act. Any party may appeal the decision of the arbitrator under the Uniform Arbitration Act, chapter 7.04A RCW.

(5) If the franchise agreement or the manufacturer's written statement distributed and provided to its dealers does not provide for arbitration under the Uniform Arbitration Act as a mechanism for resolving disputes relating to the establishment of an additional new motor vehicle dealer or the relocation of a new motor vehicle dealer, then the hearing provisions of this section and RCW 46.96.170 apply. Nothing in this section is intended to preclude a new motor vehicle dealer from electing to use any other dispute resolution mechanism offered by a manufacturer. [2010 c 8 § 9102; 2005 c 433 § 43; 1994 c 274 § 2.]

Application—Captions not law—Savings—Effective date—2005 c 433: See RCW 7.04A.290 through 7.04A.310 and 7.04A.900.

46.96.160 Factors considered by administrative law judge. In determining whether good cause exists for permitting the proposed establishment or relocation of a new motor vehicle dealer of the same line make, the administrative law judge shall take into consideration the existing circumstances, including, but not limited to:

(1) The extent, nature, and permanency of the investment of both the existing motor vehicle dealers of the same line make in the relevant market area and the proposed additional or relocating new motor vehicle dealer, including obligations reasonably incurred by the existing dealers to perform their obligations under their respective franchises;

(2) The growth or decline in population and new motor vehicle registrations during the past five years in the relevant market area;

(3) The effect on the consuming public in the relevant market area;

(4) The effect on the existing new motor vehicle dealers in the relevant market area, including any adverse financial impact;

(5) The reasonably expected or anticipated vehicle market for the relevant market area, including demographic factors such as age of population, income, education, size class preference, product popularity, retail lease transactions, or other factors affecting sales to consumers in the relevant market area;

(6) Whether it is injurious or beneficial to the public welfare for an additional new motor vehicle dealer to be established;

(7) Whether the new motor vehicle dealers of the same line make in the relevant market area are providing adequate competition and convenient customer care for the motor vehicles of the same line make in the relevant market area, including the adequacy of motor vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel;

(8) Whether the establishment of an additional new motor vehicle dealer would increase competition and be in the public interest;

(9) Whether the manufacturer is motivated principally by good faith to establish an additional or new motor vehicle dealer and not by noneconomic considerations;

(10) Whether the manufacturer has denied its existing new motor vehicle dealers of the same line make the opportunity for reasonable growth, market expansion, establishment of a subagency, or relocation;

(11) Whether the protesting dealer or dealers are in substantial compliance with their dealer agreements or franchises; and

(12) Whether the manufacturer has complied with the requirements of RCW 46.96.140 and 46.96.150.

In considering the factors set forth in this section, the administrative law judge shall give the factors equal weight, and in making a determination as to whether good cause exists for permitting the proposed establishment or relocation of a new motor vehicle dealer of the same line make, the administrative law judge must find that at least nine of the factors set forth in this section weigh in favor of the manufacturer and in favor of the proposed establishment or relocation of a new motor vehicle dealer. [1994 c 274 § 3.]

46.96.170 Hearing—Procedures, costs, appeal. (1) The manufacturer has the burden of proof to establish that good cause exists for permitting the proposed establishment or relocation.

(2) The administrative law judge shall conduct any hearing as provided in RCW 46.96.050(2), and all hearing costs

shall be borne as provided in that subsection. The administrative law judge shall render the final decision as expeditiously as possible, but in any event not later than one hundred twenty days after a protest is filed. If more than one protest is filed, the one hundred twenty days commences to run from the date the last protest is filed. A party to such a hearing aggrieved by the final order of the administrative law judge may appeal as provided and allowed in RCW 46.96.050(3). [1994 c 274 § 4.]

46.96.180 Exceptions. RCW 46.96.140 through 46.96.170 do not apply:

(1) To the sale or transfer of the ownership or assets of an existing new motor vehicle dealer where the transferee proposes to engage in business representing the same line make at the same location or within two miles of that location;

(2) To the relocation of an existing new motor vehicle dealer within the dealer's relevant market area, if the relocation is not at a site within eight miles of any new motor vehicle dealer of the same line make;

(3) If the proposed new motor vehicle dealer is to be established at or within two miles of a location at which a former new motor vehicle dealer of the same line make had ceased operating within the previous twenty-four months;

(4) Where the proposed relocation is two miles or less from the existing location of the relocating new motor vehicle dealer; or

(5) Where the proposed relocation is to be further away from all other existing new motor vehicle dealers of the same line make in the relevant market area. [1994 c 274 § 5.]

46.96.185 Unfair practices—Exemptions—Definitions. (1) Notwithstanding the terms of a franchise agreement, a manufacturer, distributor, factory branch, or factory representative, or an agent, officer, parent company, wholly or partially owned subsidiary, affiliated entity, or other person controlled by or under common control with a manufacturer, distributor, factory branch, or factory representative, shall not:

(a) Discriminate between new motor vehicle dealers by selling or offering to sell a like vehicle to one dealer at a lower actual price than the actual price offered to another dealer for the same model similarly equipped;

(b) Discriminate between new motor vehicle dealers by selling or offering to sell parts or accessories to one dealer at a lower actual price than the actual price offered to another dealer;

(c) Discriminate between new motor vehicle dealers by using a promotion plan, marketing plan, or other similar device that results in a lower actual price on vehicles, parts, or accessories being charged to one dealer over another dealer;

(d) Discriminate between new motor vehicle dealers by adopting a method, or changing an existing method, for the allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to its dealers that is not fair, reasonable, and equitable. Upon the request of a dealer, a manufacturer, distributor, factory branch, or factory representative shall disclose in writing to the dealer the method by which new motor vehicles, parts, and accessories are allocated, scheduled, or

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delivered to its dealers handling the same line or make of vehicles;

(e) Discriminate against a new motor vehicle dealer by preventing, offsetting, or otherwise impairing the dealer's right to request a documentary service fee on affinity or similar program purchases. This prohibition applies to, but is not limited to, any promotion plan, marketing plan, manufacturer or dealer employee or employee friends or family purchase programs, or similar plans or programs;

(f) Give preferential treatment to some new motor vehicle dealers over others by refusing or failing to deliver, in reasonable quantities and within a reasonable time after receipt of an order, to a dealer holding a franchise for a line or make of motor vehicles sold or distributed by the manufacturer, distributor, factory branch, or factory representative, a new vehicle, parts, or accessories, if the vehicle, parts, or accessories are being delivered to other dealers, or require a dealer to purchase unreasonable advertising displays or other materials, or unreasonably require a dealer to remodel or renovate existing facilities as a prerequisite to receiving a model or series of vehicles;

(g) Compete with a new motor vehicle dealer of any make or line by acting in the capacity of a new motor vehicle dealer, or by owning, operating, or controlling, whether directly or indirectly, a motor vehicle dealership in this state. It is not, however, a violation of this subsection for:

(i) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership for a temporary period, not to exceed two years, during the transition from one owner of the dealership to another where the dealership was previously owned by a franchised dealer and is currently for sale to any qualified independent person at a fair and reasonable price. The temporary operation may be extended for one twelve-month period on petition of the temporary operator to the department. The matter will be handled as an adjudicative proceeding under chapter 34.05 RCW. A dealer who is a franchisee of the petitioning manufacturer or distributor may intervene and participate in a proceeding under this subsection (1)(g)(i). The temporary operator has the burden of proof to show justification for the extension and a good faith effort to sell the dealership to an independent person at a fair and reasonable price;

(ii) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership in conjunction with an independent person in a bona fide business relationship for the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been underrepresented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, and where the independent person: (A) Has made, or within a period of two years from the date of commencement of operation will have made, a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and (C) operates the dealership under a bona fide written agreement with the manufacturer, distributor, factory branch, or factory representative under which he or she will acquire all of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacturer, distributor, factory branch, or factory representative

has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions. Nothing in this subsection (1)(g)(ii) relieves a manufacturer, distributor, factory branch, or factory representative from complying with (a) through (f) of this subsection;

(iii) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership in conjunction with an independent person in a bona fide business relationship where the independent person: (A) Has made, or within a period of two years from the date of commencement of operation will have made, a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and (C) operates the dealership under a bona fide written agreement with the manufacturer, distributor, factory branch, or factory representative under which he or she will acquire all of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacturer, distributor, factory branch, or factory representative has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions. The number of dealerships operated under this subsection (1)(g)(iii) may not exceed four percent rounded up to the nearest whole number of a manufacturer's total of new motor vehicle dealer franchises in this state. Nothing in this subsection (1)(g)(iii) relieves a manufacturer, distributor, factory branch, or factory representative from complying with (a) through (f) of this subsection;

(iv) A truck manufacturer to own, operate, or control a new motor vehicle dealership that sells only trucks of that manufacturer's line make with a gross vehicle weight rating of 12,500 pounds or more, and the truck manufacturer has been continuously engaged in the retail sale of the trucks at least since January 1, 1993; or

(v) A manufacturer to own, operate, or control a new motor vehicle dealership trading exclusively in a single line make of the manufacturer if (A) the manufacturer does not own, directly or indirectly, in the aggregate, in excess of forty-five percent of the total ownership interest in the dealership, (B) at the time the manufacturer first acquires ownership or assumes operation or control of any such dealership, the distance between any dealership thus owned, operated, or controlled and the nearest new motor vehicle dealership trading in the same line make of vehicle and in which the manufacturer has no ownership or control is not less than fifteen miles and complies with the applicable provisions in the relevant market area sections of this chapter, (C) all of the manufacturer's franchise agreements confer rights on the dealer of that line make to develop and operate within a defined geographic territory or area, as many dealership facilities as the dealer and the manufacturer agree are appropriate, and (D) as of January 1, 2000, the manufacturer had no more than four new motor vehicle dealers of that manufacturer's line make in this state, and at least half of those dealers owned and operated two or more dealership facilities in the geographic territory or area covered by their franchise agreements with the manufacturer;

(h) Compete with a new motor vehicle dealer by owning, operating, or controlling, whether directly or indirectly, a service facility in this state for the repair or maintenance of motor vehicles under the manufacturer's new car warranty and extended warranty. Nothing in this subsection (1)(h), however, prohibits a manufacturer, distributor, factory branch, or factory representative from owning or operating a service facility for the purpose of providing or performing maintenance, repair, or service work on motor vehicles that are owned by the manufacturer, distributor, factory branch, or factory representative;

(i) Use confidential or proprietary information obtained from a new motor vehicle dealer to unfairly compete with the dealer. For purposes of this subsection (1)(i), "confidential or proprietary information" means trade secrets as defined in RCW 19.108.010, business plans, marketing plans or strategies, customer lists, contracts, sales data, revenues, or other financial information;

(j)(i) Terminate, cancel, or fail to renew a franchise with a new motor vehicle dealer based upon any of the following events, which do not constitute good cause for termination, cancellation, or nonrenewal under RCW 46.96.060: (A) The fact that the new motor vehicle dealer owns, has an investment in, participates in the management of, or holds a franchise agreement for the sale or service of another make or line of new motor vehicles; (B) the fact that the new motor vehicle dealer has established another make or line of new motor vehicles or service in the same dealership facilities as those of the manufacturer or distributor; (C) that the new motor vehicle dealer has or intends to relocate the manufacturer or distributor's make or line of new motor vehicles or service to an existing dealership facility that is within the relevant market area, as defined in RCW 46.96.140, of the make or line to be relocated, except that, in any nonemergency circumstance, the dealer must give the manufacturer or distributor at least sixty days' notice of his or her intent to relocate; or (D) the failure of a franchisee to change the location of the dealership or to make substantial alterations to the use or number of franchises on the dealership premises or facilities.

(ii) Notwithstanding the limitations of this section, a manufacturer may, for separate consideration, enter into a written contract with a dealer to exclusively sell and service a single make or line of new motor vehicles at a specific facility for a defined period of time. The penalty for breach of the contract must not exceed the amount of consideration paid by the manufacturer plus a reasonable rate of interest;

(k) Coerce or attempt to coerce a motor vehicle dealer to refrain from, or prohibit or attempt to prohibit a new motor vehicle dealer from acquiring, owning, having an investment in, participating in the management of, or holding a franchise agreement for the sale or service of another make or line of new motor vehicles or related products, or establishing another make or line of new motor vehicles or service in the same dealership facilities, if the prohibition against acquiring, owning, investing, managing, or holding a franchise for such additional make or line of vehicles or products, or establishing another make or line of new motor vehicles or service in the same dealership facilities, is not supported by reasonable business considerations. The burden of proving that reasonable business considerations support or justify the prohibition against the additional make or line of new motor vehi-

cles or products or nonexclusive facilities is on the manufacturer;

(l) Require, by contract or otherwise, a new motor vehicle dealer to make a material alteration, expansion, or addition to any dealership facility, unless the required alteration, expansion, or addition is uniformly required of other similarly situated new motor vehicle dealers of the same make or line of vehicles and is reasonable in light of all existing circumstances, including economic conditions. In any proceeding in which a required facility alteration, expansion, or addition is an issue, the manufacturer or distributor has the burden of proof;

(m) Prevent or attempt to prevent by contract or otherwise any new motor vehicle dealer from changing the executive management of a new motor vehicle dealer unless the manufacturer or distributor, having the burden of proof, can show that a proposed change of executive management will result in executive management by a person or persons who are not of good moral character or who do not meet reasonable, preexisting, and equitably applied standards of the manufacturer or distributor. If a manufacturer or distributor rejects a proposed change in the executive management, the manufacturer or distributor shall give written notice of its reasons to the dealer within sixty days after receiving written notice from the dealer of the proposed change and all related information reasonably requested by the manufacturer or distributor, or the change in executive management must be considered approved; or

(n) Condition the sale, transfer, relocation, or renewal of a franchise agreement or condition manufacturer, distributor, factory branch, or factory representative sales, services, or parts incentives upon the manufacturer obtaining site control, including rights to purchase or lease the dealer's facility, or an agreement to make improvements or substantial renovations to a facility. For purposes of this section, a substantial renovation has a gross cost to the dealer in excess of five thousand dollars.

(2) Subsection (1)(a), (b), and (c) of this section do not apply to sales to a motor vehicle dealer: (a) For resale to a federal, state, or local government agency; (b) where the vehicles will be sold or donated for use in a program of driver's education; (c) where the sale is made under a manufacturer's bona fide promotional program offering sales incentives or rebates; (d) where the sale of parts or accessories is under a manufacturer's bona fide quantity discount program; or (e) where the sale is made under a manufacturer's bona fide fleet vehicle discount program. For purposes of this subsection, "fleet" means a group of fifteen or more new motor vehicles purchased or leased by a dealer at one time under a single purchase or lease agreement for use as part of a fleet, and where the dealer has been assigned a fleet identifier code by the department of licensing.

(3) The following definitions apply to this section:

(a) "Actual price" means the price to be paid by the dealer less any incentive paid by the manufacturer, distributor, factory branch, or factory representative, whether paid to the dealer or the ultimate purchaser of the vehicle.

(b) "Control" or "controlling" means (i) the possession of, title to, or control of ten percent or more of the voting equity interest in a person, whether directly or indirectly through a fiduciary, agent, or other intermediary, or (ii) the

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possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, through director control, by contract, or otherwise, except as expressly provided under the franchise agreement.

(c) "Motor vehicles" does not include trucks that are 14,001 pounds gross vehicle weight and above or recreational vehicles as defined in RCW 43.22.335.

(d) "Operate" means to manage a dealership, whether directly or indirectly.

(e) "Own" or "ownership" means to hold the beneficial ownership of one percent or more of any class of equity interest in a dealership, whether the interest is that of a shareholder, partner, limited liability company member, or otherwise. To hold an ownership interest means to have possession of, title to, or control of the ownership interest, whether directly or indirectly through a fiduciary, agent, or other intermediary.

(4) A violation of this section is deemed to affect the public interest and constitutes an unlawful and unfair practice under chapter 19.86 RCW. A person aggrieved by an alleged violation of this section may petition the department to have the matter handled as an adjudicative proceeding under chapter 34.05 RCW. [2010 c 178 § 6; 2003 c 21 § 3; 2000 c 203 § 1.]

Captions not law—2003 c 21: See note following RCW 46.96.020.

46.96.190 Prohibited practices by manufacturer. A manufacturer shall not coerce, threaten, intimidate, or require a new motor vehicle dealer, as a condition to granting or renewing a franchise, to waive, limit, or disclaim a right that the dealer may have to protest the establishment or relocation of another motor vehicle dealer in the relevant market area as provided in RCW 46.96.150. [1994 c 274 § 6.]

46.96.192 Prohibited practices by manufacturer—Adverse action against dealer if vehicle exported or resold by customer. A manufacturer may not take or threaten to take any adverse action against a new motor vehicle dealer, including charge backs, reducing vehicle allocations, or terminating or threatening to terminate a franchise, because the dealer sold or leased a vehicle to a customer who exported the vehicle to a foreign country or who resold the vehicle, unless the manufacturer or distributor definitively proves that the dealer knew or reasonably should have known that the customer intended to export or resell the vehicle. A manufacturer or distributor shall, upon demand, indemnify, hold harmless, and defend any existing or former franchisee or franchisee's successors or assigns from any and all claims asserted, or damages sustained and attorneys' fees and other expenses reasonably incurred by the franchisee that result from or relate to any claim made or asserted, by a third party against the franchisee for any policy, program, or other behavior suggested by the manufacturer for sales of vehicles to parties that intend to export a vehicle purchased from the franchisee. [2010 c 178 § 10.]

46.96.194 Prohibited practices by manufacturer—Dealer waiver of chapter—Exceptions. A manufacturer or distributor shall not enter into an agreement or understanding

with a new motor vehicle dealer that requires the dealer to waive any provisions of this chapter. However, a dealer may, by written contract and for valuable and reasonable separate consideration, waive, limit, or disclaim a manufacturer's obligations or a dealer's rights under RCW 46.96.080, 46.96.090, 46.96.105, 46.96.140, and 46.96.150, if the contract sets forth the specific provisions of this chapter that are waived, limited, or disclaimed. A manufacturer shall not coerce, threaten, intimidate, or require a new motor vehicle dealer, as a condition to granting or renewing a franchise, to enter into such an agreement or understanding. [2010 c 178 § 12.]

46.96.200 Sale, transfer, or exchange of franchise.

(1) Notwithstanding the terms of a franchise, a manufacturer shall not withhold consent to the sale, transfer, or exchange of a franchise to a qualified buyer who meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a new dealer who does not already hold a franchise with the manufacturer or is capable of being licensed as a new motor vehicle dealer in the state of Washington. A decision or determination made by the administrative law judge as to whether a qualified buyer is capable of being licensed as a new motor vehicle dealer in the state of Washington is not conclusive or determinative of any ultimate determination made by the department of licensing as to the buyer's qualification for a motor vehicle dealer license. A manufacturer's failure to respond in writing to a request for consent under this subsection within sixty days after receipt of a written request on the forms, if any, generally used by the manufacturer containing the information and reasonable promises required by a manufacturer is deemed to be consent to the request. A manufacturer may request, and, if so requested, the applicant for a franchise (a) shall promptly provide such personal and financial information as is reasonably necessary to determine whether the sale, transfer, or exchange should be approved, and (b) shall agree to be bound by all reasonable terms and conditions of the franchise.

(2) If a manufacturer refuses to approve the sale, transfer, or exchange of a franchise, the manufacturer shall serve written notice on the applicant, the transferring, selling, or exchanging new motor vehicle dealer, and the department of its refusal to approve the transfer of the franchise no later than sixty days after the date the manufacturer receives the written request from the new motor vehicle dealer. If the manufacturer has requested personal or financial information from the applicant under subsection (1) of this section, the notice shall be served not later than sixty days after the receipt of all of such documents. Service of all notices under this section shall be made by personal service or by certified mail, return receipt requested.

(3) The notice in subsection (2) of this section shall state the specific grounds for the refusal to approve the sale, transfer, or exchange of the franchise.

(4) Within twenty days after receipt of the notice of refusal to approve the sale, transfer, or exchange of the franchise by the transferring new motor vehicle dealer, the new motor vehicle dealer may file a petition with the department to protest the refusal to approve the sale, transfer, or exchange. The petition shall contain a short statement setting

forth the reasons for the dealer's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed, and the department shall arrange for a hearing with an administrative law judge as the presiding officer to determine if the manufacturer unreasonably withheld consent to the sale, transfer, or exchange of the franchise.

(5) The administrative law judge shall conduct a hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred twenty days after a protest is filed. Only the selling, transferring, or exchanging new motor vehicle dealer and the manufacturer may be parties to the hearing.

(6) The administrative law judge shall conduct any hearing as provided in RCW 46.96.050(2), and all hearing costs shall be borne as provided in that subsection. Only the manufacturer and the selling, transferring, or exchanging new motor vehicle dealer may appeal the final order of the administrative law judge as provided in RCW 46.96.050(3).

(7) This section and RCW 46.96.030 through 46.96.110 apply to all franchises and contracts existing on July 23, 1989, between manufacturers and new motor vehicle dealers as well as to all future franchises and contracts between manufacturers and new motor vehicle dealers.

(8) RCW 46.96.140 through 46.96.190 apply to all franchises and contracts existing on October 1, 1994, between manufacturers and new motor vehicle dealers as well as to all future franchises and contracts between manufacturers and new motor vehicle dealers. [2010 c 178 § 7; 1994 c 274 § 7; 1989 c 415 § 18. Formerly RCW 46.96.120.]

46.96.210 Petition and hearing—Filing fee, costs, security. The department shall determine and establish the amount of the filing fee required in RCW 46.96.040, 46.96.110, 46.96.150, and 46.96.200. The fees shall be set in accordance with RCW 43.24.086.

The department may also require the petitioning or protesting party to give security, in such sum as the department deems proper but not in any event to exceed one thousand dollars, for the payment of such costs as may be incurred in conducting the hearing as required under this chapter. The security may be given in the form of a bond or stipulation or other undertaking with one or more sureties.

At the conclusion of the hearing, the department shall assess, in equal shares, each of the parties to the hearing for the cost of conducting the hearing. Upon receipt of payment of the costs, the department shall refund and return to the petitioning party such excess funds, if any, initially posted by the party as security for the hearing costs. If the petitioning party provided security in the form of a bond or other undertaking with one or more sureties, the bond or other undertaking shall then be exonerated and the surety or sureties under it discharged. [1994 c 274 § 8; 1989 c 415 § 19. Formerly RCW 46.96.130.]

46.96.220 Right of first refusal. (1) In the event of a proposed sale or transfer of a new motor vehicle dealership involving the transfer or sale of more than fifty percent of the ownership interest in, or more than fifty percent of the assets of, the dealership at the time of the transfer or sale, where the

franchise agreement for the dealership contains a right of first refusal in favor of the manufacturer or distributor, then notwithstanding the terms of the franchise agreement, the manufacturer or distributor must be permitted to exercise a right of first refusal to acquire the dealership only if all of the following requirements are met:

(a) The manufacturer or distributor sends by certified mail, return receipt requested, or delivers by personal service, notice of its intent to exercise its right of first refusal within the lesser of (i) forty-five days of receipt of the completed proposal for the proposed sale or transfer, or (ii) the time period specified in the dealership's franchise agreement; and

(b) The exercise of the right of first refusal will result in the motor vehicle dealer receiving consideration, terms, and conditions that are equal to or better than that for which the dealer has contracted in connection with the proposed transaction.

(2) Notwithstanding subsection (1) of this section, the manufacturer's or distributor's right of first refusal does not apply to transfer of a dealership under RCW 46.96.110, and does not apply to a proposed transaction involving any of the following purchasers or transferees:

(a) A purchaser or transferee who has been preapproved by the manufacturer or distributor with respect to the transaction;

(b) A family member or members, including the spouse, biological or adopted child, stepchild, grandchild, spouse of a child or grandchild, brother, sister, or parent of the dealer-operator, or one or more of the dealership's owners;

(c) A manager continuously employed by the motor vehicle dealer in the dealership during the previous three years who is otherwise qualified as a dealer-operator by meeting the reasonable and uniformly applied standards for approval of an application as a new motor vehicle dealer-operator by the manufacturer;

(d) A partnership, corporation, limited liability company, or other entity controlled by any of the family members, identified in (b) of this subsection, of the dealer-operator; or

(e) A trust established or to be established for the purpose of allowing the new motor vehicle dealer to continue to qualify as such under the manufacturer's or distributor's standards, or provides for the succession of the franchise agreement to designated family members identified in (b) of this subsection, or qualified management identified in (c) of this subsection, in the event of the death or incapacity of the dealer-operator or its principal owner or owners.

(3) As a condition to the manufacturer or distributor exercising its right of first refusal, the manufacturer or distributor shall pay the reasonable expenses, including attorneys' fees, incurred by the dealer's proposed purchaser or transferee in negotiating, and undertaking any action to consummate, the contract for the proposed sale of the dealership up to the time of the manufacturer's or distributor's exercise of that right. In addition, the manufacturer or distributor shall pay any fees and expenses of the motor vehicle dealer arising on and after the date the manufacturer or distributor gives notice of the exercise of its right of first refusal, and incurred by the motor vehicle dealer as a result of alterations to documents, or additional appraisals, valuations, or financial analyses caused or required of the dealer by the manufacturer or

distributor to consummate the contract for the sale of the dealership to the manufacturer's or distributor's proposed transferee, that would not have been incurred but for the manufacturer's or distributor's exercise of its right of first refusal. These expenses and fees must be paid by the manufacturer or distributor to the dealer and to the dealer's proposed purchaser or transferee on or before the closing date of the sale of the dealership to the manufacturer or distributor if the party entitled to reimbursement has submitted or caused to be submitted to the manufacturer or distributor, an accounting of these expenses and fees within thirty days after receipt of the manufacturer's or distributor's written request for the accounting. A manufacturer or distributor may request the accounting before exercising its right of first refusal.

(4) As a further condition to the exercise of its right of first refusal, a manufacturer or distributor shall assume and guarantee the lease or shall acquire the real property on which the motor vehicle franchise is conducted. Unless otherwise agreed to by the dealer and manufacturer or distributor, the lease terms or the real property acquisition terms must be the same as those on which the lease or property was to be transferred or sold to the dealer's proposed purchaser or transferee.

(5) If the selling dealer has disclosed to the proposed purchaser or transferee, in writing, the existence of the manufacturer's or distributor's right of first refusal, then the selling dealer has no liability to the proposed purchaser or transferee for a claim for damages resulting from the manufacturer or distributor exercising its right of first refusal. If the existence of the manufacturer's or distributor's right of first refusal was disclosed by the selling dealer to the proposed purchaser or transferee, in writing, before or at the time of execution of the purchase and sale or transfer agreement, the manufacturer or distributor shall indemnify, hold harmless, and defend the selling dealer from and against any and all claims, damages, losses, actions, or causes of action asserted by the dealer's proposed purchaser or transferee against the selling dealer arising from the manufacturer's or distributor's exercise of its right of first refusal, and has the right, under this section, to file a motion on behalf of the dealer to dismiss the actions or causes of action asserted by the dealer's proposed purchaser or transferee. [2003 c 21 § 4.]

Captions not law—2003 c 21: See note following RCW 46.96.020.

46.96.230 Manufacturer incentive programs. (1) A manufacturer or distributor shall pay a motor vehicle dealer's claim for payment or other compensation due under a manufacturer incentive program within thirty days after approval of the claim. A claim that is not disapproved or disallowed within thirty days after the manufacturer or distributor receives the claim is deemed automatically approved. If the motor vehicle dealer's claim is not approved, the manufacturer or distributor shall provide the dealer with written notice of the reasons for the disapproval at the time notice of disapproval is given.

(2) A manufacturer may not deny a claim based solely on a motor vehicle dealer's incidental failure to comply with a specific claim-processing requirement that results in a clerical error or other administrative technicality.

(3) Notwithstanding the terms of a franchise agreement or other contract with a manufacturer or distributor, a motor vehicle dealer has one year after the expiration of a manufacturer or distributor incentive program to submit a claim for payment or compensation under the program.

(4) Notwithstanding the terms of a franchise agreement or other contract with a dealer and except as provided in subsection (5) of this section, after the expiration of one year after the date of payment of a claim under a manufacturer or distributor incentive program, a manufacturer or distributor may not:

(a) Charge back to a motor vehicle dealer, whether directly or indirectly, the amount of a claim that has been approved and paid by the manufacturer or distributor under an incentive program;

(b) Charge back to a motor vehicle dealer, whether directly or indirectly, the cash value of a prize or other thing of value awarded to the dealer under an incentive program; or

(c) Audit the records of a motor vehicle dealer to determine compliance with the terms of an incentive program. Where, however, a manufacturer or distributor has reasonable grounds to believe that the dealer committed fraud with respect to the incentive program, the manufacturer or distributor may audit the dealer for a fraudulent claim during any period for which an action for fraud may be commenced under applicable state law.

(5) Notwithstanding subsection (4)(a) and (b) of this section, a manufacturer or distributor may make charge-backs to a motor vehicle dealer if, after completion of an audit of the dealer's records, the manufacturer or distributor can show, by a preponderance of the evidence, that (a) the claim was intentionally false or fraudulent at the time it was submitted to the manufacturer or distributor, or (b) with respect to a claim under a service incentive program, the repair work was improperly performed in a substandard manner or was unnecessary to correct a defective condition. [2003 c 21 § 5.]

Captions not law—2003 c 21: See note following RCW 46.96.020.

46.96.240 Venue. Notwithstanding the provisions of a franchise agreement or other provision of law to the contrary, the venue for a cause of action, claim, lawsuit, administrative hearing or proceeding, arbitration, or mediation, whether arising under this chapter or otherwise, in which the parties or litigants are a manufacturer or distributor and one or more motor vehicle dealers, is the state of Washington. It is the public policy of this state that venue provided for in this section may not be modified or waived in any contract or other agreement, and any provision contained in a franchise agreement that requires arbitration or litigation to be conducted outside the state of Washington is void and unenforceable.

This section does not apply to a voluntary dispute resolution procedure that is not binding on the dealer. [2003 c 21 § 6.]

Captions not law—2003 c 21: See note following RCW 46.96.020.

46.96.250 Immunity of franchisees and assigns. A manufacturer shall, upon demand, indemnify and hold harmless any existing or former franchisee and the franchisee's successors and assigns from any and all damages sustained and attorneys' fees and other expenses reasonably incurred

by the franchisee that result from or relate to any claim made or asserted by a third party against the franchisee to the extent the claim results from any of the following:

(1) The condition, characteristics, manufacture, assembly, or design of any vehicle, parts, accessories, tools, or equipment, or the selection or combination of parts or components manufactured or distributed by the manufacturer or distributor;

(2) Service systems, procedures, or methods that the franchisor required or recommended the franchisee to use;

(3) Improper use by the manufacturer, its assignees, contractors, representatives, or licensees of nonpublic personal information obtained from a franchisee concerning any consumer, customer, or employee of the franchisee; or

(4) Any act or omission of the manufacturer or distributor for which the franchisee would have a claim for contribution or indemnity under applicable law or under the franchise, irrespective of any prior termination or expiration of the franchise. [2010 c 178 § 9.]

46.96.260 Civil actions for violations. A new motor vehicle dealer who is injured in his or her business or property by a violation of this chapter may bring a civil action in the superior court to recover the actual damages sustained by the dealer, together with the costs of the suit, including reasonable attorneys' fees if the new motor vehicle dealer prevails. The new motor vehicle dealer may bring a civil action in district court to recover his or her actual damages, except for damages that exceed the amount specified in RCW 3.66.020, and the costs of the suit, including reasonable attorneys' fees. [2010 c 178 § 11.]

46.96.900 Severability—1989 c 415. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 c 415 § 22.]

Chapter 46.98 RCW CONSTRUCTION

Sections

46.98.010	Continuation of existing law.
46.98.020	Provisions to be construed in pari materia.
46.98.030	Title, chapter, section headings not part of law.
46.98.040	Invalidity of part of title not to affect remainder.
46.98.041	Severability—1963 ex.s. c 3.
46.98.042	Severability—1965 ex.s. c 170.
46.98.043	Severability—1969 ex.s. c 281.
46.98.050	Repeals and saving—1961 c 12.
46.98.060	Emergency—1961 c 12.

46.98.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [1961 c 12 § 46.98.010.]

46.98.020 Provisions to be construed in pari materia. The provisions of this title shall be construed in pari materia even though as a matter of prior legislative history they were

not originally enacted in the same statute. The provisions of this title shall also be construed in pari materia with the provisions of Title 47 RCW, and with other laws relating to highways, roads, streets, bridges, ferries and vehicles. This section shall not operate retroactively. [1961 c 12 § 46.98.020.]

46.98.030 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1961 c 12 § 46.98.030.]

46.98.040 Invalidity of part of title not to affect remainder. If any provision of this title or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1961 c 12 § 46.98.040.]

46.98.041 Severability—1963 ex.s. c 3. See RCW 47.98.041.

46.98.042 Severability—1965 ex.s. c 170. See RCW 47.98.042.

46.98.043 Severability—1969 ex.s. c 281. See RCW 47.98.045.

46.98.050 Repeals and saving—1961 c 12. See 1961 c 12 § 46.98.050.

46.98.060 Emergency—1961 c 12. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing institutions and shall take effect immediately. [1961 c 12 § 46.98.060.]

